



Please reply to:

Contact: Matthew Williams
Service: Committee Services
Direct Line: 01784 446224
E-mail: m.williams@spelthorne.gov.uk
Date: 27 November 2023

Notice of meeting

Licensing Committee

Date: Tuesday, 5 December 2023

Time: 7.00 pm

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB

To the members of the Licensing Committee

Councillors:

S.A. Dunn (Chair)	C. Bateson	A. Gale
O. Rybinski (Vice-Chair)	R. Chandler	K.M. Grant
M.M. Attewell	J.T.F. Doran	K. Rutherford
E. Baldock	S.M. Doran	B. Weerasinghe

Substitute Members: Councillors S.N. Beatty, M. Beecher, M. Bing Dong, T. Burrell and M. Gibson

Councillors are reminded that the Gifts and Hospitality Declaration book will be available outside the meeting room for you to record any gifts or hospitality offered to you since the last Committee meeting.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

www.spelthorne.gov.uk customer.services@spelthorne.gov.uk Telephone 01784 451499

Agenda

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- 1. Apologies and Substitutes**

To receive any apologies for absence and notification of substitutions.
- 2. Minutes** **3 - 6**

To agree the minutes of the meeting held on 30 October 2023 as a correct record.
- 3. Disclosures of Interest**

To receive any disclosures of interest from Councillors in accordance with the Council's Code of Conduct for Members.
- 4. Gambling Act Policy 2022-2025 for full Council adoption** **7 - 44**

To consider and recommend the adoption, by Council, of the Gambling Act Policy 2022-2025.
- 5. Statement of Licensing Policy 2024-2029** **45 - 98**

To consider and recommend the adoption, by Council, of the revised Statement of Licensing Policy 2024-2029.
- 6. Review and Setting of Fees & Charges for the licensing of Hackney Carriages, Private Hire, and Private Hire Operators** **99 - 120**

To consider the proposed licensing fees and charges as set out in Appendix B of the report.

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**Minutes of the Licensing Committee
30 October 2023**

Present:

Councillor S.A. Dunn (Chair)
Councillor O. Rybinski (Vice-Chair)

Councillors:

M.M. Attewell	R. Chandler	K.M. Grant
E. Baldock	J.T.F. Doran	K. Rutherford
C. Bateson	S.M. Doran	B. Weerasinghe

11/23 Minutes

The Minutes of the meeting held on 15 December 2022 were agreed as a correct record.

12/23 Disclosures of Interest

There were no disclosures of interest.

13/23 Gambling Act Policy 2024-2027(Draft for Consultation)

The Principal Licensing Officer presented the report on the Gambling Act Policy 2024-2027 and explained that the timeline in the report had been updated so that there would be a 2 week consultation period from 31 October 2023 to 14 November 2023. The policy would then return to the Licensing Committee on 5 December 2023 and Council on 14 December 2023.

The Committee queried what protection the Council had until the policy came into effect.

It was proposed by Councillor Bateson, seconded by Councillor Rybinski and **resolved** to exclude the public and press be excluded for the following agenda items, in accordance with paragraph 5 of part 1 of Schedule 12A of the Local Government Act 1972 (as amended) because it was likely to disclose information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

The Committee **resolved** to return to open session.

The Committee asked how risk was assessed in relation to the prevention of harm to children and vulnerable adults. The Principle Licensing Officer advised that each applicant would need to show what was being done to promote the Licensing Objectives (including protecting children and other vulnerable people from being harmed or exploited by gambling). The Council would then use that information to decide whether a license would be granted.

Committee **resolved** to agree to approve the draft Statement of Gambling Policy 2024-2027 for consultation to comply with statutory requirements in accordance with the following timeline; a 2 week consultation period from 31 October 2023 to 14 November 2023. The policy would then return to the Licensing Committee on 5 December 2023 and Council on 14 December 2023.

The meeting finished at 19:32

Licensing Committee

5 December 2023



Title	Gambling Act Policy 2022-2025 for full council adoption
Purpose of the report	To make a decision
Report Author	Lucy Catlyn, Principal Licensing Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not Applicable
Corporate Priority	Community Environment Service delivery
Recommendations	Committee is asked to: Licensing Committee is asked to recommend adoption of the Gambling Act Policy 2022-2025 by full Council.
Reason for Recommendation	Statutory requirement under the Gambling Act 2005

1. Summary of the report

- 1.1 This report seeks to obtain authority from the Licensing Committee to recommend the Statement of Gambling Policy 2022-2025 policy to Council for adoption in accordance with the timetable specified in this report.

2. Key issues

- 2.1 The Gambling Act 2005 places a duty on local authorities to licence gambling premises.
- 2.2 The Act requires all local authorities to produce a Statement of Gambling Principles (the Policy) which licensing officers must give consideration to when determining gambling licence applications for their district.
- 2.3 It should be noted that functions in relation to the three-year policy statement cannot be delegated and remain functions of the Council.
- 2.4 Regular review and adoption of the Statement of Gambling Policy ensures that the licensing framework are up to date and effective in ensuring a safe and regulated environment for users of licensed premises. It will also ensure that there are methods for robust enforcement and review of problem licensed premises.
- 2.5 The policy statement under the Act lasts for a maximum period of 3 years but can be reviewed and revised by the Council at any time

2.6 The Licensing Committee agreed a draft revised policy for consultation on 30 October 2023. Consultation took place between 1 November 2023 and 14 November 2023 with those as published in the draft policy.

2.7 During the consultation period, there were five responses. The responses had nothing to add to the policy, however one comment helpfully pointed out a typographical error.

3. Options analysis and proposal

3.1 The preferred option is for Licensing Committee to recommend the policy to Council for adoption – in accordance with the timetable set out in this report.

3.2 There is an option for Licensing Committee to amend the policy. However, if the Committee decides on the latter course of action this will cause a delay in implementation of the policy.

3.3 If the Council fails to prepare and publish the policy statement the Council may be challenged when exercising its functions under the Act through a number of routes, e.g. service complaints to the Local Government and Social Care Ombudsman and judicial review. Conversely, by preparing and publishing the policy statement, the Council is complying with its legal obligation. In addition, the Council provides a defined framework within which to exercise its functions and makes it clear to all stakeholders the manner by which the Council intends to exercise its functions.

3.4 The recommendations are not at variance with the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with relevant legal procedures prescribed by the Act and with guidance issued by the Gambling Commission.

3.5 The policy statement does not breach any individual or group's human rights; it sets out processes and procedures that aim to protect human rights, in particular those rights that relate to a right to a fair trial, no punishment without law and right to respect for private and family life. If the policy statement were not followed, there is a risk that human rights may be breached.

3.6 Equality and Social Inclusion Impact issues for Protected Characteristic groupings during the consultation.

3.7 Age, in relation to children and young people;

- Disability, in relation to vulnerable adults; and
- Social Inclusion, in relation to the above and to those whom we may describe as vulnerable, including armed forces and ex-armed forces service personnel.

3.8 Reducing gambling related harm to residents is addressed in both the Gambling Act 2005

4. Financial implications

- 4.1 There are no financial implications resulting from the matters considered in this report. Costs associated with consultation and publication are minimal and will be met from within existing Licensing budgets.

5. Risk considerations

- 5.1 Audit have advised:

Risk: A lack of governance in relation to the Gambling Act 2005 may result in a failure to fulfil the Council's statutory requirements.

Mitigation: The Statement of Gambling Policy 2024-2027 is aligned with the licensing objectives as set out in section 1 of the Act. The licensing objectives referenced are:

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

Risk: Failure to achieve the licensing objectives set out in the Gambling Act 2005 would imply that the Council is not as effective as it could be in achieving its duty and regulatory functions as a licensing authority.

Mitigation: In carrying out its licensing functions the Council will have regard to guidance issued by the Gambling Commission, the Gambling Commissions licence conditions, and codes of practice.

Risk: An approved Gambling Policy and mechanisms for regular policy review is not in place.

Mitigation: The production and approval of the Statement of Gambling Policy 2024-2027 demonstrates that the Council conforms with the requirement of the Gambling Act 2005.

6. Procurement considerations

- 6.1 This report refers to a draft policy for which there are no Procurement considerations.

7. Legal considerations

- 7.1 Under section 349 of the Gambling Act 2005, a Licensing Authority must prepare and publish the policy they propose to apply in exercising their functions under the Act.

- 7.2 Before determining a statement of policy, the licencing Authority has a statutory duty to consult, and before a statement comes not effect it must be published and advertised.

- 7.3 Prior to the policy coming into effect, it must be advertised in accordance with the Gambling Act 2005 (Licensing Authority Statement) (England and Wales) Regulations 2006.

8. Other considerations

- 8.1 In revising the policy and conducting the required consultation the Council will meet the requirements of the Gambling Act 2005.

9. Equality and Diversity

- 9.1 The Council's draft Gambling Policy has been drafted with Equalities issues being considered in the context of the licensing objectives and local area plan. Specifically relevant to people with protected characteristics is the Licensing objective to protect children and other vulnerable persons from being harmed or exploited by gambling. This engages the characteristics of age and potentially disability.
- 9.2 An Equalities Screening Assessment has been carried out. The revised draft policy does not have any impact on protected characteristics.
- 9.3 Members are referred to section 1.5.1 of the draft Policy which sets out how the authority intends to protect children and to section 2.3 concerning Local Risk Assessments, which take into account factors such as the location of premises and their proximity to schools, nurseries, childcare facilities, centres for the care of vulnerable adults and or children, including facilities for the disabled and residential areas with a high concentration of children or older persons, demonstrating that the Council has had due regard to Equalities issues throughout.
- 9.4 The Local Area Plan contains key demographic information for the borough with regard to the protected characteristics under the Equality Act 2010.

10. Sustainability/Climate Change Implications

- 10.1 There are none.

11. Timetable for implementation

- 11.1 In revising the draft policy and conducting the required consultation the Council will meet the requirements of the Gambling Act 2005.
- 11.2 The proposed timetable is as follows:
- Report to Licensing Committee on 5 December 2023 to seek a recommendation to adopt a final proposed policy.
 - Recommendation to Council on 14 December to adopt the final proposed policy.

12. Contact

- 12.1 Lucy Catlyn, Principal Licensing Officer (01784 444295)
l.catlyn@spelthorne.gov.uk or licensing@spelthorne.gov.uk

Background papers

The Gambling Act 2005 <http://www.legislation.gov.uk/ukpga/2005/19/contents>

The Gambling Act 2005 (Licensing Authority Statement) (England and Wales) Regulations 2006. <https://www.legislation.gov.uk/uksi/2006/636/contents/made>

The Gambling Commission's latest 'Guidance to Licensing dated 13 May 2021
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

Gambling Commission - Licence Conditions and Codes of Practice dated 31 October 2020
Licence Conditions and Codes of Practice - Gambling Commission

Appendices: Spelthorne Borough Council Statement of Gambling Policy 2022-2025

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**DRAFT Spelthorne Borough Council
Statement of Gambling Policy
2022-2025**

Statement: INSERT DATE WHEN ADOPTED

This Statement of Principles was approved by Spelthorne Borough Council on **INSERT DATE** and comes into effect on **INSERT DATE**. It replaces Spelthorne Borough Council previous Policy (published on 13 December 2018) and will remain in force for no more than three years, or sooner if required.

All references to the guidance refer to the Gambling Commission's Guidance to Licensing Authorities, dated 1 April 2021 and last updated 11 April 2023

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*Page numbers will be inserted into the above table of contents with links to the sections when the policy is finalised.

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1. INTRODUCTION

1.1 The Gambling Act 2005

1.1.1 General Statement of Principles

Spelthorne Borough Council ('The Council') has a duty to license a wide variety of premises, these include casinos, betting shops, bingo halls, pubs, clubs, and amusement arcades. The council is the Licensing Authority for the purpose of the Gambling Act 2005 and the relevant guidance and codes of practice.

In carrying out its licensing functions the Licensing Authority will have regard to guidance issued by the Gambling Commission, the Gambling Commissions licence conditions and codes of practice.

The Licensing Authority 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 Licensing Authority will maintain close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

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

The Licensing Authority 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 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 premise will be considered on their own individual merits.

The Licensing Authority acknowledges that when exercising licensing functions under the 2005 Act, it should have regard to this Policy. However, in rare cases, being reasonably consistent with 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.

1.1.2 The Functions of Licensing Authorities

The Gambling Act 2005 ('the Act') places a duty on Licensing Authorities in respect of various regulatory functions in relation to gambling. 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

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institutes¹ (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.

1.1.3 The Licensing Objectives

The Act regulates almost all gambling that takes place in England and Wales, with exception of exempt gambling as specified under the Act and the National Lottery which has its own legislation.

Responsibility for administering and enforcing the legislation is split between the Gambling Commission and Licensing Authorities. For the purposes of the Act Spelthorne Borough Council ('the Council') is the Licensing Authority.

The overriding objective of the Licensing Authority is to regulate gambling in the public interest. Accordingly, in exercising the functions under the Act, the Licensing Authority will have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

When exercising functions for the licensing of premises for gambling, Licensing Authority will also act in accordance with section 153 of the Act which requires the Licensing Authority to permit the use of premises for gambling as far as they believe: -

- a) is in accordance with any relevant code of practice under section 24.
- b) is in accordance with any relevant guidance issued by the Commission under section 25.
- c) is consistent with the licensing objectives (subject to paragraphs (a) and (b)).
- d) is in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

Section 153(2) of the Act states that when determining an application licensing authorities cannot consider demand for facilities to be provided at gambling premises.

1.2 Spelthorne Borough – Local Area Profile

Spelthorne's local area profile is an assessment of the local environment and identifies the

¹ Definition: - also known as working men's clubs, workingmen's institutes, mine workers' institutes, or miners' welfare halls.

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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 considers any future or emerging risks.

Located in Surrey, approximately 16 miles from central London, Spelthorne benefits from good transport links to both London and the southeast via both the road and rail network. In addition, the proximity of Heathrow Airport and easy access to Gatwick via the motorway network further serves to make the Borough accessible and attractive to both individuals and businesses.

Covering an area of approximately 19.75 sq. miles, Spelthorne has a population of approximately 103,000 (2021 Census) compared to 95,598 in 2011. Over that ten-year period there has been a marginal increase in the under 19's (from 22.7% to 22.9%), a decrease in the working age population from 59.8% to 58.8% and an increase in over 65's (from 17.4% up to 18%). It is home to over 7,500 businesses including BP, Pinewood (Shepperton Studios), dnata and Woodgroup Ltd. Kempton Park is a key visitor attraction.

Located where the continuous built-up area of London gives way to a more dispersed pattern of urban areas and villages. The urban area of the Borough occupies about 35% of the total area, while the land outside the urban area covers about 65% of the Borough and is designated as Green Belt. 22% of the Borough is water.

Spelthorne adjoins the River Thames with the river frontage extending for 12 miles (the longest stretch of any council) and demarcates one of the boundaries of the Borough. The Borough is also crossed by two tributaries, the Ash and the Colne. The Borough is flat and low lying and consequently liable to flooding. About 20% of the urban area is liable to flood in a 1 in 100-year flood event or surrounded by flood water and over 49% of the urban area would be flooded in a 1 in 1,000-year event.

The Local Area Profile itself is a separate document from this policy, this enables timely changes to the profile to be made as and when changes occur, or additional information is made available. This can be found here: - [Spelthorne population data - Spelthorne Borough Council](#). A Map of Spelthorne is set out at **Annex 1**.

1.3 Consultation

The full list of consultees consulted in the preparation of this Statement of Policy is attached as **Annex 2**.

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

The Responsible Authorities, as defined by section 157 of the Act, must be notified of all gambling licence applications. Details of the Responsible Authorities are provided at **Annex 3**.

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Concerns expressed by a Responsible Authority in relation to their own functions can only be considered if they are relevant to the application itself and the licensing objectives. In this regard the Council will not generally consider representations that are deemed to be irrelevant, that is: -

- 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.

Each representation will be considered on its own merits.

1.5.1 Protection of children

Section 157(h) of the Act permits the Council's to designate a competent body to advise them on the protection of children from harm. In doing so the Council will ensure that the following principles are 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 and are likely to be affected by the authorised activities.
- b) have business interests that might be affected by the authorised activities.
- 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 Licensing Authority on a case-by-case basis. However, the following factors will be considered: -

- 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.

