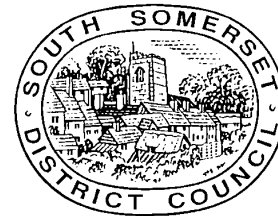


South Somerset District Council

Notice of Meeting



Licensing Committee

Making a difference where it counts

Tuesday 12th February 2013

10.00 am

**Council Chamber B
Council Offices
Brympton Way
Yeovil
Somerset**

The public and press are welcome to attend.

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Jo Morris** on Yeovil (01935) 462462
email: jo.morris@southsomerset.gov.uk, website: www.southsomerset.gov.uk

This Agenda was issued on Monday 4th February 2013

Ian Clarke, Assistant Director (Legal & Corporate Services)



2007-2008
Neighbourhood and
Community Champions:
The Role of Elected Members
2006-2007
Improving Rural Services
Empowering Communities
2005-2006
Getting Closer to Communities

**This information is also available on our
Website: www.southsomerset.gov.uk**



INVESTOR IN PEOPLE

Licensing Committee Membership

Chairman Nigel Mermagen
Vice-Chairman Martin Wale

Dave Bulmer	Jenny Kenton	David Recardo
John Vincent Chainey	Tony Lock	Linda Vijeh
Pauline Clarke	Paul Maxwell	William Wallace
Nick Colbert	Roy Mills	
Tony Fife	David Norris	

South Somerset District Council – Corporate Aims

Our key aims are: (all equal)

Jobs - We want a strong economy which has low unemployment and thriving businesses
 Environment - We want an attractive environment to live in with increased recycling and lower energy use
 Homes - We want decent housing for our residents that matches their income
 Health and Communities - We want communities that are healthy, self-reliant, and have individuals who are willing to help each other

Members' Questions on Reports prior to the Meeting

Members of the Committee are requested to contact report authors on points of clarification prior to the Committee meeting.

Information for the Public

The Licensing Committee shall be responsible for those licensing functions listed in part 3 of the Constitution as being the responsibility of the Committee. This will include licensing matters referred to it by officers, in accordance with the Officer Scheme of Delegation, such as contested public entertainment licences, and applications for taxi driver licences where the officer considers the application should be determined by members. The Committee shall also be responsible for all the functions assigned to it under the Licensing Act 2003.

Meetings of the Licensing Committee are held bi-monthly at 10.00am normally on the second Tuesday of the month in the Council Offices, Brympton Way.

Licensing Committee agendas and minutes are published on the Council's website www.southsomerset.gov.uk

The Council's Constitution is also on the web site and available for inspection in council offices.

Further information can be obtained by contacting the agenda co-ordinator named on the front page.

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Licensing Committee

Tuesday 12th February 2013

Agenda

Preliminary Items

1. **To approve as a correct record the Minutes of the Licensing Committee meeting held on 9th October 2012 and various Licensing Sub Committee meetings.**
2. **Apologies for Absence**
3. **Declarations of Interest**

In accordance with the Council's current Code of Conduct (adopted July 2012), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting. A DPI is defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No. 1464) and Appendix 3 of the Council's Code of Conduct. A personal interest is defined in paragraph 2.8 of the Code and a prejudicial interest is defined in paragraph 2.9. In the interests of complete transparency, Members of the County Council, who are not also members of this committee, are encouraged to declare any interests they may have in any matters being discussed even though they may not be under any obligation to do so under any relevant code of conduct.

4. **Public Participation at Committees**

a) **Questions/comments from members of the public**

This is a chance for members of the public and representatives of Parish/Town Councils to participate in the meeting by asking questions, making comments and raising matters of concern.

Items for Discussion

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Licensing Committee – 12th February 2013

5. Gambling Statement of Principles

<i>Strategic Director:</i>	<i>Vega Sturgess, Strategic Director Operations & Customer Focus</i>
<i>Assistant Director:</i>	<i>Laurence Willis, Assistant Director Environment</i>
<i>Service Manager:</i>	<i>Nigel Marston, Licensing Manager</i>
<i>Lead Officer:</i>	<i>Nigel Marston, Licensing Manager</i>
<i>Contact Details:</i>	<i>nigel.marston@southsomerset.gov.uk or (01935) 462150</i>

Purpose of the Report

To agree a Statement of Principles for publication in accordance with the requirements of the Gambling Act 2005.