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- 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 Licensing Authority 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 Licensing Authority may consider other bodies/associations/ persons to fall within the category in the circumstances of an individual case.

The Licensing Authority may require written evidence that the person/association/body represents an interested party.

1.7 Exchange of Information

The Licensing Authority regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Licensing Authority'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 Licensing Authority in connection with the Gambling Act may not be held confidentially if in fulfilment of its functions the Council is under a duty to share the information, with for example: -

- the Gambling Commission
- other public bodies, or
- legitimate consultees

In handling the information it receives consideration will be given to guidance issued by the Gambling Commission, and to the Council's duties under the General Data Protection Regulation, and the Freedom of Information Act.

Any person wishing to obtain further information about their rights under the Data Protection Act 2018, Freedom of Information Act 2000, or the General Data Protection Regulation may view the Council's policies at www.spelthorne.gov.uk

1.8 Enforcement

The Act requires licensing authorities to state the principles they will apply when exercising their functions under Part 15 of the Act, with regards to inspecting premises, and its powers under section 346 of the Act to institute criminal proceedings in respect of the

offences specified. The 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.
- Targeted: regulation should be focused on the problem and minimise side effects.
-

In accordance with the Gambling Commission's Guidance to Licensing Authorities, The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as is reasonably possible.

The 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, particular with reference to Part 36.
- The principles set out in this statement of licensing principles.

The Licensing Authority's main enforcement and compliance role in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. In the application of its duties the Licensing Authority will have regard to the principles of "Better Regulation" as outlined by the Department for Business Innovation and Skills in the regulators code April 2014.

1.9 Reviews of Premises Licences

Requests for a review of a premises licence can be made by interested parties or responsible authorities (it should be noted that there is no mechanism to review any permit or notice). However, it is for the Licensing Authority, to decide whether a request will result in a review. Such a decision will be taken in consideration of, amongst other matters, the following: -

- any relevant code of practice or guidance issued by the Gambling Commission.
- the licensing objectives.
- the Licensing Authority's Statement of Policy.
- whether the request is considered frivolous, vexatious, or whether it will certainly not cause the authority to wish to alter or revoke or suspend the licence.
- whether the request is substantially the same as previous representations or requests for a review.

The Licensing Authority may also initiate a review of a premises licence. The purpose of such a review would be to determine whether it should take any action in relation to the licence. Following a review, the actions open to the Licensing Authority are: -

- add, remove, or amend a licence condition imposed by the Licensing Authority.
- exclude a default condition imposed by the Secretary of State or remove or amend such an exclusion.

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- suspend the licence for any period not exceeding three months.
- revoke the licence.

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

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 considers it to be: -

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

The Council will not have regard to demand for facilities proposed to provide, or 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, to assist applicants and objectors alike, this section sets out the general factors that will be considered by the Licensing Authority when considering applications for premises licences.

This authority notes the Commission's view that it is also important, in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises.

Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome, and collect any winnings.

2.2 Premises "ready for gambling"

The Licensing Authority should not take into consideration matters that are not related to gambling and the licensing objectives. Licensing Authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, 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. (Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence). This is why the Act allows a potential operator to apply for a provisional statement if construction of

the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. Part 11 of the Guidance gives more information about provisional statements.

2.3 Local Risk Assessments

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. The Gambling Commission has introduced provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures, and control measures to mitigate those risks. The introduction, during 2016, of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission, and the industry to work in partnership to address local issues and concerns.

Licensees must review (and update as necessary) their local risk assessments: -

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

Licensees are expected to share their risk assessment with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

When compiling their risk assessments, it is expected that licensees will refer to Spelthorne's Local Area Profile.

Under the code of practice, the requirement to share risk assessments with the Council is not mandatory; however, the Council will expect licensees to do this unless there are exceptional circumstances that are accepted by the Council, and which would exempt a licensee from the requirement to share their risk assessment.

The Council will expect the local risk assessment to consider as a minimum:

- Whether the premises is in an area of deprivation
- Whether the premises is in an area subject to high levels of crime and/or disorder
- The ethnic profile of residents in the area

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- The demographics of the area in relation to vulnerable groups
- The location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

Where specific local risks are identified, the risk assessment should set out how the operator proposes to mitigate and monitor these risks. The risk assessment should also show how vulnerable people, including people with gambling dependencies, are protected.

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information is provided in both English and any other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

Such information may be used to inform the decision the council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

2.4 Plan

The Licensing Authority expects applications for premises licences to be accompanied by a plan of the premises to scale.

2.5 Multiple licences / layouts of buildings

Premises are defined in the Act as including 'any place', but no more than one Premises Licence can apply in relation to any one place. A single building can be subject to more than one Premises Licence, provided they are for different parts of the building and those parts can reasonably be regarded as being different premises.

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

The Licensing Authority will consider this and other relevant factors when making its decision, depending on all the circumstances of the case.

Paragraph 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which the Licensing Authority will consider in its decision-making.

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.

2.6 Provisional Statements

Developers may wish to apply for a provisional statement before entering into a contract to buy or lease premises or land so that they can judge whether the development is worthwhile. There is no requirement for an applicant to hold an operating licence before applying for a provisional statement. Applicants must comply with section 204 of the Act.

2.7 Licence Conditions and Codes of Practice

The Licensing Authority 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 about self-exclusion and marketing are included in the social responsibility code. The Licensing Authority will take all conditions and codes into account when considering applications or performing enforcement activities.

2.6 Risk Assessments: Betting Premises

Risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of Casinos, Adult Gaming Centres, Bingo Premises, Family Entertainment Centres, 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 Social Responsibility code to make the risk assessment available to the Licensing Authority 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 Licensing Authority's inspection regime and may be requested when officers are investigating complaints.

While 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.) and therefore more likely to have a higher number of youths loitering in close proximity.
 - 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 those in 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, and operators should include in their assessment any matter that they deem relevant. The Licensing Authority 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 on a premises.

2.9 Conditions

Conditions may be imposed upon a premises licence in several 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.

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Conditions imposed by the Licensing Authority will be proportionate to the circumstances that they are seeking to address. In particular, the Licensing Authority 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.
- are reasonable in all other respects.

The Licensing Authority 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).
- 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.

2.10 Door Supervisors

If the Licensing Authority 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 Licensing Authority will only impose a condition requiring door supervisors where such a condition is considered necessary and proportionate to be compatible with the licensing objectives.

2.11 Adult gaming centres

Adult gaming centre premises provide higher pay-out gaming machines. Persons operating this type of gaming centre must obtain an operating licence from the Commission and a premises licence from the Licensing Authority. This will allow the operator to make category B (B3 and B4), C & D machines available to their customers. No one under the age of 18 is permitted to enter an adult gaming centre.

“Gaming machines” means “a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).”

When 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 Licensing Authority will therefore expect applicants to demonstrate that there will be sufficient measures in place about 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 (to minimise the opportunities for children to gain access)
- Notices / signage
- Training for staff on challenging persons suspected of being underage.
- 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.

2.12 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 Licensing Authority. 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 Licensing Authority 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.
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited for persons under 18.

Applicants are therefore encouraged to consider the steps set out in this policy 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 mandatory, nor exhaustive, and is merely indicative of example measures.

2.13 Tracks

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Tracks are sites (including racecourses and dog tracks) where a race or other sporting events take place. Operators of tracks will require a premises licence from the Licensing Authority, 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 Licensing Authority 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 in this policy 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 at Tracks

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 Licensing Authority 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 at Tracks

The Licensing Authority 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 for Tracks

The Licensing Authority 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.

2.14 Travelling Fairs

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

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair. It has been noted that the 27-day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

2.15 Casinos

No Casinos resolution - The Licensing Authority has not issued 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 Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

2.16 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 Licensing Authority.

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.

The Licensing Authority may, in accordance with section 181 of the Act, restrict the number of 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 Licensing Authority will consider the following: -

- the size of the premises.
- the number of counter positions available for person-to-person transactions.
- 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.

The Licensing Authority 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 Licensing Authority 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.

2.17 Bingo

Operators of premises offering bingo (cash or prize) will require a bingo operating licence

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from the Gambling Commission, and a Premises Licence from the Licensing Authority. 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 Licensing Authority 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.
- 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.

2.18 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.

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.
- allow the activities to take place subject to a specified condition.

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

2.19 Occasional Use Notices (OUNs)

Occasional Use Notices allow licensed bookmakers to provide betting facilities at genuine sporting events for a short period of time, without needing a full betting premises licence. The event must be temporary or infrequent. For example, at point-to-point racecourses or major golf tournaments.

3 Permits

3.1 Unlicensed Family Entertainment Centre gaming machine permits

Paragraph 3.1 constitutes a Statement of Principles in accordance with paragraph 7 of Schedule 10 of the Act. Unlicensed family entertainment centres (UFECs) require a permit from the local Licensing Authority. Permits have effect for 10-years unless they are surrendered or lapse.

Unlicensed family entertainment centres will be able to offer category D machines if granted a permit by the Licensing Authority. 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 (thereby becoming a licensed family entertainment centre) from the Gambling Commission and a premises licence from the Licensing Authority.

The Council can grant or refuse an application for a permit but cannot attach conditions. 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 Council will also expect applicants to include/demonstrate: -

- 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.
- 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 under the Licensing Act 2003, authorising the sale of alcohol will simply need to notify the Licensing Authority, and pay the prescribed fee.

The Licensing Authority may remove the automatic authorisation 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.
- 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 Licensing Authority shall consider that application having regard to the licensing objectives, any guidance issued by the

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Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.

The Licensing Authority 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 Licensing Authority 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 Licensing Authority 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 Licensing Authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. The Licensing Authority 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 Licensing Authority 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 Licensing Authority.

The Licensing Authority 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).
- 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 B3A, 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. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally.

The Licensing Authority 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.
- an objection has been lodged by the Gambling Commission or the Police.

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.
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

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

3.5 Cancellation of Permits

3.5.1 Gaming /Machine Permits

The authority may cancel a permit in specified circumstances, which includes if the premises are used wholly or mainly by children or young persons, or if an offence under the Act has been committed. Before it cancels a permit an authority must notify the holder giving 21-days' notice of intention to cancel, it must 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.

4. Small Local Society Lotteries

4.1 Small Society Lottery Registrations

A Small Society Lottery is a lottery that is promoted on behalf of a non-commercial society (such as a charity or similar non-profit making organisation) to raise funds for any of the purposes for which the society or organisation is set up.

Small Society Lotteries do not require a licence but must be registered with the Licensing Authority in the area where the society's principle premises is situated. An application to register a Small Society Lottery should be on the relevant application form, available from the website given below, and accompanied by any necessary documents and the appropriate fee. The maximum prize per ticket in either money or monies worth is £25,000.

In determining whether to grant or renew a small society lottery registration, the Licensing Authority will have regard to the Guidance to Local Authorities issued by the Commission. Societies may wish to refer to the relevant section of the Licensing Authority's website www.spelthorne.gov.uk for full details on how to register and maintain small society lottery registrations. It also details the steps that promoters have to take to comply with the legislation.

The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.

5. Exempt Gambling

The Licensing Authority has no control over Gambling in these circumstances, provided the specific requirements are complied **with** and any limits on stakes and prizes are observed.

5.1 Non-commercial gaming

There are two types of non-commercial gaming allowed: non-commercial prize gaming and non-commercial equal chance gaming. Neither of these require any authorisation provided the maximum stakes and prizes are not exceeded. In each case the gaming can be incidental to another activity, or the activity itself. It must be non-commercial which means there must be no private profit or gain. However, the proceeds of such events may benefit an organisation, group or one or more individuals if the activity is organised: -

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

5.2 Non-commercial prize gaming

In this case, the prize should be determined in advance and not be dependent on the number of players or monies staked. The players should be told what the monies are being raised for, and it cannot take place in premises that have a Gambling Act premises licence (except a track).

This can include casino nights and race nights.

5.3 Non-commercial equal chance gaming

In this case, the stakes per player cannot exceed £8. In addition, the aggregate value of prizes in all games played at a single event cannot exceed £600 (but if the event is the final one of a series in which all the players have previously taken part, a higher prize fund of up to £900 is allowed). The players should be told what the monies are being raised for, and it cannot take place in premises that have a Gambling Act premises licence (except a track). This can include casino nights and race nights.

5.4 Private Gaming

This covers situations where the public are not admitted to the gaming. This includes residential and domestic premises and workplaces. This can include casino nights and race nights.

5.5 Domestic gaming

Non-equal chance gaming can be played in private dwellings on domestic occasions provided no participation charge is made.

5.6 Residential gaming

Non-equal chance gaming can be played in hostels or halls of residence provided at least 50% of the participants are residents.

5.7 Non-commercial and private betting

This is betting in domestic premises or workplaces. In domestic premises the participants must habitually reside there, and for workers betting the participants must be employed by the same employer.

5.8 Incidental non-commercial lottery

These can take place as an incidental activity at another non-commercial event, e.g. a raffle at a dinner or a tombola at a garden party. No registration or permission is required provided the following requirements are met.

- Tickets can only be sold on the premises where the event takes place to people present and while the event is taking place.
- The draw must take place at the event and the results must be announced while the event is taking place.
- No rollovers are allowed.
- The maximum deduction allowed for prizes from the proceeds is £500.
- The maximum deduction allowed for organising costs from the proceeds is £100.

5.9 Exempt gambling in pubs

Various types of gambling can take place in premises that are licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises and which have a bar at which alcohol is served to customers, but this does not apply where the sale of alcohol can only take place as being ancillary to the sale of food.

5.10 Equal chance gaming in pubs

Equal chance gaming up to specified limits on stakes and prizes can take place, and this includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo, and poker. The following requirements must be met:

- The maximum stakes and prizes for each type of game must not be exceeded (£5 maximum stake for any game of chance except poker, dominoes and cribbage. For poker the maximum stake is £5, a daily maximum of £100 in aggregate stakes cannot be exceeded and the maximum prize limit is £100. There are no limits on stakes and prizes for dominoes or cribbage).
- The gaming must be supervised by a nominated gaming supervisor and comply with Gambling Commission codes of practice.
- No participation fees can be charged and no levy taken from stakes or prizes.
- The games cannot be linked to any other games in other premise.
- Nobody under 18 years old can take part.

5.11 Bingo in pubs

Low-turnover bingo where the aggregate of stakes and prizes in a seven-day period does not exceed £2000 can take place.

5.12 Exempt gambling in Clubs

There are two types of club for the purposes of the Act: members' clubs (including miners' welfare institutes- sometimes known as workingmen's institutes/working men's club) and commercial clubs. The club must be established for purposes other than gaming, but there is an exception for bridge or whist clubs. The exempt gaming that can take place differs according to the type of club. If a club has a club gaming permit, additional games and higher stakes and participation fees apply (see paragraph 3.4 above)

5.13 Equal chance gaming in clubs

Equal chance gaming with no specified limits on stakes and prizes (except for poker) can take place. The following requirements must be met: -

- Only club members (who have been members for at least 48 hours) or a bona fide guest of a member can participate.
- Except for poker, there is no maximum stake or prize.
- For poker there is a £10 maximum stake, a daily maximum of £250 in aggregate stakes and a seven-day maximum of £1000 in aggregate stakes cannot be exceeded, and the maximum prize limit is £250.
- The gaming must be supervised by a nominated gaming supervisor and comply with Gambling Commission codes of practice.
- A maximum participation fee of £1 can be charged but no levy taken from stakes or prizes (however if the games are bridge or whist, on a day when no other gaming is permitted, participation fees of up to £18 per person can be charged).
- The games cannot be linked to any other games in other premises.
- Nobody under 18 years old can take part.

5.14 Bingo in clubs

Low-turnover bingo where the aggregate of stakes and prizes in a 7-day period does not exceed £2000 can take place in all types of club.

5.14 Bridge and Whist clubs

Unlimited stakes bridge or whist can be played. In addition participation fees (up to £18) can be charged.