Recommendations

- 1) That the Committee agree the revised Statement of Principles under the Gambling Act 2005 and the suggested amendments regarding points 2 and 5 made by the Racecourse Association.
- 2) That the Committee note points 1, 2 and 3 made by the Racecourse Association.
- 3) That the suggested amendment to point 4 made by the Racecourse Association is not made as secondary legislation takes precedence over any policies.
- 4) That a final Statement of Principles is submitted to Full Council for consideration and approval.

Background

The Gambling Act 2005, which received Royal Assent on 7th April 2005, gave responsibility for issuing licences, permits and notifications under this Act to the Gambling Commission and Licensing Authorities. As a Licensing Authority, the Council have responsibility for the area of South Somerset.

The Act places a duty on the Licensing Authority to produce Statement of Principles. (This may also be referred to as the “Gambling Policy”). Licensing Authorities are required to review the policy document every three years. In renewing this document, the Licensing Authority is required to take account of the views of those representing the holders of existing authorisations, local residents and businesses, and the police.

Report Detail

The Gambling Act gives Licensing Authorities a number of important functions in relation to gambling. These functions include:

- licensing premises for gambling activities;
- considering notices given for the temporary use of premises for gambling;
- granting permits for gaming and gaming machines in clubs and miners’ welfare institutes;
- 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; and
- registering small societies' lotteries.

The Act created the Gambling Commission, whose role is to act as a unified regulator for gambling in Great Britain. The role of the Gambling Commission is to:

- Issue Operating and Personal Licences to specified organisations and individuals
- Issue guidance and codes of practice
- Monitor licence holders and apply penalties where required
- Advise the Secretary of State on gambling matters.

The draft Statement of Principles is based on advice received from LACORS (Local Authorities Co-ordinators of Regulatory Services) and is shown at Appendix 1. The current Statement of Principles is shown at Appendix 2.

In the South Somerset area there are currently 380 authorisations issued by the Council in place; the table below shows a breakdown of the different types.

Premises Licence	Club Permits	Alcohol Licensed Premises Permit	Alcohol Licensed Premises Notification	Small Society Lottery Registrations
11 x Book makers	20 x Club Machine Permits (up to 3 Gaming Machines Categories B3A, B4, C or D)	8 (3 or more Category C or D gaming machines)	111 (Up to 2 Category C or D gaming machines)	227
1 x Track	1 x Club Gaming Permit			
1 x Bingo				

CONSULTATION

The revised draft Statement of Principles is subject to extensive consultations prior to adoption by the Council. It was advertised on our website and several bodies and persons were consulted; a list of consultees is detailed on page 4 of the draft Statement of Principles.

The consultation process took place over 12 weeks from 3 September to 26 November 2012, one response was received, which was from the Racecourse Association and would like the Council to be aware of the points it has made and suggested amendments:

1. **“Location (page 10) –** The proposed location of gambling premises may be taken into account when assessing the application. The Councils are asked to consider that the location of racecourses will not have altered since its foundation, and cannot be transferred to another location.”

Whilst premises licences cannot be transferred, the Gambling Act 2005 does not preclude an application for a new site.

2. **“Door Supervisors (page 13)** - The Councils are asked to be aware that under the Licensing Act 2003 and the Private Security Industry Act 2001, racecourses are already required to provide licensed door supervisors in some roles.”

This paragraph is generic in nature, and any conditions imposed by the Licensing Committee would be appropriate to the nature of the application. The word condition has been omitted from the last sentence of the first paragraph which should read ... “and is entitled to impose a premises licence condition to this effect”.