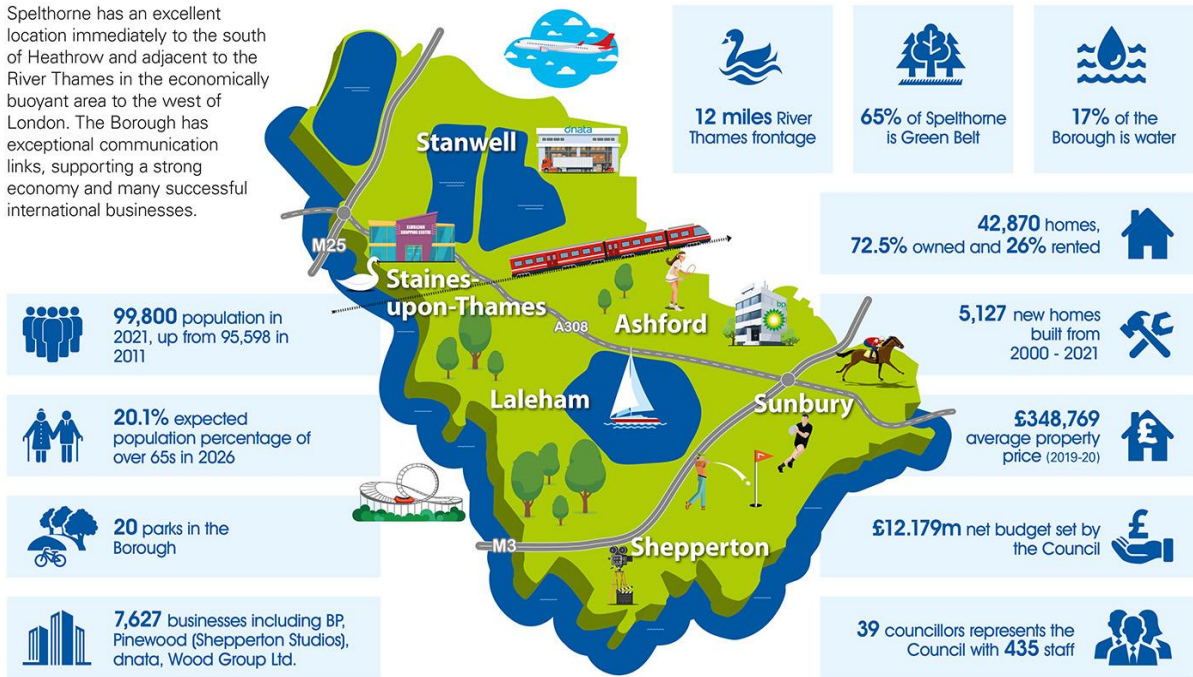
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APPENDICES

Annex 1 – Local area profile

Spelthorne in numbers

Spelthorne has an excellent location immediately to the south of Heathrow and adjacent to the River Thames in the economically buoyant area to the west of London. The Borough has exceptional communication links, supporting a strong economy and many successful international businesses.



Annex 2 - List of Consultees

Persons or bodies representing the interests of those carrying on a gambling business in the borough:	Persons or bodies representing the interests of those who are likely to be affected by the exercise of the authority's functions:	Current holders of licenses, permits etc. in Spelthorne:
Association of British Bookmakers mail@abb.uk.com	All Elected (Ward) Councillors, Spelthorne Borough Council	Representatives of Premises Licence holders with section 34 gaming permits (including Breweries that hold Premises Licences for premises that sell alcohol)
Association of Licensed Multiple Retailers info@almr.org.uk	All "Responsible Authorities" as defined under the Gambling Act, see Annex 3.	Representatives of Qualifying Clubs with Club Premises Certificates
British Amusement Catering Trade Association info@bacta.org.uk	All departments within Spelthorne Borough Council	
British Amusement Catering Trade Association info@bacta.org.uk	Citizen Advice Bureau Sunbury Library The Parade Staines Road West, Sunbury-On-Thames TW16 7AB	Neighbouring London, County and District Councils: <ul style="list-style-type: none"> • London Boroughs of: Hounslow, Hillingdon & Richmond; (licensing@hounslow.gov.uk) (licensing@hillingdon.gov.uk) (licensing@richmond.gov.uk) • Elmbridge Borough Council (licensing@elmbridge.gov.uk) • Royal Borough Of Windsor & Maidenhead (licensing@rbwm.gov.uk) • Runnymede Borough Council (licensing@runnymede.gov.uk) • Woking Borough Council

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		(licensing@woking.gov.uk)
British Beer & Pub Association contact@beerandpub.com	The Lotteries Council frank@lotteriescouncil.org.uk	
British Institute of Innkeeping BII and BIIAB, Wessex House, 80 Park Street, Camberley, Surrey, GU153PT	Society for the Study of Gambling ssgtreasurer@aol.com	
British Horseracing Authority info@britishhorseracing.com	Gamblers Anonymous sr.pro@gamblersanonymous.org.uk	
Federation of Licensed Victuallers admin@flva.co.uk	Gamcare info@gamcare.org.uk	
Ladbrookes Betting and Gaming Ltd richard.royal@ladbrokes.co.uk	The Samaritans admin@samaritans.org	
Remote Gambling Association chawkswood@rga.eu.com	Responsibility in Gambling Trust support@gamblingtherapy.org	
William Hill Plc jnorris@williamhill.co.uk	Catalyst Alcohol & Drug Advisory Service info@catalystsupport.org.uk	
Gala Coral group New Castle House, Castle Boulevard, Nottingham, NG7 1FT	Surrey Chamber of Commerce louise.punter@surrey-chambers.co.uk	
The Bingo Association info@bingo-association.co.uk	Surrey Trading Standards business.advice@surreycc.gov.uk	
Working Men's Club & Institute Union info@wmciu.org	Surrey Youth Offending Team Head of Service: jamie.cottingham@surreycc.gov.uk	
Racecourse Association Ltd info@racecourseassociation.co.uk	The Salvation Army info@salvationarmy.org.uk	

Note: This list is not intended to be exhaustive. Comments and Observations Were welcomed from anyone interested in this policy. Should you have any comments about this policy statement please send them via e-mail or letter using the details in Annex 3.

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.

Spelthorne Licensing Department

Spelthorne Borough Council
Council Offices
Knowle Green
Staines
TW18 1XB
licensing@spelthorne.gov.uk

The Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP
licensing@gamblingcommission.gov.uk

Licensing Northern Surrey Police

Spelthorne Neighbourhood Team
PO Box 101
Guildford
GU1 9PE
licensingnorthern@surrey.police.uk

Surrey Fire & Rescue Service

Headquarters
Croydon Road
Reigate
Surrey
RH2 0EJ
sfrs.firesafety@surreycc.gov.uk

Head of Planning

Spelthorne Planning Department

Spelthorne Borough Council
Council Offices
Knowle Green
Staines
TW18 1XB
Planning.DevelopmentControl@spelthorne.gov.uk

Surrey County Council's Children's Services

Quadrant Court
35 Guildford Road

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Woking
GU22 7QQ
childemployment@surreycc.gov.uk

HM Revenue & Customs

National Registration Unit
Portcullis House
21 India Street
Glasgow
Scotland
G2 4PZ
nrubetting&gaming@hmrc.gsi.gov.uk

Surrey Trading Standards

Consort House
5-7 Queensway
Redhill
RH1 1YB
trading.standards@surreycc.gov.uk

Spelthorne Environmental Health Department

Spelthorne Borough Council
Council Offices Knowle
Green Staines
TW18 1XB
Environmental.Health.Commercial@spelthorne.gov.uk

Head of Planning

Spelthorne Borough Council
Council Offices
Knowle Green
Staines-upon-Thames
TW18 1XB
planning.development.control@spelthorne.gov.uk

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Licensing Committee



5 December 2023

Title	Statement of Licensing Policy 2024-2029
Purpose of the report	To make a decision
Report Author	Lucy Catlyn, Principal Licensing Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not Applicable
Corporate Priority	Community Environment Service delivery
Recommendations	Committee is asked to: Licensing Committee is asked to recommend the revised Statement of Licensing Policy 2024-2029 to Council for adoption.
Reason for Recommendation	Statutory requirement under the Licensing Act 2003.

1. Summary of the report

1.1 Licensing Committee is asked to recommend the revised Statement of Licensing Policy 2024-2029 in accordance with the timetable specified in this report.

2. Key issues

2.1 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a Statement of Licensing Policy every five years.

2.2 The Statement of Licensing Policy reflects the legislation and national guidance and best practice. This report is therefore to seek approval for the Statement of Licensing Policy for 2024-2029 to be recommended to Full Council.

2.3 Prior to the Statement of Licensing policy 2024-2029 policy being produced the Responsible Authorities¹ were consulted earlier in 2023 and their comments have been incorporated.

¹ The Responsible Authorities are at Appendix B of the Statement of Licensing Policy 2024-2029.

2.4 The Consultation Period was 1 November 2023 - 14 November 2023. The persons consulted are outlined in the Statement of Licensing Policy.

2.5 Surrey Police have submitted comments in respect of large events. The Authority complies with the licensing legislation at all times. There is a proposal to amend wording at 16.23 for the Committee to consider.

3. Options analysis and proposal

3.1 The **preferred option** is for Licensing Committee to recommend the policy to Council for its adoption, in accordance with the timetable set out in this report.

3.2 There is an option for the Licensing Committee may also decide to either amend the proposed draft policy or reject it, and propose its own version of a draft policy. However, the policy reflects best practice, guidance, and legislation.

3.3 Licensing Committee is asked to approve the Statement of Licensing Policy 2024 – 2029 to Council.

4. Financial implications

4.1 There are no financial implications resulting from the matters considered in this report. Costs associated with consultation and publication are minimal and have been met from within existing Licensing budgets.

5. Risk considerations

5.1 No risk implications have been identified save that the authority needs to adhere to legal requirements.

6. Procurement considerations

6.1 This report refers to a policy for which there are no Procurement considerations.

7. Legal considerations

7.1 These are contained within the body of the report.

8. Other considerations

8.1 The revision of this policy and carrying out the required consultation the Council will meet the requirements of the Licensing Act 2003.

9. Equality and Diversity

9.1 The Council's Statement of Licensing Policy has been drafted with Equalities issues being considered in the context of the licensing objectives and local area plan. Specifically relevant to people with protected characteristics is the Licensing objective to protect children from being harmed. This engages the characteristics of age and potentially disability.

9.2 An Equalities Screening Assessment has been carried out. The revised Statement of Licensing policy does not have any impact on protected characteristics.

9.3 The Local Area Plan contains key demographic information for the borough regarding the protected characteristics under the Equality Act 2010.

10. Sustainability/Climate Change Implications

10.1 There are none.

11. Timetable for implementation

11.1 The legislative framework requires that Spelthorne's Statement of Licensing Policy be reviewed. Any revisions will be subject to the approval of the Council in December 2023.

11.2 The proposed timetable is as follows:

- Report to Licensing Committee on 5 December 2023 to seek recommendation to adopt the Statement of Licensing Policy 2024-2029.
- Recommendation to Council on 14 December 2023 to adopt the Statement of Licensing Policy 2024-2029.

12. Contact

12.1 Lucy Catlyn, Principal Licensing Officer (01784 444295)
l.catlyn@spelthorne.gov.uk or licensing@spelthorne.gov.uk

Background papers:

The Licensing Act 2003

Section 182 Licensing Act 2003 Guidance- [Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/section-182-of-the-licensing-act-2003)

Appendices:

Appendix 1- Spelthorne Borough Council Licensing Act Policy 2024-2029.

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**STATEMENT OF LICENSING POLICY
2024-2029**



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Statement January 2024

This Statement of Principles was approved by Spelthorne Borough Council on the INSERT DATE WHEN APPROVED.

Foreword

Welcome to Spelthorne Borough Council's Statement of Licensing Policy under the Licensing Act 2003.

The Licensing Authority have been responsible for licensing alcohol, entertainment, and late-night refreshment premises since 2005.

The Licensing Authority we work in partnership with agencies such as the police, to regulate licensable activities in the borough.

This policy has been produced to allow us to remain responsive to our local environment and to respond to current and emerging risks in Spelthorne. The changes we have made mean that the Licensing Authority can take evidence-based decisions to address local issues that may affect communities.

There are several changes to our previous Policy to clarify, expand on licensing matters and updated to incorporate changes.

To avoid duplication, this policy should be read in conjunction with the 2003 Act, its associated regulations, and the latest edition of the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

Contents

Contents Page will be inputted when policy is finalised by Full Council.

Appendix A	Consultation
Appendix B	Responsible Authorities, Newspaper groups & Useful Information

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1 Introduction

- 1.1 Spelthorne Borough Council (“the Council”) is the Licensing Authority under the Licensing Act 2003 (“the 2003 Act”) and has responsibility for regulating the sale and supply of alcohol, the provision of regulated entertainment, and the provision of late-night refreshment.
- 1.2 This statement of licensing policy (“the policy”) sets out the principles we will apply in exercising our licensing functions under the 2003 Act.
- 1.3 The majority of licensing functions must be carried out by the Licensing Committee established under the Licensing Act 2003. Members of this Committee are responsible for the detailed administration of the Council’s licensing function assisted by officers. The Licensing Committee has delegated certain functions to the Licensing Sub-Committee and/or officers. The decision-making arrangements are set out in the Council’s scheme of delegations.

2 Background

- 2.1 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of policy every five years. However, we will keep the policy under review and amend in the interim if necessary.
- 2.2 This Statement of Licensing Policy fulfils this requirement and has been prepared in accordance with the revised guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 2.3 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.
- 2.4 When we carry out our licensing functions, the Council and its officers will have regard to this policy and will apply the principles set out within it.
- 2.5 We acknowledge that this policy cannot predict every scenario or set of circumstances that may arise and sometimes, the individual circumstances of a case may lead us to make exceptions to this policy. If we do make an exception, we will give full reasons for doing so. In deciding whether we should make an exception to this policy, we will consider our reasons for the specific principle before deciding whether we would undermine the aims of this policy by making an exception to it.
- 2.6 The Senior Environmental Health Manager in conjunction with the Chair of the Licensing Committee may make minor amendments to the guidance set out in this policy to reflect administrative changes. When

a full review or any substantive amendments are proposed, these will be considered by the Licensing Committee.

2.7 **The Spelthorne Area**

2.8 Located in Surrey, approximately 16 miles from central London, Spelthorne benefits from good transport links to both London and the southeast via both the road and rail network. In addition, the proximity of Heathrow Airport and easy access to Gatwick via the motorway network further serves to make the Borough accessible and attractive to both individuals and businesses. Covering an area of approximately 19.75 sq. miles, Spelthorne has a population of approximately 103,000 (2021 Census) compared to 95,598 in 2011.

2.9 The Authority has responsibility for helping to develop and promote a strong sustainable local economy. Thriving food, drink and entertainment businesses are an important part of that local economy with this policy critical to their continuing success and for attracting further investment and opportunity to the borough.

2.10 Balanced against this are the Council's legal duties and commitment with its partners to reducing crime, disorder and the fear of crime. It is important to protect and maintain our environment so that residents, visitors and other businesses can enjoy the opportunities for living, visiting and working within the borough safely and free from nuisance.

2.11 Spelthorne Borough Council has over 317 licensed premises of all types.

3 **Scope of the Statement of Licensing Policy**

3.1 The Licensing Act 2003 sets out the legal framework for the Licensing Authority to licence the following activities:

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club
- Regulated entertainment
- Late night refreshment

3.2 These activities are controlled through a system of:

- Premises licences
- Club premises certificates
- Personal licenses
- Temporary event notices

3.3 The Act requires the Licensing Authority to carry out its licensing functions to promote the licensing objectives. Spelthorne Borough Council as the Licensing Authority takes its responsibilities under the Licensing Act seriously and will use all available powers to promote the four licensing objectives:

- **The prevention of crime and disorder**
- **Public safety**

- **The prevention of public nuisance**
- **The protection of children from harm**

3.4 Decision making will be based on promoting these licensing objectives.

3.5 Decision makers will also have regard to this policy document and any guidance issues from time to time by the Secretary of State.

4 Policy Consultation

4.1 Prior to the formal review of the Statement of Licensing Policy 2024-2029, an informal engagement exercise invited opinion on suggestions for changes from Responsible Authorities as defined by the Licensing Act 2003. The objective was to elicit opinion which could be considered prior to the formal review process.