3. **“Betting machines (page 15)** - The Councils are asked to note that racecourses do not hold Operating Licenses and consequently any betting machines on racecourses will be provided by other operators. The racecourses will contractually require these operators to fulfil any conditions with regard to the provision and supervision of these machines.”
4. **“Applications and Plans (page 15)** – Prior to the implementation of the Gambling Act 2005 the Racecourse Association liaised closely with DCMS to determine the requirements with regard to applications and plans for racecourses. It was agreed that racecourses should provide plans showing the perimeter of the premises, the area to be licensed and the existing betting ring (as was in existence prior to 1 September 2007). However, on the basis that the entire premises would be licensed, it would not be necessary for racecourses to indicate on their plans the location of all betting facilities, as this would not be practical. It was agreed that this approach would also allow racecourses the flexibility to provide different facilities on different days in order to provide the best customer service, without the need to vary the license. We would ask that this paragraph be amended to reflect this agreement.”

A copy of the regulations relating to plans¹ is attached at Appendix 3. Please see regulations 4 and 21.

5. **“Provisional Statements (page 16)** - The wording of the fourth paragraph should be amended, as it currently implies that it will be necessary for tracks to hold an operating license from the Gambling Commission in order to apply for a provisional statement, rather than confirming that tracks do not require an operating license to apply for either a provisional statement or a premises license.”

The wording could be altered to remove the words “In contrast to the premises licence application” and “(except for a track)” to reflect this concern and read as follows:

The applicant does not have to hold or have applied for an operating licence from the Gambling Commission and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

No mention need be made that if the application is for a track premises licence, that the applicant does not require an operating licence as this is contained within Section 159 of the Gambling Act 2005 and a policy should not reproduce legislation.

¹ Statutory Instrument No. 459 of 2007

Financial Implications

None: the Council's statement of principles can be developed within existing resources.

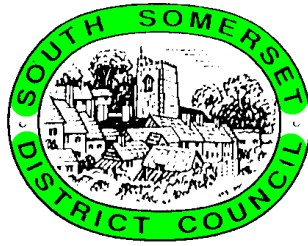
Implications for Council Plan

Focus One – Jobs. Strong economy which has low employment and thriving businesses
Focus Four – Health & Communities. Licensed premises inspections
Overall Council Ambition – To strive to deliver an improving life for all. Well managed.
cost effective services valued by our residents.

Other Implications

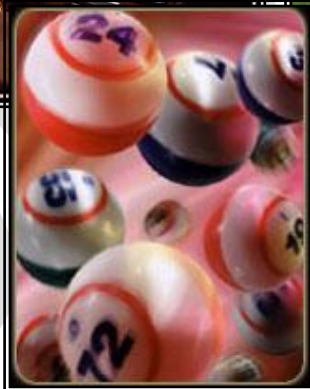
None

Background Papers: None



SOUTH SOMERSET DISTRICT COUNCIL

GAMBLING ACT 2005



STATEMENT OF PRINCIPLES

**South Somerset District Council
Gambling Act 2005
Statement of Principles**

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This Statement of Licensing Principles was approved by [x] Council on [date] and published via our website on [x date]

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3rd Edition, published May 2009.

PART A

1. The Licensing Objectives

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

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

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

This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- in accordance with the authority’s statement of licensing policy

2. Introduction

South Somerset District Council is situated in the County of Somerset. The Council area has a population of 161,300 – (2011 *Census*) making it the largest District Council in the County in terms of population. In terms of area it covers 370 square miles. The Council area is mainly rural with market towns. These areas are shown in the map below.



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

South Somerset District Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below.

The Gambling Act requires that the following parties are consulted by licensing authorities:

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

List of persons and organisations this authority consulted:

Avon and Somerset Police
Devon and Somerset Fire and Rescue Service
Gambling Commission
HM Revenue and Customs
Betfred
William Hill
Ladbrokes
Coral Racing
Wincanton Racecourse
Fernedge Bookmakers Ltd
Norway Racing
Showboat Casino Slots
Gamcare
South Somerset Citizens Advice Bureau
British Holiday & Home Parks Association (BH&HPA)
BACTA
Racecourse Association
Association of British Bookmakers Ltd
British Beer & Pub Association
The Bingo Association
Greyhound Board of Great Britain
National Casino Industry Forum
The British Association of Leisure Parks, Piers and Attractions Ltd
Somerset County Council – Social Services
South Somerset District Council Environmental Protection
South Somerset District Council Planning Department
Secondary Schools within the South Somerset area
Chard Town Council
Crewkerne Town Council
Ilminster Town Council
Wincanton Town Council
Yeovil Town Council
Yeovil Community Church
Parish Councils within the South Somerset area

Our consultation took place between **3 September and 26 November 2012**.