4.2 In determining this policy, the Licensing Authority has undertaken a full, formal consultation with members of the public, community stakeholders, specific groups and individuals as listed in section 5(3) of the Licensing Act 2003. A full consultation list can be found at **Annex 2**.

4.3 The draft policy has also been published on Spelthorne Borough Council's website.

4.4 The views of all these bodies and the evidence presented have been given due weight in the determination of this policy.

5 Fundamental Principles

5.1 This policy sets out a general approach to making licensing decisions and acknowledges the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.

5.2 Similarly, this policy statement does not override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

5.3 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

5.4 Applicants are encouraged to seek advice from the Licensing Authority and responsible authorities before submitting an application.

5.5 Licensing is about the control of licensed premises, qualifying clubs, temporary events and individuals within the terms of the 2003 Act. Any conditions or restrictions attached to a premises licence or club

premises certificate will be focused on matters which are within the control of individual licensees.

- 5.6 These matters centre on the premises and places being used for licensable activities and any impact of those activities in the vicinity of those premises and places. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned.
- 5.7 Licensing law is not a mechanism for the general control of nuisance or antisocial behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.
- 5.8 The controls exercised through the provisions of the Act are key aspects in the control of nuisance and antisocial behaviour forming part of the Council's holistic approach to licensing.
- 5.9 In this respect, the Licensing Authority recognises that, apart from the licensing function, there are a number of other partnership mechanisms available for addressing issues arising out of the operation of licensed premises, including;
- Task and Action Group
 - Planning Controls
 - Building Controls
 - Regular liaison with Surrey Police
 - Pub watches
- 5.10 The Licensing Authority will, so far as possible, avoid duplication with other regulatory regimes and does not intend to use the Licensing Act to achieve outcomes that can be achieved by other legislation.
- 5.11 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.
- 5.12 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.
- 5.13 It will normally be expected that applications for premises licences in respect of permanent commercial premises should be from businesses with the appropriate planning consent for the activity concerned in place.

- 5.14 Where representations are made to a particular application which relate to the licensing objectives, either from a responsible authority or from any interested other person, a hearing will be held at which the applicant and those making representation will have the opportunity to comment on the representations made.
- 5.15 In all cases, applicants and those making representations in respect of applications made to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority. Any appeal must be lodged within 21 days of the date upon which written notice of the decision is given by the Licensing Authority.

6 Cumulative Impact, Late Night Levy (LNL) and Early Morning Alcohol Restriction Orders (EMROs)

- 6.1 "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. Spelthorne Borough Council does not currently have such a policy for any part of the Borough but shall keep this under review.
- 6.2 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. Spelthorne Borough Council does not currently apply a LNL but shall keep this under review.
- 6.3 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.

7 Public Health

- 7.1 In January 2012 Public Health as the Local Health Board became a responsible authority for the purposes of the Licensing Act 2003. This provides an opportunity for and imposes an obligation on Surrey Public Health to consider and respond to licence applications where they have concerns about the promotion of the licensing objectives at a specific premises.
- 7.2 Although 'protecting and improving public health' is not a licensing objective, we are concerned about the potential risk of alcohol related harm in Spelthorne. Therefore, we will always consider health related harms where they are relevant to the promotion of the licensing

objectives. Accordingly, when making representations, Public Health may demonstrate a link between health concerns and the licensing objectives and may provide information such as ambulance callouts and admissions to hospital specifically caused by alcohol.

7.3 Public Health may also use the powers available to them as a responsible authority, to work with our partners to promote sensible drinking messages and support the approach to managing the local availability of alcohol, ensuring the links between density of licensed premises, alcohol availability and indicators of health related harm to inform licensing decisions.

7.4 We recognise that licensees are generally supportive of the need to address health issues relating to alcohol. We expect applicants to consider the health impacts of their proposed activities in relation to the licensing objectives, and have set out below, some best practice for applicants to consider when completing their operating schedules. We also expect licence holders to consider this best practice, and review their current procedures if necessary:

- a) restricting special offers such as cheap shots, 'happy hours', 'buy one, get one free', 'buy two glasses of wine and get the whole bottle'. This slows down consumption, the rate at which blood alcohol concentrations increase and the peak levels are reached by drinkers. Rapidly ascending and high blood alcohol concentrations are shown to be associated with violence and uninhibited behaviour.
- b) aligning price with alcohol by volume (ABV), and ensure that non-alcoholic drinks are much cheaper than alcoholic drinks
- c) increasing seating for customers to reduce intensive drinking
- d) reducing the volume of music because loud music can increase alcohol consumption.
- e) actively promoting designated driver schemes where a driver is offered discounted or free non-alcoholic drinks
- f) making food available in late venues
- g) starting the sale of alcohol later in the day and not aligning it purely with opening hours
- h) not advertising alcohol in the shop window
- i) storing alcohol behind the shop counter
- j) not using display boards or other advertising on the shop floor
- k) restricting the sale of beer or cider over 5.5% ABV

- l) not selling alcohol where they could attract underage purchasers
- 7.5 Where the applicant fails to offer appropriate measures to promote the licensing objectives in relation to public health this may give rise to representations from Public Health or the licensing authority acting in our capacity as a responsible authority.

8 Premises Licences & Club Premises Certificates

- 8.1 A premises licence is required for the sale of alcohol, provision of regulated entertainment or the provision of late night refreshment (sale of hot food and drink to the public between 11.00pm and 5.00am).
- 8.2 Some activities carried out by clubs need to be licensed under the Act but generally clubs are treated differently to commercial premises. A club is an organisation where members have joined together for a particular reason i.e. social, sporting or political and have combined to buy alcohol in bulk as members of the organisation for supply to their members. In order to apply for a Club Premises Certificate the club needs to be a 'Qualifying Club' as outlined in the Licensing Act 2003.
- 8.3 In determining applications for Premises Licences and Club Premises Certificates the Licensing Authority will have regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 and any secondary legislation.
- 8.4 It is important that applications for Premises Licences and Club Premises Certificates properly address the four licensing objectives by providing as much detail as possible on the application form.
- 8.5 The application must be supported by a comprehensive operating schedule. This schedule must specify the steps which the applicant proposes to take in order to promote each of the licensing objectives.
- 8.6 Measures offered by applicants on their operating schedule will normally become licence conditions. It is essential that conditions on the licence or certificate
- a) must be appropriate for the promotion of the licensing objectives;
 - b) must be precise and enforceable;
 - c) must be unambiguous and clear in what they intend to achieve;

In this regard, we may where necessary reword meaningless, unenforceable, or ambiguous conditions proposed in operating schedules, in order to ensure the licensing objectives are upheld.

- 8.7 Where applications for premises licences or club premises certificates have attracted representations from a Responsible Authority or any other person, the application will be scheduled for a hearing before a Licensing Sub Committee where the applicant and those making representations may be heard.

- 8.8 The Licensing Sub-Committee will give full and written reasons for the decision made for each application that proceeds to a hearing.
- 8.9 Applicants should be aware that breaching the conditions of a premises licence or club premises certificate is a criminal offence. Therefore, applicants should only volunteer conditions in their operating schedule that they can comply with and are willing to do so.

9 Electronic Applications

- 9.1 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.
- 9.2 Paper applications will still have to be copied to all of the responsible authorities by post by the applicant.

10 Application Consultation

- 10.1 The consultation process required for applications for Premises Licences, Club Premises Certificates and Full Variations of existing licences or certificates allows for representations to be made by various bodies and individuals. Responsibility for undertaking the advertisement of the application in accordance with the requirements lies with the applicant.
- 10.2 The Council will publish details of all new applications on its website.
- ### **10.3 Making Representations**
- 10.4 Representations about an application must be made in writing to the Council's Licensing Team within the time period prescribed. Written representations may include letters whether posted or emailed. Any representations received after the end of the public consultation period cannot legally be accepted, unless shown to have been submitted within the time limit.
- 10.5 When making a Representation, the Council request that a contact phone number and email address are provided. These help the Council to quickly contact respondents if the details of the application are altered as a result of the representations received in connection with arrangements for the hearing.
- 10.6 Representations should contain;

- The name, full address & post code of the person making them.
 - The reasons for their representation and
 - Which of the four Licensing Objectives the representations relate to;
 - Crime and disorder
 - Public Nuisance
 - Public safety
 - Protection of children from harm
- 10.7 A representation would be ‘irrelevant’ if it is not about the likely effect of the grant of the application on the promotion of the licensing objectives. Irrelevant representations cannot be accepted.
- 10.8 A representation made by a person other than a responsible authority will not be accepted if the Licensing Authority decides that it is frivolous or vexatious.
- 10.9 Vexation may arise where, for example, there is a dispute between rival businesses, or a repetitive complaint from another person which has already been subject of investigation and no new evidence provided.
- 10.10 Frivolous representations would be categorised by a lack of seriousness.
- 10.11 Such judgments will be made by officers following such enquiries as may be necessary.
- 10.12 Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed in writing that the representation will be disregarded. All valid representations will form part of a committee report that will become a public document. It will be provided to the applicant, his agent and persons who have made representations as well as the Licensing Subcommittee 10 days prior to the hearing.
- 10.13 Whilst representations may not be made anonymously, in exceptional circumstances, such as when the objector has a genuine and well-founded fear of intimidation or violence, some or all of the objectors personal details may be removed from the representation before it is given to the applicant.
- 10.14 Where there is opposition to an application, the sub-committee may:
- a) amend the conditions volunteered in the operating schedule
 - b) restrict the hours during which licensable activities may take place
 - c) limit the type of licensed activities that may be carried out
 - d) impose further conditions on the licence or certificate
 - e) refuse the application
- 10.15 **Negotiation and compromise**
 We strongly encourage a spirit of negotiation and compromise between parties. Where an application attracts representations, these can often be fully or partially, addressed through an applicant engaging in dialogue

with the parties raising the representations prior to the Licensing Sub-Committee hearing. Licensing issues can sometimes be emotive, so when an applicant does seek to negotiate, it is imperative that such negotiations are conducted in a courteous, sensitive and respectful way.

- 10.16 As negotiation can lead to parties withdrawing representations or agreeing to conditions to address concerns, we encourage applicants to engage in 'positive' negotiations with other parties. This may help to demonstrate that the applicant is a reasonable and responsible person or body and has sought to listen to and address concerns. Where negotiations would clearly have been helpful and an applicant has not sought to initiate them, the Licensing SubCommittee may have regard to this in their determination.
- 10.17 We expect the applicant to ensure that negotiations take place as far in advance as possible of the Sub-Committee hearing. The applicant should seek to involve all (and not just some) of the parties who have made representations in the negotiations, or at the very least keep all parties informed in writing of progress and outcomes. To allow the sub-committee to consider negotiations, the applicant must inform us in writing of the outcome of any negotiations at least two working days before the scheduled sub committee hearing takes place.

11 Personal Licenses

- 11.1 To sell alcohol in licensed premises at least one person needs to hold a 'Personal Licence' which has been granted by the Licensing Authority where they live. This requirement does not apply to 'qualifying clubs'.
- 11.2 Holders of a 'Personal Licence' must hold a recognised licensing qualification, be over 18 years of age and not have certain types of criminal conviction. Proof of a licensing qualification together with a Basic Disclosure certificate less than four weeks old and endorsed photographs of the holder are required as part of an application for a Personal Licence.
- 11.3 Where an applicant is found to have an unspent conviction for a relevant offence as defined in the Act or for a foreign offence, the Licensing Authority will notify the police. Where the police do not object and the application otherwise meets the requirements the Licensing Authority must grant it. If the police do object, a hearing will be held before the Licensing Sub-Committee to determine the application.
- 11.4 The Policing and Crime Act 2017 gave licensing authorities the power to revoke or suspend personal licences, with effect from 6 April 2017. This is a discretionary power; licensing authorities are not obliged to give consideration to all personal licence holders subject to convictions for relevant offences, foreign offences or civil penalties for immigration matters.

- 11.5 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months.
- 11.6 In exercising its duties, the Council will normally seek to suspend or revoke a Personal licence when it is made aware that a licence holder has received a relevant offence, foreign offence or civil penalty for immigration matters.

12 Fees and Charges

- 12.1 Licensing fees and charges are set by Government and are the same across the Country.
- 12.2 Once granted, a licence or club premises certificate does not expire but the licence holder is required to pay an annual fee. Failure to pay the annual fee within the prescribed time will result in the Licensing Authority suspending the operation of the premises licence or club premises certificate until all outstanding fees are paid.
- 12.3 Where the annual fee is paid the licence will remain in force even if the premises are not used for a licensable purpose.
- 12.4 Should applicants need assistance with completing applications they should obtain their own independent legal advice. The Council are unable to recommend agents.
- 12.5 Applicants are advised that if applications are submitted incorrectly, applications will be rejected with applicants directed to re-apply, including paying the required fee.
- 12.6 **Suspension of licence for non payment of annual fee**
- 12.7 The licence holder is solely responsible for paying the annual fee by the due date. Whilst we may contact the licence holder to remind them about payment, we are not obliged to do so.
- 12.8 Where an annual fee for a licence or certificate has become due but has not been paid, we will suspend the licence until that fee is paid, unless the nonpayment is due to:
- a) an administrative error, or
 - b) where liability to pay is in dispute and that dispute has been raised prior to the fee falling due.
- 12.9 Normally, we will only provide the statutory minimum notice period before a suspension takes effect.

13 Variations (Minor and Full)

13.1 Both Premises Licences and Club Premises Certificates may be varied under the Licensing Act 2003.

13.2 **Minor Variations**

A minor variation is a simplified process with a set statutory fee applicable to all premises and clubs. There is a requirement to advertise the application by displaying a 'white' notice at the premises for a period of ten working days starting on the first working day after giving the application to us.

13.3 Minor variations are those which cannot adversely impact on the licensing objectives and generally fall into four categories which are:-

- Minor changes to the structural layout which does not;
 - Increase the capacity for drinking (increasing floor area for patrons drinking etc.)
 - Affecting access or egress (blocking fire exits or escape routes)
 - Impede or remove noise reduction measures at the premises (removing acoustic lobbies etc.)
- Small adjustments to licensing hours
- Removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions
- Addition of a licensable activity where similar activities already exist.

13.4 Decisions on a minor variation are delegated to officers and there is no right to a hearing.

13.5 In making such decisions, we will have regard to any relevant representations received from interested parties within the statutory time limit. We will only regard representations as relevant where they relate to the likely effect of the grant of the application on one or more of the licensing objectives.

13.6 We will also consult, when and if necessary, with the relevant responsible authorities.

13.7 We will only approve an application for a minor variation where in our opinion the variation sought will not have an adverse impact on the licensing objectives.

13.8 **Full variations**

Follow the same procedure as that for a new Premises Licence with the need for advertisement on the premises and in the newspaper in addition to the statutory consultation.

13.9 The areas in which a premises licence may be varied include;

- Varying the hours during which a licensable activity is permitted
- Adding or removing licensable activities

- Amending, adding or removing conditions within a licence
- Altering any aspect of the layout of the premises which is shown on the plan.

13.10 Where the changes proposed are substantial or involve completely changing the nature of the business, it may be more appropriate to apply for a new premises licence.

14 Temporary Event Notices (TEN)

14.1 Anyone over the age of eighteen may serve the Licensing Authority with a TEN. This permits people to hold an event involving licensable activities without having to apply for a Premises Licence or Club Premises Certificate.

14.2 Applicants must provide a clear description of the area in which they propose to carry on licensable activities and must describe the event taking place at the premises.

14.3 There are certain limitations to TENs. As these are subject to change applicants should consult the gov.uk website for information.

14.4 A TEN should be submitted to the Licensing Authority a minimum of 10 working days before the proposed event (Standard TENs), however a limited number of applications may be made giving no less than 5 working days' notice (Late TEN's). If objections are received from either the Police or Environmental Health officers a hearing will be held to decide whether the event can go ahead in the case of Standard TENS. Late TENs will not be valid following an objection and the event will not be able to go ahead.

14.5 Although ten clear working days is the minimum possible notice that may be given, the Council prefers advance notice of events.

14.6 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.

15 Licensing Hours

15.1 Many representations submitted in response to licensing applications for the sale of alcohol for consumption on premises relate to public concern about the hours of operation proposed. The Licensing Authority recognises there is opportunity for significant detrimental impact for local residents where licensed premises operate late. It also recognises that longer licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time, which in turn may reduce disorder and disturbance.

15.2 Where representations are made against the grant of a new licence for the sale of alcohol for consumption off the premises such as shops,

garages and supermarkets, the Licensing Authority may consider restricting those hours only where there are good and justifiable reasons for doing so and if this would promote the licensing objectives.

- 15.3 The Licensing Authority can use powers to control the hours of operation of any licensed premises where it has received a representation against an application and there are reasonable and proportionate grounds to believe that if the licence was granted as applied for without restriction, nuisance, antisocial behaviour or crime and disorder might arise. Such situations are most likely to arise where licensed premises are located close to residential areas.
- 15.4 Where representations are received, the application will be referred to a Licensing Sub Committee. The Sub-Committee will seek information and assurances from the applicant that the four Licensing Objectives will not be undermined by the grant of the application. Where the Sub Committee considers it appropriate to do so it may apply licensing conditions, including limiting the hours of operation.
- 15.5 Not all regulated entertainment will be associated with the sale of alcohol. There may be licence applications when alcohol is not provided for many reasons or in other circumstances it would be unnecessary or unlawful to have alcohol available, for example, events exclusively for children. In other circumstances regulated entertainment could finish earlier or later than the sale of alcohol.
- 15.6 The provision of Late Night Refreshment covers the supply of hot food or hot drink to members of the public at any time between the hours of 11pm and 5am. This includes takeaway food premises but also applies to restaurants and mobile vehicles.
- 15.7 In each case, the hours being sought for regulated entertainment or late night refreshment must be set out in the application and operating schedule. Where representations are received the Licensing Sub-Committee will consider each application, determining the hours of operation on its own merits taking into account the licensing objectives.
- 15.8 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.
- 15.9 **Late Night Takeaways**
Applications for premises offering late night take away food and drink 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.

15.10 **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.

16 Promoting the Four Licensing Objectives

- 16.1 The promotion of the four objectives is fundamental to the Act. Every applicant for a premises licence must provide a fully completed and detailed operating schedule. This schedule must be in the prescribed format.
- 16.2 The most effective means for an applicant to assess what measures are needed to promote the licensing objectives is by risk assessment, which can then be used to form the basis of the operating schedule.
- 16.3 Providing as much information as possible in the operating schedule demonstrates that the applicant has seriously considered the issues, is aware of their duty to promote the licensing objectives at all times and is aware of how this may be best achieved.
- 16.4 The operating schedule forms the basis of any conditions placed on a licence other than those which are mandatory. It provides valuable information to interested parties and responsible authorities assisting their assessment of the impact of the licensed activity on the licensing objectives and provides information about how the applicant will address these issues. It is likely to form the basis of any decision to submit a representation against the application.
- 16.5 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. For this reason, these measures should be specifically considered, detailed and addressed within an applicant's operating schedule.
- 16.6 Failure to comply with licence conditions can lead to formal enforcement action or an application for a review of the licence, or both.
- 16.7 **Prevention of Crime and Disorder**
- 16.8 Licensed premises of any description, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder. The Licensing Authority expect operating schedules to satisfactorily address these and any other potential issues, from the design of the premises through to the daily operation of the business.

- 16.9 Applicants are recommended to engage with and seek advice from the Police and other Responsible Authorities taking into account, as appropriate, local planning and transport policies in addition to tourism and crime prevention strategies when preparing their operating plans and schedules prior to submission.
- 16.10 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.
- 16.11 Where objections are received and the Licensing Sub Committee considers it appropriate to do so, conditions may be attached to licences to prevent crime and disorder both inside and in the vicinity of the premises.
- 16.12 The Licensing Authority considers the orderly dispersal of customers from licensed premises to be an important factor in promoting the licensing objectives. In considering applications for the grant or variation of a licence, serious consideration will be given to the dispersal arrangements, the potential effect that granting the licence might have on dispersal arrangements from other licensed premises or the cumulative impact in the area.
- 16.13 In addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.
- 16.14 Consideration will be given where appropriate to the powers available under the Violent Crimes Reduction Act 2006 and the use of Public Spaces Protection Orders.
- 16.15 **Crime and Disorder risks**
The following provides a non-exhaustive list of risks associated with the crime and disorder objective that applicants should consider (where relevant) when preparing their operating schedule. We also expect licence holders to consider the same risks and review their current procedures if necessary:
- a) **crime and disorder near the premises:** this may include the risk of crime and disorder arising from persons queuing to enter the premises, persons exiting the premises and customers smoking, eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.
 - b) **crime and disorder in the premises:** drugs, psychoactive substances, weapons and violence.

- c) **event type:** in some cases, the type of regulated entertainment proposed could increase the possibility of violence and/or disorder occurring in, or near, the premises. For example, some externally promoted live music events carry an increased risk of violent crime and disorder. It may be appropriate to carry out a risk assessment of the activities proposed and share these with us, in some cases, to provide such risk assessment to the police licensing team before the event is agreed.
- d) **the risk associated with selling alcohol for consumption on or off the premises:**
 - 1. what measures are necessary to prevent underage or proxy sales? Proxy sales are when a person who is 18 years or older buys alcohol for a person who is underage.
 - 2. what measures are necessary to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
 - 3. whether there are procedures in place to prevent sales of alcohol to intoxicated persons (with attention to street drinkers).
- e) **licensed premises and late-night refreshment:** applicants and licence holders should demonstrate they have assessed the risk of intoxicated persons congregating in large numbers near their premises. Where appropriate, applicants and licence holders should demonstrate suitable measures to address this problem.
- f) **premises environment:** applicants and licence holders should consider the physical environment of the premises and have regard to issues that could increase the likelihood of customers becoming agitated or aggressive. This may include procedures regarding door supervision, identification and management of drunken customers and issues of overcrowding and capacity

16.16 Measures to address crime and disorder risks

In proposing steps or conditions to be included in the operating schedule, we expect applicants to consider the following non-exhaustive list of measures and issues that we consider may be relevant to licence applications. We also expect licence holders to consider the same issues and measures, and review their current procedures if necessary:

- a) alternatives to glass: restricting the use of glass bottles and drinking vessels to customers in preference for containers made from soft and environmentally friendly materials, polycarbonates, shatterproof or toughened glass that comply with weights and measures legal requirements.
- b) CCTV: using CCTV inside and/or outside the premises together with appropriate procedures and staff training for the ongoing maintenance and operation of such systems.

- c) dispersal procedures: establishing appropriate dispersal procedures to minimise the potential for crime and disorder when customers are leaving the premises.
- d) dealing with and reporting crime and disorder: training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.
- e) door staff: considering the use of Security Industry Authority (SIA) registered door staff and the appropriate number of door staff for the premises.
- f) drinks promotions: adopting policies to discourage excessive drinking. This might include adherence to good practice guides and industry codes on drinks promotions such as happy hours, buy one get one free and so on, in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.
- g) drugs, psychoactive substances and weapons: applicants should pay attention to search procedures, procedures for the safe storage and surrender of seized drugs, psychoactive substances and weapons and consideration given to adoption of a “zero tolerance” policy in this area.
- h) incident and occurrence book: keeping an incident book on the premises so staff can record any instances of crime, disorder, refused sales, ejections and intimidating behaviour.
- i) promotion/event risks: ensuring compliance with guidance from the police relating to specific event risk assessments for externally promoted live music events well in advance of the event.
- j) excessive drinking: training for staff to recognise when customers are becoming drunk and adopting appropriate ‘cut off’ procedures for drunken customers, to reduce the likelihood of fights or aggressive behaviour.
- k) getting home safely: providing information to customers and staff (including contact telephone numbers) regarding safer options available for travelling home late at night - including licensed taxis and private hire vehicles (mini-cabs).
- l) local schemes: joining and attending meetings of the local Pubwatch.

- m) overcrowding developing policies and procedures regarding capacity to prevent overcrowding and customers becoming aggressive
- n) prevention of theft: using bag hooks and signage to warn customers of pickpockets and bag snatchers
- o) queue management: establishing appropriate procedures to avoid the need for customers to queue before entering the premises or, where queuing cannot be avoided, to manage customers in the queues to minimise the potential for crime and disorder
- p) sales for consumption off the premises: applicants should consider:
 1. using shutters to prevent alcohol from being selected in non licensed periods
 2. having appropriate numbers of staff on duty to deal with possible 'intimidation' to sell alcohol
 3. restricting the sale of high strength beer/drink promotions
 4. using an incident and occurrence book to record incidents

16.17 **Drugs**

Recognising that drug misuse is not an issue in all licensed premises, the Licensing Authority is committed to the reduction and eradication of drugs from licensed premises as part of its role promoting the Crime and Disorder licensing objective. All licence holders are expected to actively support this objective by the way they plan, manage and operate their premises.

16.18 Where relevant representations are received following an application for the grant or variation of a licence, conditions may be imposed to support the prevention of the sale, supply and use of drugs. In premises where drug misuse is problematic and where the police or others apply for a 'Review' of the licence, the Licensing Sub-Committee will consider this as serious criminal activity and give appropriate consideration to the options available, including the suspension or revocation of the licence in accordance with the Secretary of State's Guidance. The Licensing Authority recognises that each case must be decided on individual facts and its specific merits.

16.19 **Drink Spiking**

Drink 'spiking' is when alcohol or drugs are added to someone's drink without their knowledge. Spiking a drink is illegal and subject to high maximum sentences if a person is found guilty. The UK has seen a rise in the incidences of spiking in licensed premises.

We expect applicants and licence holders to consider the risk associated with spiking on their premises and recommend that measures to deal with his risk are included within their existing drug policies.

16.20 Psychoactive Substances

The UK has seen a rise in new substances and products that mimic the effects of traditional drugs such as cannabis, cocaine, amphetamine and ecstasy. The Psychoactive Substances Act 2016 came into effect in May 2016 and bans these substances.

16.21 We expect applicants and licence holders to consider the risk associated with psychoactive substances on their premises and recommend that measures to deal with his risk are included within their existing drug policies or a separate psychoactive substances policy.

16.22 Outside drinking

Some premises may wish to supply alcohol for consumption in an outside area such as a beer garden or on the pavement adjacent to the premises. In such circumstances, we expect applicants to include all outside areas within their proposed plan, and to consider the risk associated with outside drinking and include measures in their operating schedule to uphold the licensing objectives. We also expect licence holders to exercise control over their customers, particularly in instances where the outside drinking takes place on the pavement to which the public has access. If the licence holder fails to exercise such control, we may take enforcement action and apply to review the premises licence.

16.23 If you wish to place tables and chairs on the public highway adjacent to your premises, you must also obtain a pavement licence. Further information is available on our website.

16.24 Public Safety

16.25 The Licensing Authority is committed to ensuring, as far as practicably possible that the safety of any person visiting or working in licensed premises is not compromised. Applicants must demonstrate in their operating schedule that suitable and sufficient measures have been identified, implemented and maintained to ensure public safety specific to the characteristics of their premises and events.

16.26 Applicants are encouraged to contact the Council's Environmental Health Services with draft proposals including plans and operating schedules. Where applicable applicants should consider safe capacity, the safety of those with special needs and the first aid requirements of customers.

16.27 Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with the premises and the measures to prevent, manage, mitigate and respond to those risks.

16.28 Where representations are received and the Licensing Sub-Committee considers it appropriate to do so, they may attach conditions to licences and certificates to ensure public safety.

16.29 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

16.30 In proposing steps or conditions to be included in the operating schedule, we expect applicants to consider the following non-exhaustive list of measures and issues that we consider may be relevant to licence applications. We also expect licence holders to consider the same issues and measures, and review their current procedures if necessary:

- a) blocking of public areas: this may apply to both inside and outside areas. For example, applicants may need to consider the possible impact of customers congregating in areas close to the premises and the safety risk arising from customers or others having to step off the pavement as a result
- b) emergencies: issues in relation to fires, bomb threats, emergency management, contingency planning and evacuation
- c) environment: an environment that is too hot or too cold can make customers uncomfortable and can lead them to become irritable and less likely to exhibit desirable behaviour. Operators should adequately heat and ventilate the premises to avoid this. If premises are in a noise sensitive area, we do not recommend keeping doors and windows open as a means of ventilation due to public nuisance considerations, and licence conditions may even prohibit this. In such cases, operators should provide some form of mechanical ventilation to ensure comfort levels are maintained
- d) safe capacity: we do not generally set safe capacity limits for premises. For many, the venue risk assessment will determine the premises safe capacity. This risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time, and available fire exits. Consideration should be given as to the number of staff that is necessary to deal comfortably with the needs of persons attending the premises. If the venue has a capacity limit, operators should ensure it is not exceeded by putting a counting mechanism in place.

- e) special effects: if special effects are to be used on the premises such as flame, lasers, pyrotechnics, smoke, fog, foam or replica firearms, we encourage risk assessment to be carried out in respect of each such activity, detailing the steps to be taken to prevent and control risk to customers and staff.
- f) Generally, operators should not use special effects at the premises without our prior consent.

16.31 Prevention of Public Nuisance

16.32 Licensing Sub Committees are mindful that licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity. When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance before including in the operating schedule how they propose to mitigate and manage those issues.

16.33 Where an application includes provision of a smoking area or shelter the Licensing Authority expects them to be situated as far as possible from neighbouring residential premises. It is expected that suitable receptacles be provided and maintained to dispose of cigarette litter in any area used for smoking outside licensed premises. Licensees must take all reasonable steps to discourage smoking on the public highway close to residential premises, considering measures such as a ban on customers taking drinks outside on to the public highway, the use of door supervisors or imposing a time after which readmission to the premises will not be permitted. Licence holders and applicants are reminded to consider compliance with noise nuisance legislation under the Environmental Protection Act 1990 when considering smoking locations.

16.34 Potential causes of public nuisance

We expect applicants to consider the following non-exhaustive list of risks associated with the public nuisance licensing objective when preparing their operating schedule:

- a) amplified music: noise from music played on the premises.
- b) customer noise: this takes many forms, but the following are of concern:
 - 1) customers queuing to enter or leave the premises
 - 2) customers loitering outside the premises waiting for transport
 - 3) alcohol-related drunken behaviour and shouting
 - 4) customers eating, drinking, or smoking in external areas such as beer gardens, forecourts, and other open areas adjacent to the premises
 - 5) car horns/car radios/slamming of car doors late at night in the vicinity of licensed premises

- 6) use of external play equipment and noise from children using the provided facilities.
- c) deliveries: deliveries outside daytime hours, especially early morning and late evening or night
- d) collections: early morning and late night clearing up and collection of waste. We are particularly concerned about the noise associated with the movement and collection of glass waste as this may cause significant noise nuisance and can be heard over a wide area
- e) lighting: excessive artificial lighting near licensed premises
- f) litter/waste: litter and waste generated by the carrying out of licensable activities, for example, food wrappers and cigarette butts
- g) obstruction: customers blocking footpaths when eating, drinking and smoking near to the premises
- h) plant and machinery: noise from plant and machinery, including air conditioning units, refrigeration units and kitchen extractors. This may include smell nuisance from ventilation ducting and kitchen extractors.

16.35 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.