The full list of comments made and the consideration by the Council of those comments is available by request to:

Nigel Marston – Licensing Manager
The Licensing Service, South Somerset District Council, The Council Offices,
Brympton Way, Yeovil BA20 2HT
E-mail: nigel.marston@southsomerset.gov.uk

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Nigel Marston – Licensing Manager
The Licensing Service, South Somerset District Council, The Council Offices,
Brympton Way, Yeovil BA20 2HT
E-mail: nigel.marston@southsomerset.gov.uk

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

3. Declaration

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

4. Responsible Authorities

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

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates Social Services of Somerset County Council for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 can be found at Appendix A.

5. Interested Parties

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

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

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

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

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest

possible interpretation and include partnerships, charities, faith groups and medical practices.

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing service on 01935 462462.

6. Exchange of Information

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened and any guidance issued by the Information Commissioner will be heeded. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

7. Enforcement

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

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

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

This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the Licensing Service either by post at The Council Offices, Brympton Way, Yeovil BA20 2HT or by e-mail at licensing@southsomerset.gov.uk or by telephone on 01935 462462.

8. Licensing authority functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

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

(i) Decision-making

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

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

(ii) Definition of "premises" – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

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

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

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

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

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

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

7.25:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

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

Betting Shops

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

(iii) Premises "ready for gambling"

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

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

(iv) Location - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning:

The Gambling Commission Guidance to Licensing Authorities states:

7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

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

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

Licensing objectives - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section— see page 14).

Protecting children and other vulnerable persons from being harmed or exploited by gambling - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with

regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

Conditions - Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

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

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

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

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

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

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

2. Adult Gaming Centres

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

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

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

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

3. (Licensed) Family Entertainment Centres:

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

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

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

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

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This

licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

No Casinos resolution - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so.

No casino premises licences can be issued in South Somerset at present.

5. Bingo premises

This licensing authority notes that the Gambling Commission's Guidance states:

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

6. Betting premises

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

7. Tracks

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

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

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

- Proof of age schemes
- CCTV

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

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

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

Betting machines - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.29).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

(See Guidance to Licensing Authorities, para 20.32).

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.33).

8. Travelling Fairs

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

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

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

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

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

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

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

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

In addition, this authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

10. Reviews:

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review

is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

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

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

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

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

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

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

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

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

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

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

PART C
Permits / Temporary & Occasional Use Notice

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

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

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues." (24.6)

Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

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

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

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

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

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

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3. Prize Gaming Permits

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

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

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

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

4. Club Gaming and Club Machines Permits

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

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Gambling Commission Guidance states: "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. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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

5. Temporary Use Notices

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

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

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

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

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

6. Occasional Use Notices:

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

APPENDIX A

RESPONSIBLE AUTHORITIES DETAILS

RESPONSIBLE AUTHORITY	ADDRESS	TELEPHONE NUMBER
Avon and Somerset Constabulary	Liquor Licensing Bureau PO Box 3115 Bristol BS1 9GF	0117 945 5154
Devon & Somerset Fire and Rescue Service	The Station Officer The Fire Station Yeovil Somerset BA20 1JF	01935 382000
Gambling Commission	Victoria Square House Victoria Square Birmingham B2 4BP info@gamblingcommission.gov.uk	Tel: 0121 230 6666 Fax:0121 230 6720
HM Revenue and Customs	NRU – Betting and Gaming Portcullis House 21 India Street Glasgow G2 4PZ	N/A
Somerset County Council Social Services	Mrs Sue Clark Maltravers House Petters Way Yeovil Somerset BA20 1SP	01935 422111
South Somerset District Council (Environmental Protection)	Environmental Protection Team The Council Offices Brympton Way Yeovil Somerset BA20 2HT	01935 462462
South Somerset District Council (Planning Department)	Planning Team Leader The Council Offices Brympton Way Yeovil Somerset BA20 2HT	01935 462462