16.36 Measures to address Public Nuisance:

We expect applicants to consider the following non-exhaustive list of measures/issues in their operating schedule:

- a) deliveries: ensuring arrangements are in place to prevent unreasonable disturbances caused by delivery of goods and services to the premises
- b) collections: ensuring arrangements are in place to prevent unreasonable disturbances caused by collections, especially of glass waste. For example, these collections could be restricted so that they only take place at certain times, such as Monday to Saturday 08:00 to 20:00 and Sunday 10:00 until 20:00

- c) litter: where licensable activities give rise to the risk of customers dropping litter in the vicinity of the premises, whether adequate arrangements are in place to prevent littering and/or clearing it up
- d) noise or vibration escaping the premises: we will be particularly concerned with premises located close to noise sensitive properties who propose to provide music and entertainment. We encourage applicants to supply an acoustic report confirming there will be no noise breakout from the premises that is likely to cause public nuisance to persons living or working in the vicinity of the licensed premises
- e) plant and equipment: applicants should demonstrate that plant and equipment (air handling units, ventilation/extraction ducting and other equipment) is suitable and enough for the purpose intended without causing nuisance to residents by way of noise, odours or vibration
- f) people entering and leaving the premises: whether consideration has been given to possible public nuisance issues caused by customers and staff entering and leaving the premises. We will pay regard to queuing arrangements and arrangements for the orderly dispersal of customers
- g) customers smoking, eating and drinking in outdoor areas and on the highway outside the premises: possible measures that may address this issue include:
 - 1. providing prominent signage asking customers to keep noise to a minimum when using outdoor areas
 - 2. restricting the number of customers permitted in certain outside areas and/or at certain times
 - 3. using door supervisors and employees to monitor public nuisance issues
 - 4. not allowing customers who are smoking to take drinks outside with them
 - 5. restricting the use of external areas at a certain time
 - 6. removing furniture from smoking areas or preventing it's use after a certain time to discourage smokers from loitering outside the premises
 - 7. locating smoking areas away from residential premises
 - 8. using portable ashtrays to prevent cigarette litter
 - 9. only allowing seated customers to use external areas that are authorised to be used by a tables and chairs licence
- h) queuing: an effective door and queuing policy to encourage good behaviour outside the premises. This might include training for door staff to deal with conflict and drunkenness

- i) signs: signs encouraging customers to leave the area quietly, to minimise rowdy behaviour whilst waiting for transport and to minimise nuisance and/or disturbance to residents
- j) vehicles: whether there are measures to reduce the impact of customers and staff parking vehicles in the vicinity of the premises and measures taken to minimise noise generated by other vehicles attending the premises, for example taxis and minicabs
- k) A simple requirement to keep doors and windows at the premises closed when music is being played
- l) Limiting amplified music to a particular area of the building
- m) Moving speakers away from external walls or walls that abut private premises, or adjusting the direction of the speakers
- n) Installation of acoustic curtains, seals to doorways, rubber speaker mounts
- o) Fitting self-closing devices on doors so that they do not stay open.
- p) 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
- q) Noise limiters on amplification equipment (if proportionate to the premises – noise limiters are expensive and are likely to be a burden for smaller premises)

16.37 There is a distinct separation between a public nuisance under the Licensing Objectives and statutory nuisance relating to noise, light and odour under Section 79 Environmental Protection Act 1990 which is dealt with by Environmental Health Officers.

16.38 Applicants are encouraged to contact the Council's Environmental Health Services with draft proposals and where applicable their plans and operating schedules as to how they intend to control noise emanating from the premises from openings to the building (doors, fans, windows, ventilation). Consideration should be given to the provision of attenuating material and if suitable building attenuation cannot be achieved or no other appropriate measures can be taken to attenuate noise then consideration to the installation, calibration and operation of a noise limiting device may have to be given.

16.39 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.

16.40 Where representations are received and the Licensing Sub-Committee considers it appropriate to do so, they may attach conditions to licences and certificates to prevent public nuisance.

16.41 **Protection of Children from Harm**

16.42 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.

16.43 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.

16.44 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.

16.45 The wide range of different premises that require licensing under the Act means that children may be expected to visit many of these, often on their own, for food and / or entertainment. Where no representations are received and an applicant's operating schedule details restrictions in relation to the admission of children, these may become conditions attached to the licence. Apart from the specific restrictions set out in the Licensing Act 2003, there is no presumption of either permitting or refusing access to licensed premises. Each application and its unique circumstances must be considered on its own merits.

16.46 The Authority is committed to protecting children from harm. Local authorities have an overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. While local authorities play a lead role, safeguarding children and protecting them from harm is everyone's responsibility. Everyone who comes into contact with children and families has a role to play.

16.47 The Licensing Authority will only seek to limit the access of children to licensed premises where it is necessary for the prevention of physical, moral or psychological harm. The Licensing Authority will consult the Surrey Safeguarding Children Board for advice on any application that indicates there may be concerns over access for children. In the event of representations, the Licensing Sub-Committee will consider the merits of each application before deciding whether to impose conditions limiting the access of children.

16.48 The following are examples of premises that are likely to raise concern;

- Where entertainment or services of an adult or sexual nature are commonly provided.
- Where there have been convictions of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
- Where a remote delivery service for alcohol is offered, with the potential for minors to order/be delivered alcohol
- Where age restricted films are shown
- A known association with drug taking or drug dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

16.49 Examples of entertainment or services of an adult or sexual nature might include;

- Topless bar staff, striptease, lap, table or pole dancing
- Performances involving feigned violence or horrific incidents
- Feigned or actual sexual acts or fetishism
- Entertainment involving strong or offensive language.

16.50 The Licensing Sub-Committee may consider any of the following options when dealing with a licence application where limiting the access of children is considered appropriate to prevent harm to children;

- Limitations on the hours when children may be present
- Limitations on the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children might be given access
- Limitations on ages below 18
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

16.51 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee. The 2003 Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the Police to ensure the appropriate compliance with the law, especially relating to the sale and supply of alcohol to children.

16.52 Consideration will be given to promoting initiatives which may assist in preventing the sale of alcohol to children such as Home Office campaigns. The Licensing Authority is supportive of and actively encourages recognised proof of age schemes and 'Challenge 25'

policies in all licensed premises as a fundamental means of preventing under age sales. The Licensing Authority has an expectation that all licence holders will maintain accurate record keeping of refusals and ensure that all staff are suitably trained.

16.53 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 alcohols.

16.54 Many children go to see and/or take part in entertainment arranged especially for them, for example children's film shows, discos, dance or drama school productions and additional arrangements are required to safeguard them while at the premises.

16.55 Where an application for a Premises Licence or Club Premises Certificate includes the provision of entertainment for children or by children, the Licensing Authority will expect the operating schedule to include arrangements for protecting children.

16.56 Where representations are made and the Licensing Sub-Committee consider it appropriate to do so, they may make full use of Licensing Conditions to secure the protection of children from harm.

16.57 The Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Surrey Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, fixed penalty notices, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.

16.58 In keeping with the s.182 Guidance the Licensing Sub-Committee will treat underage sales as serious criminal activity and will give consideration to the suspension or revocation of a licence if a review is brought in respect of underage sales.

16.59 Measures to protect children from harm

We expect the applicant to consider the following non-exhaustive list of measures/issues to ensure the protection of children from harm:

- a) prevention of underage sales: this may include:
1. operating a 'challenge 25' policy
 2. requirements for adults to accompany a person under 18 at all times
 3. having a recognised proof of age scheme in place and training all staff in its implementation, displaying posters advertising the scheme and giving details of acceptable identification
 4. providing regular staff training on the sale of alcohol. Maintaining a written staff training record. Not allowing staff to sell alcohol until they have completed the training.
 5. keeping a refusals log on the premises and ensuring it is completed whenever sales are refused to a person who appears to be under the age of eighteen
 6. displaying posters stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales)
 7. ensuring alcohol is displayed in an area where access to it can be monitored and controlled by members of staff, for example behind the counter
 8. use of till prompts

b) access to premises: restricting access for children to licensed premises:

1. limitations on the hours when children may be present
2. limitations which exclude the presence of children under certain ages when specified activities are taking place
3. limitations on the parts of the premises to which children might be given access
4. age limitations (below 18)

c) unaccompanied children: where unaccompanied children are to be present at public entertainment, we will expect the venue to provide a member of adult staff (over 18 years of age) for every 50 (or part 50) children present, whose sole responsibility and purpose is to protect those children from harm and to control access and egress

d) child performers: where children are present at an event as performers or entertainers, there should be a nominated adult responsible for those children in order to protect them from harm. Where necessary we will apply conditions to prevent harm to children who are performing

e) age restricted films: where appropriate, applicants should detail their arrangements for restricting children from viewing age-restricted films classified according to the British Board of Film Classification (BBFC) or by the Council.

16.60 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.

16.61 Safeguarding the vulnerable

We expect operators of all consider appropriate safeguarding for all vulnerable people (both children and adults) and consider including conditions which assist in keeping vulnerable people safe. This may include:

- a) Dispersal policies including provisions for the safe dispersal of the vulnerable; and/or
- b) Policies concerning the safe and responsible ejection or refusal of entry of vulnerable or potentially vulnerable people.

17 Large Scale Events

17.1 This Chapter relates to applications for large events that are temporary in nature but cannot be authorised under a temporary event notice (TEN) because of the number of persons who will be present or because the event spans more days than permitted by a TEN.

17.2 Special issues and considerations may arise where large-scale, outdoor and/or specialised events are proposed. Large scale open air events require significant planning and organisation with potential to impact on the licensing objectives. The Licensing Authority and other Responsible Authorities expect to be satisfied well in advance of any such event that appropriate measures are in place to safeguard the licensing objectives.

17.3 It is expected that all other appropriate authorisations will be in place prior to an application and organisers must be mindful that a premises licence application may take up to two months to be determined should representations be received.

17.4 We may license these events under a time limited premises licence lasting for the duration of the event. We advise persons wishing to hold such events (event organisers) to contact us for advice prior to making

an application. Depending on the scale and complexity of the event, we recommend contacting us 6 to 12 months ahead of the proposed event.

- 17.5 We also advise event organisers to read “The Purple Guide to Health, Safety and Welfare at Music and Other Events” which replaces “The Event Safety Guide” (HSG195) published by the Health and Safety Executive.
- 17.6 Usually, and if one is available, we will ask event organisers seeking a premises licence for a large event to attend a meeting of the Safety Advisory Group (SAG).
- 17.7 The SAG consists of officers from responsible authorities such as the police, our pollution and health and safety teams, the fire authority. Officers from other relevant departments and agencies such as the ambulance service, and the highways authority may also attend from time to time, where it is considered appropriate in the circumstances.
- 17.8 In cases where we consider a SAG meeting is necessary, we will contact the event organiser to advise them of the requirement for a meeting and arrange a suitable date, and time for the meeting.
- 17.9 We will invite event organisers to present their application and details of their event to the SAG. We expect the applicant to send us a draft event management plan (EMP) at least 10 working days before the meeting so the members can consider whether the event would be run safely and cause minimum disruption to the environment in terms of nuisance, traffic management etc.
- 17.10 The SAG does not determine licence applications or impose conditions, but its members will advise event organisers on producing an acceptable EMP for their event.
- 17.11 An EMP is a statement of how an event organiser will run their event. It incorporates such areas as risk assessment, traffic and transport planning, first aid, stewarding, site layout, emergency planning and evacuation plans, noise management, litter disposal, and communication protocols etc.
- 17.12 We strongly urge event organisers to consult the SAG and produce a comprehensive draft EMP prior to submitting their licence application. Where a responsible authority considers an EMP is inadequate to promote the licensing objectives, it may make a representation to us about the application.
- 17.13 If an event organisers does not attend a SAG, we will still expect them to submit a comprehensive EMP with their licence application.
- 17.14 Generally, we advise applicants to offer only the following conditions in their operating schedule:

- a) The Licensee shall comply with the event management plan submitted to the licensing authority and no changes shall be made to the event management plan without the prior written consent of the licensing authority.
- b) The Event shall be run in accordance with the site plan submitted to the licensing authority. No changes shall be made to the site plan without the prior written consent of the licensing authority.

17.15 This approach allows the event organiser flexibility to make changes to the layout of the event or to specific activities without the need to make a fresh application for a premises licence or an application to vary the existing premises licence. Without this approach, any changes made could be unauthorised and possibly result in enforcement action.

17.16 We also advise applicants to refer to the Purple Guide for guidance on producing an EMP.

17.17 Safety advisory group (SAG)

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.

17.18 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.

17.19 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.

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

17.21 It should 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.

17.22 It is also important to note that SAGs do not relieve Responsible Authorities or other persons of the need to make relevant representations where they believe this is appropriate.

17.23 After an event a follow up meeting may be arranged if there were complaints or concerns raised by the public or Responsible Authorities.

17.24 ‘Martyns Law’

The Licensing Authority is also aware that in January 2020 the Government announced its backing of the ‘Martyn’s Law’ campaign to improve security at venues and public spaces in light of the terrorist attacks in Manchester and London in 2017.

17.25 The paradigm shift in the nature of terrorism means that the security agencies primary responsibility of protecting its citizens is no longer achievable through the existing, and very limited, provision of state-owned protective security resources. The spaces and places in which people live, work and enjoy democratic freedoms are the very places that terrorists wish to attack.

17.26 The Authority would expect that those who operate the places and spaces in which people live, work and socialise must take greater steps to ensure the security of their users.

17.27 However, the solution is not just about tangible materials, it is also about being prepared. Consequently, the Licensing Authority would expect large capacity venues and organisers of large events to consider the following measures:

- A requirement that spaces and places to which the public have access engage with freely available counter-terrorism advice and training,
- A requirement for those places to conduct vulnerability assessments of their operating places and spaces
- A requirement for those places to mitigate the risks created by the vulnerabilities
- A requirement for those places to have a counter-terrorism plan.

18 Films

18.1 The screening or display of films covers a vast range of subjects, some of which deal with adult themes and/or contain, for example, strong language, scenes of horror, violence or a sexual nature that may be considered unsuitable for children within certain age groups.

18.2 Premises or Club Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the licensing authority. Where recommendations have been made by both bodies, and the licensing authority has notified licence-holders of this, the licensing authority’s recommendation will take precedence.

18.3 For the purposes of sections 20 and 74 of the Act, the licensing authority recognises the British Board of Film Classification (BBFC) as the film

classification body, and will specify this body within the licences and certificates it issues.

- 18.4 The licensing authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or licensing authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 18.5 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a licensing authority recommendation should be displayed at or near the entrance to the screening.
- 18.6 The licensing authority anticipates that the BBFC's recommendations will apply to the vast majority of films shown at licensed premises within the borough. However, in a small number of cases, the licensing authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the borough. Such situations can be approximately characterised in one of three groups:
- In cases where the licensing authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
 - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
 - In cases where the licensing authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 18.7 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The licensing authority is aware that some cinemas across the country have agreed schemes whereby the applicable licensing authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and very young children to special screenings of that film with only parents of such children in attendance.

- 18.8 It is recommended that any premises considering the provision of such screenings contacts the licensing authority to discuss the proposals firstly. The authority will typically only depart from BBFC Classification in exceptional circumstances and would expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.
- 18.9 When exercising powers under section 20 to issue an admission recommendation for a previously unclassified film, the authority will adhere to the BBFC's Classification Guidelines, and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 18.10 In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the licensing authority.
- 18.11 Where the licensing authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

19 Licence Conditions

- 19.1 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.

- 19.2 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 Responsible Authorities.
- 19.3 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.
- 19.4 Where responsible authorities or other persons do not make any representations about an application, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions prescribed by the Act.
- 19.5 The Licensing Authority must avoid attaching conditions that duplicate other regulatory regimes as far as possible and may not impose conditions unless its discretion has been engaged following the making of relevant representations and the Licensing Sub-Committee has been satisfied at a hearing that it is appropriate to impose them.
- 19.6 It may then impose only those conditions appropriate to promote the licensing objectives arising out of the consideration of the representations.
- 19.7 To minimise problems and the necessity for hearings, the Licensing Authority would encourage applicants to consult with the 'Responsible Authorities' when preparing their operating schedules so that they can offer appropriate conditions as part of their applications.
- 19.8 The Licensing Authority recognises that it is important to ensure that any conditions attached to a licence or certificate achieve the licensing objectives but are not disproportionate or overly burdensome. Therefore, where conditions are necessary they will be tailored to the individual style and characteristics of the particular premises and event concerned. Where appropriate, following a hearing the Licensing Sub-Committee will consider attaching conditions provided that they are proportionate, justifiable and capable of being met.
- 19.9 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).

20 Administration & Delegation

- 20.1 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.

- 20.2 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.
- 20.3 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.
- 20.4 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.
- 20.5 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.
- 20.6 Ward councillors play an important role in the local community. They can make representations in writing and speak at the hearing on behalf of an interested party such as a local resident or local business if specifically requested to do so. They may also make representations as an interested party in their own right if they have concerns about the premises.

- 20.7 They may apply for a review of a licence if problems at a specific premises justify intervention and are brought to their attention. Ward Councillors are informed of all new applications and any application to vary a licence in their ward.
- 20.8 Local residents and businesses may wish to contact their local ward Councillors in respect of a licence application. If a local resident or business makes a representation about an application it is often helpful to send a copy to the local Councillors as this assists them to gain an understanding of local community feelings.