APPENDIX B

GLOSSARY OF TERMS

Within this Statement of Policy, the following words and terms are defined as stated:

Act:	The Gambling Act 2005																								
Betting Machine	A machine which has been designed or adapted for use to bet on future real events, such as horse racing, and used as a substitute for placing a bet over the counter.																								
Code of Practice:	Any relevant code of practice under section 24 of the Gambling Act 2005																								
Council:	South Somerset District Council																								
Council area:	The area of South Somerset administered by South Somerset District Council																								
Default Condition:	A specified condition provided by regulations to be attached to a licence, unless excluded by South Somerset District Council																								
Gaming Machine	<table border="1"> <thead> <tr> <th>Category</th> <th>Maximum Stake</th> <th>Maximum Prize</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>Unlimited</td> <td>Unlimited</td> </tr> <tr> <td>B1</td> <td>£2</td> <td>£4,000</td> </tr> <tr> <td>B2</td> <td>£100</td> <td>£500</td> </tr> <tr> <td>B3</td> <td>£1</td> <td>£500</td> </tr> <tr> <td>B4</td> <td>£1</td> <td>£250</td> </tr> <tr> <td>C</td> <td>£1</td> <td>£70</td> </tr> <tr> <td>D</td> <td>10p 30p when non-monetary prize</td> <td>£5 cash or £8 non-monetary prize</td> </tr> </tbody> </table>	Category	Maximum Stake	Maximum Prize	A	Unlimited	Unlimited	B1	£2	£4,000	B2	£100	£500	B3	£1	£500	B4	£1	£250	C	£1	£70	D	10p 30p when non-monetary prize	£5 cash or £8 non-monetary prize
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Guidance	Guidance issued to Licensing Authorities by the Gambling Commission (May 2009) as required by section 25 of the Gambling Act 2005.																								
LACORS	Local Authorities Co-ordinators of Regulatory Services (http://www.lacors.gov.uk/)																								
Licensing Authority	South Somerset District Council																								
Mandatory Condition:	A specified condition provided by regulations to be attached to a licence																								
Notifications:	Notification by the holder of the premises licence issued under the Licensing Act 2003 that they will be exercising their right under the Gambling Act 2005 to have 2 or less gaming machines of category C or D at the premises.																								
Premises:	Any place, including a vehicle, vessel or moveable structure																								
Regulations:	Regulations made under the Gambling Act 2005																								

Licensing Committee – 12th February 2013

6. Enforcement Update

Strategic Director: Vega Sturgess, Strategic Director Operations & Customer Focus
Assistant Director: Laurence Willis, Assistant Director Environment
Service Manager: Nigel Marston, Licensing Manager
Lead Officer: Colin Chown, Licensing Enforcement Officer
Contact Details: colin.chown@southsomerset.gov.uk or (01935) 462135

Purpose of the Report

To update members on the work of the Licensing Enforcement Team and the various issues they are currently involved with.

Recommendation

That the report is noted.

Background

Officers carry out a number of enforcement activities under the various legislative provisions that relate to licensing, in particularly with regard to taxi's and private hire vehicles. This report seeks to brief members on the current issues that are being dealt with by the Enforcement Team.

Report Detail

Taxis

General

During the previous six months, several dates for taxi private hire vehicle enforcement checks were arranged, but several were cancelled by the Police, VOSA or County Council due to lack of staff resources. The pre-Christmas check with Police, VOSA and Council officers was carried out with 18 vehicles stopped and checked, resulting in the VOSA inspectors issuing two immediate and three delayed prohibition notices, with advice given to a further two drivers on lighting issues. Further dates will be arranged throughout the next three months.

Weekly daytime checks and several late night checks were carried out throughout the past six months on taxis and private hire vehicles in and around the centre of Yeovil to ensure compliance with the our Private Hire and Hackney Carriage Policy and Bylaws.