21 Enforcement

- 21.1 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.
- 21.2 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.
- 21.3 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.
- 21.4 Regular joint visits are undertaken with other Responsible Authorities. 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.
- 21.5 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.
- 21.6 Spelthorne Borough Council has an Enforcement Policy and interventions will be conducted in accordance with this, together with relevant legislation and policies.

22 Licence Holder Responsibilities

- 22.1 Being a licence holder carries special responsibilities, and we expect all licence holders to give meaningful effect to the terms and conditions of the licence with a view to preventing problems arising.

22.2 If management issues do arise, it is essential that licence holders proactively engage with responsible authorities, local people and us in order to address them. In particular, the licence holder should listen to concerns and seek to identify specific steps they can take to deal with problems in a way that promotes the licensing objectives.

22.3 Where possible, we will try to give licence holders early warning of concerns about problems and the need for improvement. In some cases, (where time allows) we may also be able to facilitate mediation between the licence holder and people who are concerned about the operation of the premises. However, the responsibility for addressing problems lies with the licence holder. We will expect licence holders to take immediate action to deal with problems that are seriously affecting the quality of life of local people.

22.4 Failure on the part of the licence holder to respond proactively to management issues may lead us to take enforcement action (see Chapter 11). It may also trigger a party seeking a review of the licence. In considering such a review, we will have regard to the actions of the licence holder and the extent to which they have co-operated with other parties in attempting to deal with the issues.

22.5 **Best Practice**

22.6 We consider the following matters to be indicative of best practice:

- a) Good neighbour principle: we expect the operators of all premises in Spelthorne to promote the licensing objectives regardless of the conditions on their premises licence. This is likely to include some or all, of the following:
 - b) Good communication with neighbouring properties, including early notification where unusual or non-standard events are scheduled to take place, including those authorised by a temporary event notice;
 - c) Offering the use of those premises as a temporary and 'safe-haven' for anyone in danger or distress, including (where appropriate) contacting the emergency services;
 - d) Taking responsibility for contacting emergency services wherever necessary regardless of whether the incident justifying such contact arose on the premises;
 - e) Contributing to keeping the area around the premises clean, tidy, safe and litter-free; and
 - f) Reporting to us, any incidents of anti-social behaviour (including flytipping) that occur regardless of whether they directly or indirectly affect the premises themselves.

- g) Management remaining alive and responsive to feedback from neighbours

22.7 The designated premises supervisor (DPS)

The main purpose of the designated premises supervisor (DPS) is to ensure there is always one specified individual who can be readily identified for the premises. Licences that authorise the sale of alcohol must contain details of the designated premises supervisor, unless the exceptions relating to certain community premises apply (as outlined below). We do not expect the DPS to be on the premises at all times when alcohol is being sold at the premises. However, we expect the DPS to be a person with day-to-day managerial control of the premises who will take reasonable steps to promote the licensing objectives and comply with the licence conditions.

- 22.8 If a DPS is going to be absent for a prolonged period, perhaps due to ill health, maternity leave or extended holiday, we would expect the licence holder to appoint a new DPS to cover the period of absence. If a DPS is repeatedly absent, the police may apply for a review of the premises licence if this gives rise to concerns about the operation of the premises and its impact on the licensing objectives. If a person named on the licence as the DPS stops working for the premises, no longer holds a personal licence or the personal licence is suspended, it is our view that the premises no longer has a DPS. In these circumstances, we expect that no sales of alcohol will take place at the premises, until the licence holder has applied to vary the DPS. This applies regardless of whether that person remains named as the DPS on the premises licence, or whether they have asked to remove their name from it. This will apply until we receive an application to nominate a new DPS.

23 The Review Process

- 23.1 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.

- 23.2 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.

23.3 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.

23.4 Full details of the review process may be found in the Section 182 Licensing Act 2003 Revised Guidance on the Home Office website and in the Licensing Act 2003.

24 Summary Reviews

24.1 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.

24.2 The process is outlined extensively in full in the Act.

25 Diversity & Equality

25.1 The Licensing Authority wishes to encourage the provision of a culturally diverse range of regulated entertainment within the Borough, particularly live music and dance which are accessible to all people.

25.2 All licensed premises are subject to the Equality Act 2010 which lists a number of protected characteristics that must not be used as a reason to treat a person less favourably than another person, these are;

- Age
- Disability
- Gender reassignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race (this includes colour; nationality; ethnic and national origins)
- Religion or belief
- Sex or sexual orientation.

25.3 Treating a person less favourably than someone else because that person has one or more of these characteristics is discriminatory.

25.4 The Equality Act 2010 also includes a duty on the Council as the Licensing Authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of

opportunity; and foster good relations, between people with different protected characteristics.

- 25.5 The Licensing Authority urges applicants and existing operators to plan ahead to meet their legal responsibilities under the Equality Act 2010. Further information and guidance can be obtained from the Home Office by following this link.
- 25.6 Duties imposed by the Equality Act 2010 provide that any person providing a service to the public must comply with the duty to make reasonable adjustments to enable disabled people to access the service, where a disabled person would be at a substantial disadvantage compared to a nondisabled person.
- 25.7 This applies to disabled people employed by or those who wish to obtain goods and services from licensed premises. No condition will be attached to a licence or certificate which conflicts with or duplicates this requirement.
- 25.8 Service providers have a duty to make reasonable adjustments to any physical features which put a disabled person at a substantial disadvantage in accessing a service, or they have to provide the service by a reasonable alternative means.
- 25.9 Access to buildings and their facilities is a matter addressed in Building Regulations and planned alterations affecting access may involve the need to apply for building control approval.
- 25.10 The Equality Act 2010 provides protection from three forms of disability discrimination;
1. Direct discrimination because of disability in relation to goods, facilities and services
 2. Indirect disability discrimination
 3. Discrimination arising from disability.
- 25.11 Businesses have an obligation to make reasonable adjustments to help disabled individuals access their goods, facilities and services.

Further information may be obtained from:

Spelthorne Borough Council

Licensing Authority

Council Offices

Knowle Green

Staines-Upon-Thames

TW18 1XB

<https://www.spelthorne.gov.uk/article/16879/Licences-and-permits>

licensing@spelthorne.gov.uk

Appendices

Annex A – Consultation

Section 5 of the licensing Act requires:

- the chief officer of police for the licensing authority's area,
- the fire and rescue authority for that area,
- Local Health Board for an area any part of which is in the licensing authority's area
- each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
- such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- such other persons as the licensing authority considers to be representative of businesses and residents in its area.

The consultation was also advertised on our website.

Appendix B – Responsible Authorities, Newspaper groups & Useful Information

Licensing Team
Spelthorne Borough Council
Council Offices
Knowle Green
Staines-upon-Thames
TW18 1XB
licensing@spelthorne.gov.uk

Surrey Fire and Rescue Service
Headquarters
Croydon Road
Reigate
Surrey
RH2 0EJ
Telephone: 01727 733733
Email: sfrs.firesafety@surreycc.gov.uk

Surrey Licensing Northern
PO Box 101
Guildford
GU1 9PE
Telephone: 01483 631146
Email: licensingnorthern@surrey.police.uk

Public Health Business Support Team Public Health NHS
Surrey Room G55
County Hall
Penrhyn Road
Kingston-upon-Thames
KT1 2DN
Telephone: 020 8541 7976
Email: public.health@surreycc.gov.uk

Surrey County Council Trading Standards
Consort House
5-7 Queensway
Redhill
RH1 1YB
Telephone: 01372 371700
tradingstandards@surreycc.gov.uk

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

Telephone: 01784 444213

Email: environmental.health.commercial@spelthorne.gov.uk

Email: EH.residential@spelthorne.gov.uk

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

Email: planning.development.control@spelthorne.gov.uk

County Child Employment and Strategy Manager
Quadrant Court 35
Guildford Road,
Woking
GU22 7QQ

Email: childemployment@surreycc.gov.uk

Home Office

Alcohol@homeoffice.gsi.gov.uk

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

surreynewspapers@trinitysouth.co.uk

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

heathrow.villager@gmail.com

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

Note: applicants must check that the chosen newspaper circulates in the area where the premises are situated.

British Institute of Inn keeping (BII)

www.bii.org.uk

British Beer & Pub Association (BBPA)

www.beerandpub.com

Association of Licensed Multiple Retailers (ALMR)

www.almr.org.uk

Association of Convenience Stores

www.acs.org.uk

Portman Group

www.portmangroup.org.uk

Citizenscard

www.citizenscard.com

Connexions Card

www.connexionscard.com

<https://www.policecpi.com/>

<https://www.licensing.savi.com/>

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Licensing Committee



5 December 2023

Title	Review and Setting of Fees & Charges for the licensing of Hackney Carriages, Private Hire, and Private Hire Operators
Purpose of the report	To make a decision
Report Author	Lucy Catlyn, Principal Licensing Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	Recovery, Service Delivery
Recommendations	<p>Committee is asked to: -</p> <p>1. Approve the proposed licensing fees and charges set out at Appendix B for consultation purposes and statutory advertising requirements.</p>
Reason for Recommendation	In accordance with the Constitution, Committee is asked to approve the Licensing Fees for Taxi and Private Hire Licensing

1. Summary of the report

- 1.1 This report seeks Licensing Committee's approval of proposed fee levels for the purposes of consultation and statutory advertising requirements.
- 1.2 The proposed fees are 2022/23 agreed fees with an additional 5% increase to cover increased costs to the service. The fees were revised in 2022/23 in line with the legislative requirements and the most up to date caselaw and guidance, as well as changes to the licencing procedure for efficiency purposes.

2. Key issues for Taxi and Private Hire Licensing Fees:

- 1.1 Spelthorne Borough Council in its role as the Licensing Authority (LA) is responsible for licensing Taxis and Private Hire drivers, vehicles, and operators.
- 1.2 The taxi licensing regime is a "two tier" system involving five categories of licence, hackney carriages, and private hire: -
 - (a) Tier 1 – the licensing of hackney carriage drivers and hackney carriage vehicles.
 - (b) Tier 2 - the licensing of private hire drivers, vehicles, and operators.
- 1.3 Spelthorne Borough Council licenses (at the 31 March 2023) the following: -
 - (c) 12 Operators

- (d) 59 Hackney Carriage Drivers (mixture of 3-year and 1-year licences)
 - (e) 42 Private Hire Drivers (mixture of 3-year and 1-year licences)
 - (f) 62 Hackney Carriage Vehicles
 - (g) 48 Private Hire Vehicles
- 1.4 A list of the current fees is attached at **Appendix A**.
 - 1.5 A list of the proposed fees is attached at **Appendix B**.
 - 1.6 If approved, the proposed fees will be subject to a full consultation process with the licensed trade and other relevant parties. It is proposed that this consultation period will begin in December 2023.
 - 1.7 Following the statutory consultation process, and if no objections are received, the fees will take effect on 1 April 2024.
 - 1.8 If objections are received, a further report will be presented to the Licensing Committee meeting setting out the results of the consultation and any amendments made to the proposed fees as a result. The Licensing Committee will determine the fees as well as the date from which it will take effect.
- 3. Options analysis and proposal**
- 3.1 **Option 1** – to agree to consult with the taxi trade on the proposed fees. **(This is the preferred option)**
 - 3.2 **Option 2** – to agree the proposed fees with other amendments provided that such amendments are permitted by legislation.
 - 3.3 **Option 3** – not to agree the proposed fees - while this is an option it is not realistic taking into account the legal considerations outlined in section 7 below.
- 4. Financial implications**
- 4.1 If the proposed percentage fee increase is not agreed then the income from the hackney carriage and private hire regime will not cover the costs.
- 5. Risk considerations**
- 5.1 Fees may be challenged in the High Court (Judicial Review) or by complaint to the Local Auditor. It is therefore important that the process the Council follows is fair, open, and transparent.
- 6. Procurement considerations**
- 6.1 There are no procurement considerations.
- 7. Legal considerations**
- 7.1 Section 53 of the Act specifies that the costs related to issue and administration of licences can be recovered in driver's licence fees. In respect of vehicle and operator licences,
 - 7.2 Section 70 specifies that the reasonable cost of inspecting vehicles, the reasonable cost of providing hackney carriage stands and any reasonable administrative costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles can be included in the fees.

- 7.3 The legislation does not require the Council to make a precise calculation so as to arrive at an income which exactly meets the cost of the administration of the various licences. Councils are required, however, to take a reasonable and proportionate approach and should aim to set a fee level that is sufficient to cover the cost but not make a surplus.
- 7.4 Taxi fees are required by law to be cost neutral thereby reducing the risk of local tax payers subsidising businesses, and thus ensuring that businesses do not pay more than they should.
- 7.5 The fixing of fees proposed in the attached fee schedules at Appendix B for is a function of the Licensing Committee as laid out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 7.6 The judgment in the Court of Appeal case of R (app Rehman) v Wakefield City Council [2020] R.T.R. 11 (2019) determined that “administration” can include the cost of enforcement or compliance against licensed drivers. The same principles also apply to the enforcement of vehicles and operators.
- 7.7 Licence fees cannot, however, be used for enforcement activities against unlicensed operators and it is therefore necessary for the cost of enforcement of unlicensed drivers, vehicles and operators to be met out of general funds. For the avoidance of doubt, the Licensing Authority supports and continues to support the trade investigating any concerns and is under an obligation to ensure the safety of the travelling public. This work forms a very small part of the overall work of the taxi licensing service with the vast majority of activity directed at the licensed trade.
- 7.8 The general methodology behind this review of fees has been determined by the Act and the document ‘Open for business: Local Government Association (LGA) guidance on locally set licence fees’. This guidance has been used as a starting point only because it was last revised in June 2017 and so does not take into account the decision in the recent Wakefield case in relation to enforcement costs
- 7.9 The LGA guidance acknowledges that the EU Services Directive, applicable to most forms of licensing, does not apply in the case of taxi and private hire licensing but the principles, however, remain helpful. The core principles are that fees should be non-discriminatory; justified; proportionate; clear; objective; made public in advance; transparent; and accessible.
- 7.10 The LGA guidance draws attention to two important decisions in relation to fees. The first is R (Cummings) v Cardiff [2014] which rules that the charges within a licensing regime for different categories of taxi licence should be accounted entirely separately and should not subsidise each other.
- 7.11 The second is Hemming v Westminster. Strictly speaking this does not apply to taxi and private hire licensing as this case proceeded under the auspices of the EU Services Directive from which transport services are specifically excluded. The principle ruling was that application fees relate solely to the costs of authorisation i.e. reviewing the application and granting or refusing it. Successful applicants should subsequently be charged an additional fee relating to the costs of on-going maintenance and enforcement. Whilst this is not necessarily applicable to taxi and private hire licensing it would be prudent to bear in mind the principle when considering the requests to refund application fees for unsuccessful applicants.

8. Other considerations

8.1 There are none.

9. Equality and Diversity

9.1 An equality impact assessment has been carried out and these are attached at **Appendix C and D**. No significant impacts were identified through the assessment.

10. Sustainability/Climate Change Implications

10.1 Taxi and Private Hire vehicles help reduce the need for private ownership of cars. They also play a pivotal role in transporting children to/from school and supporting the night-time economy. They can also help reduce emissions to the atmosphere.