Monthly taxi checks are carried out at the Pen Mill, Yeovil Junction and Castle Cary railway stations in order to ensure that vehicles which tend to use the ranks in and around the main towns, are also subject to ad hoc inspections.

We have received thirty one taxi/private hire related complaints in the past six months, which resulted in the issuing of eight stop/prohibition notices, all eight notices were issues to hackney carriage vehicles.

Street Trading

Iminster Carnival 06/10/2012

Eleven traders obtained a street trading consent in advance of the event, the two traders who arrived without prior consent, were asked to leave.

Approximately fifteen pedlars were challenged. One pedlar was found without a permit and told to cease trading and to leave the area, which they did.

Chard Carnival 13/10/2012

Sixteen traders obtained a street trading consent in advance of the event, there were no street traders without prior consent.

Approximately twenty pedlars were challenged. Two pedlars were found without a permit and told to cease trading and to leave the area, which they both did.

Castle Cary Big Christmas

Fifteen traders obtained a street trading consent in advance of the event, there were no street traders without prior consent.

Wincanton Christmas Extravaganza

Fourteen traders obtained a street trading consent in advance of the event, there were no street traders without prior consent.

Scrap Metal Dealers & Motor Salvage Operators

The licensing enforcement officer and the police carried out joint inspections at all premises that are registered as scrap metal dealers, all the premises were compliant with the requirements of the act.

Financial Implications

None

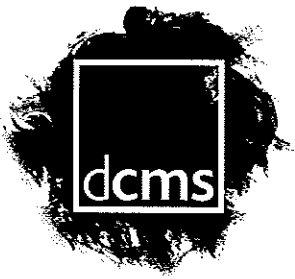
Implications for Corporate Priorities

Ensure safe, sustainable and cohesive communities and increase economic vitality and prosperity

Other Implications

None

Background Papers: None



department for
culture, media
and sport

LC

Licensing Committee – 12th February 2013

7. Deregulating Entertainment Licensing – For Information

Deregulating entertainment licensing

Questions and answers

7 January 2013

improving
the quality
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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2. Implementation
3. Activities
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 - c. Indoor sport
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 - a. Private events
 - b. Audiences
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 - d. Safety
 - e. Children
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1. General

Q: Why are you deregulating?

A: Deregulation will make it easier for schools, community groups and a huge array of civil society organisations and charities to put on cultural and sporting events.

The measures should also help businesses diversify their offer and access new markets.

Q: What are the proposals?

A: Currently a wide range of entertainment activities - such as plays and dance events - require a licence to take place in front of an audience.

These changes will mostly end that situation. In short, most plays, dance shows and indoor sport will no longer need a licence, and it will be easier to host music events in community premises.

Details are in the tables below:

<i>Schedule 1 Category</i>	<i>Position</i>
<i>Plays</i>	<i>Deregulated between 0800-2300 for audiences up to 500</i>
<i>Dance</i>	<i>Deregulated between 0800-2300 for audiences up to 500</i>
<i>Indoor Sport</i>	<i>Deregulated between 0800-2300 for audiences up to 1000</i>
<i>Live Music *</i>	<ul style="list-style-type: none"> <i>Licensing suspended for <u>amplified</u> live music between 0800-2300 in on-licensed premises and deregulated in workplaces for audiences up to 500 (raised from 200 in Live Music Act 2012)</i>
<i>Recorded Music</i>	<ul style="list-style-type: none"> <i>Licensing suspended between 0800-2300 in on-licensed premises (but not in workplaces) for audiences up to 500</i>
<i>Film</i>	<i>Consultation on partial deregulation for community film exhibition</i>
<i>Boxing / Wrestling</i>	<ul style="list-style-type: none"> <i>Licensing requirement retained with the exception of deregulation for Olympic style Greco-Roman and Freestyle wrestling</i> <i>Mixed Martial Arts/Cagefighting style events added to Schedule 1 categories of regulated entertainment</i>

* NB: the Live Music Act 2012 already deregulates unamplified live music between 0800-2300 with no audience limitations

Cross-activity Exemptions	Position
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Activities hosted by local authorities, hospitals, nurseries and schools (except HE establishments) on own premises	Exempt from all Schedule 1 licensing requirements between 0800-2300 with no audience limitations
Activities held on local authority, hospital, nursery and school premises (except HE establishments) by others with their permission	Exempt from regulation for live and recorded music between 0800-2300 for audiences up to 500
Community premises (eg: church and village halls, community centres, etc)	Exempt from regulation for live and recorded music between 0800-2300 for audiences up to 500
Circuses	Exempt from regulation for live and recorded music, plays, dance and indoor sport (ie: not boxing/wrestling or film) between 0800-2300 with no audience limitations

Q: Who will benefit from these proposals?