11. Timetable for implementation

Licensing Committee to agree proposed fees	22 November 2023
Public Consultation	1 December 2023 for 28 days
End of Consultation	2 January 2024
If no objections fees take effect	1 April 2024
If objections received Licensing Committee to be convened	February 2024 Licensing Committee to determine when fees take effect. Fees must be implemented on or before

12. Contact

Lucy Catlyn, Principal Licensing Officer

(01784 444295) l.catlyn@spelthorne.gov.uk or licensing@spelthorne.gov.uk

Background papers:

LGA Guidance on locally set fees:

<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

Appendices: -

- **Appendix A – Current Fees & Charges 2022/23**
- **Appendix B – Proposed fees**
- **Appendix C – Equality and Diversity Assessment One**
- **Appendix D- Equality and Diversity Assessment Two**

Taxi and Private Hire Fees with effect from 1 April 2023

Licence	Cost code	Fee	1 year fee	3 year fee	5 year fee
New Driver Hackney Carriage	31807 7302		£231	£376	
New Driver Private Hire	31807 7313		£231	£376	
Renewal Driver Hackney Carriage	31807 7302		£193	£431	
Upgrade Private Hire Driver to Hackney Carriage Driver (Includes 1 attempt at conditions test, 1 attempt at geographic test, vehicle check & processing & issuing driver and vehicle licence)	31807 7302	£202			
Renewal Driver Private Hire	31807 7313		£188	£391	
Vehicle Hackney Carriage	31807 7308		£242		
Vehicle Private Hire	31807 7315		£239		
Change of Vehicle	HC 31807 7308 PH 31807 7315	£167			
Discounted PH/HC vehicle with wheelchair accessibility	PH 31807 7315 HC 31807 7308		£119 / £121		
Operators	31807 7318		£349		£978
Hackney Carriage Geographic Test & Retest	31807 7302	£70			
Hackney Carriage Conditions Test & Retest	31807 7302	£50			
Private Hire Geographic Test & Retest	31807 7313	£50			
Private Hire Conditions Test & Retest	31807 7313	£50			
English & Numeracy Test & Retest	HC 31807 7302 PH 31807 7313	£30			
DBS	HC 31807 7302 PH 31807 7313	£47			
Cancellation of booked appointment fee (payment code depends on appt type)	HC Driver 31807 7302 HC Vehicle 31807 7308 PH Driver 31807 7313 PH Vehicle 31807 7315	£40			
Reissue of PH/HC driver or vehicle licence due to any other reason	HC Driver 31807 7302 HC Vehicle 31807 7308 PH Driver 31807 7313 PH Vehicle 31807 7315	£25			
Replacement of plates	HC Vehicle 31807 7308 PH Vehicle 31807 7315	£23			

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Taxi and Private Hire Fees with effect from 1 April 2024

Licence	Cost code	Fee	1 year fee	3 year fee	5 year fee
New Driver Hackney Carriage	31807 7302		£242	£395	
New Driver Private Hire	31807 7313		£242	£395	
Renewal Driver Hackney Carriage	31807 7302		£210	£452	
Upgrade Private Hire Driver to Hackney Carriage Driver (Includes 1 attempt at conditions test, 1 attempt at geographic test, vehicle check & processing & issuing driver and vehicle licence)	31807 7302	£212			
Renewal Driver Private Hire	31807 7313		£204	£431	
Vehicle Hackney Carriage	31807 7308		£254		
Vehicle Private Hire	31807 7315		£251		
Change of Vehicle	HC 31807 7308 PH 31807 7315	£175			
Discounted PH/HC vehicle with wheelchair accessibility	PH 31807 7315 HC 31807 7308		£127 / £125		
Operators	31807 7318		£366		£1027
Hackney Carriage Geographic Test & Retest	31807 7302	£73			
Hackney Carriage Conditions Test & Retest	31807 7302	£52			
Private Hire Geographic Test & Retest	31807 7313	£52			
Private Hire Conditions Test & Retest	31807 7313	£52			
English & Numeracy Test & Retest	HC 31807 7302 PH 31807 7313	£31			
DBS	HC 31807 7302 PH 31807 7313	£47			
Cancellation of booked appointment fee (payment code depends on appt type)	HC Driver 31807 7302 HC Vehicle 31807 7308 PH Driver 31807 7313 PH Vehicle 31807 7315	£42			
Reissue of PH/HC driver or vehicle licence due to any other reason	HC Driver 31807 7302 HC Vehicle 31807 7308 PH Driver 31807 7313 PH Vehicle 31807 7315	£26			
Replacement of plates	HC Vehicle 31807 7308 PH Vehicle 31807 7315	£24			

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The National Equality Analysis Support Service Ltd
 71 – 75 Shelton Street,
 Covent Garden
 London WC2H 9JQ
 Office: 0203 500 0700
 Email: info@equalityanalysis.org.uk
 Web: www.equalityanalysis.org.uk

Service Area: Environmental Health – Corporate Health & Safety	Lead Officer: Lucy Catlyn (Principal Licensing Officer)
	Date completed: 06 October 2023
Service / Function / Policy / Procedure to be assessed: Setting the fees and charges for taxi & private hire licensing	
Is this: New / Proposed <input type="checkbox"/> Existing/Review <input type="checkbox"/> Changing <input checked="" type="checkbox"/> (Please tick appropriate box)	Review date: (fees to be reviewed on a yearly basis)

Part A – Initial Equality Analysis to determine if a full Equality Analysis is required.

What are the aims and objectives/purpose of this service, function, policy or procedure?

The fees & charges for the taxi and private hire licensing need to be reviewed on a yearly basis to ensure it is operating on a cost recovery basis and the service is not operating with a surplus or deficit.

Please indicate its relevance to any of the equality duties (below) by selecting Yes or No?

	Yes	No
Eliminating unlawful discrimination, victimisation and harassment		No
Advancing equality of opportunity		No
Fostering good community relations		No

If not relevant to any of the three equality duties and this is agreed by your Head of Service, the Equality Analysis is now complete - please send a copy to **NAMED OFFICER**. **If relevant**, a Full Equality Analysis will need to be undertaken (PART B below).

PART B: Full Equality Analysis.

Step 1 – Identifying outcomes and delivery mechanisms (in relation to what you are assessing)

What outcomes are sought and for whom?	
Are there any associated policies, functions, services or procedures?	
If partners (including external partners) are involved in delivering the service, who are they?	

Step 2 – What does the information you have collected, or that you have available, tell you?

What evidence/data already exists about the service and its users? (in terms of its impact on the 'equality strands', i.e. race, disability, gender, gender identity, age, religion or belief, sexual orientation, maternity/pregnancy, marriage/civil partnership and other socially excluded communities or groups) and **what does the data tell you?** e.g. are there any significant gaps?

Has there been any consultation with, or input from, customers / service users or other stakeholders? If so, with whom, how were they consulted and what did they say? If you haven't consulted yet and are intending to do so, please list which specific groups or communities you are going to consult with and when.

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Are there any complaints, compliments, satisfaction surveys or customer feedback that could help inform this assessment? If yes, what do these tell you?

Step 3 – Identifying the negative impact.

a. Is there any negative impact on individuals or groups in the community?

Barriers:

What are the potential or known barriers/impacts for the different 'equality strands' set out below? Consider:

- **Where** you provide your service, e.g. the facilities/premises;
- **Who** provides it, e.g. are staff trained and representative of the local population/users?
- **How** it is provided, e.g. do people come to you or do you go to them? Do any rules or requirements prevent certain people accessing the service?
- **When** it is provided, e.g. opening hours?
- **What** is provided, e.g. does the service meet everyone's needs? How do you know?

* Some barriers are justified, e.g. for health or safety reasons, or might actually be designed to promote equality, e.g. single sex swimming/exercise sessions, or cannot be removed without excessive cost. If you believe any of the barriers identified to be justified then please indicate which they are and why.

Solutions:

What can be done to minimise or remove these barriers to make sure everyone has equal access to the service or to reduce adverse impact? Consider:

- Other arrangements that can be made to ensure people's diverse needs are met;
- How your actions might help to promote good relations between communities;
- How you might prevent any unintentional future discrimination.

Equality Themes	Barriers/Impacts identified	Solutions (ways in which you could mitigate the impact)
-----------------	-----------------------------	--

Appendix C

Age (including children, young people and older people)		
Disability (including carers)		
Gender (men and women)		
Race (including Gypsies & Travellers and Asylum Seekers)		
Religion or belief (including people of no religion or belief)		
Gender Re-assignment (those that are going through transition: male to female or female to male)		
Pregnancy and Maternity		
Sexual orientation (including gay, lesbian, bisexual and heterosexual)		

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Step 4 – Changes or mitigating actions proposed or adopted

Having undertaken the assessment are there any changes necessary to the existing service, policy, function or procedure? What changes or mitigating actions are proposed?

Step 5 – Monitoring

How are you going to monitor the existing service, function, policy or procedure ?

--

Part C - Action Plan

Barrier/s or improvement/s identified	Action Required	Lead Officer	Timescale

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Equality Analysis approved by:

Group Head:	Date:
-------------	-------

Please send an electronic copy of the Equality Analysis to the Equality & Diversity Team and ensure the document is uploaded to the EA Register which will be available to the public:

Appendix C

This Equality Analysis Template is the intellectual property of The National Equality Analysis Support Service Ltd (NEASS) and must not be distributed to or used by any other private or public body, any commercial organisation or any third party without the express permission of NEASS who can be contacted on:

The National Equality Analysis Support Service Ltd

71 – 75 Shelton Street,

Covent Garden

London WC2H 9JQ

Office: 0203 500 0700

Email: info@equalityanalysis.org.uk

Web: www.equalityanalysis.org.uk

**SPELTHORNE BOROUGH COUNCIL'S
EQUALITY IMPACT ASSESSMENT**

STAGE 1 – SCOPING

1.1 Policy, Practice, Functions or Service being assessed	<i>Please state policy or service being assessed</i>
Setting the fees and charges for taxi & private hire licensing	
1.2 Lead Officer	<i>Please state name and contact details of lead officer who will be conducting the review.</i>
Lucy Catlyn (Principal Licensing Officer)	
1.3 What do you think are the main issues relating to diversity within the policy or service area?	<p><i>Some things you may wish to consider.</i></p> <ul style="list-style-type: none"> • <i>How do you think that your policy or service currently meets the needs of different communities in Spelthorne?</i> • <i>Do you think that your policy/service specifically contributes to promoting Equality and Diversity in Spelthorne? if so, in what way?</i> • <i>Do you think that your policy or service presents any barriers to any community or group? if so please provide evidence.</i> • <i>How can your service or policy tackle these barriers ((gender, disability and race at least) age, religion/faith and sexuality))</i> • <i>Are there any equality objectives that are on-going or planned for the future, if so please state.(These could be included in your Equality Action Plans (Stage 4)</i> • <i>Please list our proposed equality objectives, at this stage, if any?</i>
<p>The fees & charges for the taxi and private hire licensing need to be reviewed on a yearly basis to ensure it is operating on a cost recovery basis and the service is not operating with a surplus or deficit. The legislation and case law dictates what the Council can charge.</p> <p>The Council offers a reduced fee for wheelchair accessible vehicles to incentivise for the trade to purchase these vehicles.</p>	

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STAGE 2: EQUALITY SCREENING PROCESS (Risk Assessment)

1. Introduction

Stage 2 consists on undertaking a screening (or equalities risk assessment). Key areas to consider are?

- What are the key policies, functions and services which may have 'Relevance' to equality and diversity?
- How will you rank these?
- Will you consider individual policies

The outlined Equality Screening Process (ESP) should be used where Service areas are conducting Service based Equality Impact Assessments (EIAs) and/or Policy based EIAs. The purpose of this screening process is to identify policies or practices we believe have a 'Relevance' to disadvantaged groups e.g. BME communities, people with disabilities, women or men, etc. This process should enable the lead officer to identify what are the key equality issues in their respective service area and to identify policies or practices believed to could have an adverse impact on disadvantaged groups.

2. How to use the Equality Screening Process

Each Lead Officer is asked to identify which services, functions, policies or practices that have a 'Relevance' on service delivery in relation to the six diversity themes using the scoring sheet. Points should be provided on the basis of actual or presumed 'Relevance' based on the information provided in section 1. By the end of the exercise you should have added all the points and given a score. The next stage is to identify which polices/practices have a high/medium or low adverse impact.

2a. Points

- 5 – This policy or practice could have a very high relevance on our service delivery
- 4 – This policy or practice could have a relatively relevance on our service delivery
- 3 – This policy or practice could have a medium relevance on our service delivery
- 2 – This policy or practice could have a relatively low relevance on our service delivery
- 1 – This policy or practice could have a very low relevance on our service delivery

2b. Scoring

- 1 - 10 points - Low Relevance
- 11 - 20 points - Medium Relevance
- 21 and above - High Relevance

3. Equality Screening Process

Policy	Age	Disability	Gender	Race	Sexuality	Religion	Total Points	Impact H/M/L
Setting the fees and charges for taxi & private hire licensing	1	1	1	1	1	1	6	low

4. Conclusion – Policy EIA

The equality and diversity impacts caused by the setting the fees and charges for taxi and private hire licensing is low.

If a policy has a score of 25 or over, it is advisable that a Policy based EIA is undertaken. If most policies score below 25, it would be advisable to conduct a service based EIA, which will involve an EIA that overviews all policies or practices in your respective service area.

STAGE 3. IDENTIFYING ADVERSE IMPACT

The aim of an assessment is to identify whether the service or policy has an adverse impact upon people with disabilities, black and minority ethnic communities, men and women, heterosexual, gay, bisexual and lesbian communities, older and younger people and faith communities. The assessment should ultimately produce proportionate equality objectives, which help remove barriers and link into service plans. The end result must, at least, produce one equality objective for each of the three equality themes listed by the Local Government Equality Standard, namely gender, disability and race.

Stage three comprises of two sections.

- Concentration on the aims of the service, policy, function or practice.
- Focuses on the practical delivery of the policy or service.

Assessing the Aims and Criteria of the Policy or Service

This section will determine whether the underlying aims, policies and procedures of the policy or service comply with the Disability Discrimination Act 1995, and Disability Discrimination Act 1995 and (Amendment) 2005, Sex Discriminations Act 1977, and Single Equality Act 2005, Equal Pay Act 1970, Employment Directive (Religion/belief) 2003, Employment Directive (Sexual Orientation) 2003, Employment Directive (Age Discrimination) 2006 and the Local Government Equality Standard. In addition to the key questions below, you may wish to include any specific issues that were identified during the scoping stage of the assessment.

Key Questions	Issues to consider
---------------	--------------------

3.1 What are the aims of the policy?	<i>What needs is the policy/service designed to meet? What are the current priorities? You could also refer to your current Service Plans</i>
To ensure the taxi and private hire service does not operate at a loss or have a surplus.	
3.2 What do your staff/team members say about your initial view?	You could: <ul style="list-style-type: none"> • What do staff members feel are the gaps, or what do they feel could improve the service? • Speak to your colleagues within your team List what equality objectives that are currently implemented or will soon be implemented.
There are no concerns in respect of equality and diversity.	
Key Questions	Issues to consider
3.3 What does available data and the results of any consultations show about the take up of services? What is the impact on different groups? (qualitative and quantitative)	<i>You could look at:</i> <ul style="list-style-type: none"> • <i>previous community consultation exercises,</i> • <i>customer service reviews and analysis.</i> • <i>Census data</i> • <i>What are the experiences of front-line staff in relation to the provision of the service?</i> • <i>location of facilities.</i> • <i>lack of access to translation/interpretation or access to building or services,</i> • <i>eligibility rules could be a barrier?</i>
There are no impacts on any equality and diversity groups	
3.4 Can you identify any gaps? What are the reasons for this? <i>(Please note: If you do not have any data, you may wish to develop service based monitoring mechanisms that collate data on under-represented groups)</i>	<ul style="list-style-type: none"> • <i>Are communities or service users aware of this policy or service?</i> • <i>Are there any accessibility issues?</i> • <i>Is service provision monitored, if so how?</i> • <i>Is there a lack diversity awareness amongst staff?</i>
There are no accessibility or diversity issues.	
3.5 What practical changes do you feel would help reduce any adverse impact on particular groups?	<i>For example, changes in communication methods, language support, disability measures, changes in eligibility criteria, developing monitoring mechanisms, diversity training?</i>

There are no adverse impacts on any groups.

3.6 What would be the benefits of making the above changes and are there any negative impacts that such an action would have on different communities?	<i>You may want to consider the benefits and consequences for the group(s) concerned, other communities and the Council, if we were not to make the suggested changes?</i>
Not applicable	

STAGE 4. IMPLEMENTING PROPORTIONATE EQUALITY OBJECTIVES & MAINSTREAMING DIVERSITY

Equality Action Plan- In consideration of Stage 1 (Scoping), Stage 2 (Screening) and Stage 3 (Adverse Impact) there are no adverse impacts on the equality or diversity of communities or individuals, therefore no equality action plan will be taken forward.

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