A:

- Schools and PTAs
- Community theatre groups
- Youth dance groups
- Community centres
- Charities
- Churches with church halls
- Local community audiences
- Village hall committees
- Hospitals
- Nurseries
- Circuses
- Musicians
- Professional and non professional drama performers
- Local authority culture teams
- Swimming clubs
- Pubs and restaurants

Implementation

Q: When will these proposals happen?

A: We aim to deliver the main body of work for these changes as soon as possible during 2013. Some changes will require amendments to primary legislation and will be subject to the Parliamentary timetable.

Q: Why has it taken nearly a year since the end of the consultation exercise to come up with these proposals?

A: We wanted to get the detail right. There was a substantial response to the consultation, which covers many different entertainment activities, each with its own detailed considerations.

It was clear that deregulation was possible, but we wanted to make sure we really helped communities, the creative sectors and business. The number of responses meant that we needed to take time to develop robust, practical proposals which addressed the concerns of respondents whilst maximising the removal of red tape and bureaucracy.

Q: Why are these proposals so watered down from the original ones contained in the consultation document?

A: The consultation exercise set out a 'blank canvas' in order not to set too narrow a scope for responses. From the outcome of the exercise, there was a clear view that deregulation required controls in some situations. For example over audience limits and performance cut-off times, and this view has been reflected in the final proposals.

Q: Do these proposals apply UK-wide?

A: No – these proposals apply to England and Wales, as this is an area of devolved responsibility for the Scottish Parliament and Northern Ireland Assembly.

Q: What if someone wants to sell alcohol at the event?

A: Anyone planning to sell alcohol will still need a licence in order to do so.

Activities: Dance

Q: How exactly will dance be deregulated?

A: Events that are classed as a 'performance of dance' will only need specific licence permission if they are held before 8am, after 11pm or if there are more than 500 people in the audience. This should benefit most community dance performances and remove costs and administrative burdens.

Q: What about noisy dance events?

A: We have carefully considered what controls would remain in place from other legislation (the Environmental Protection Act 1990, the Noise Act 1996 and provide some protection to the general public from the effects of noise nuisance) and consider these would provide reassurances that people could complain about an event if it was causing them nuisance. Anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable – must comply with any applicable duties that may be imposed by other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning).

Q: What about safety at dance events?

A: Anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable – must comply with any applicable duties that may be imposed by other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning).

In particular, public safety concerns are addressed by the Health and Safety at Work etc. Act 1974, which imposes a number of statutory duties on undertakings to take reasonable steps to protect the public from risks to their health and safety; see also disability legislation. In

addition, legislation such as the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) provides a clear framework in which fire safety issues need to be addressed.

Q: What about dance floors?

A: Dance floors are no longer licensable as entertainment facilities are exempt from licensing. There are adequate protections under the Health and Safety at Work etc. Act 1974 to ensure venue owners maintain facilities without the need for the additional burden of licensing.

Activities: Plays

Q: How exactly will plays be deregulated?

A: Events that are classed as a 'performance of a play' will only need specific licence permission if they are held before 8am, after 11pm or if there are more than 500 people in the audience. This should benefit most community plays and remove costs and administrative burdens.

Q: What is the definition of a play?

A: A play is defined in the Licensing Act 2003 as a performance (including a rehearsal) of any dramatic piece, whether involving improvisation or not, which is given wholly or in part by one or more persons actually present and performing, and in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role. In this context, "performance" includes rehearsal (and "performing" is to be construed accordingly).

Q: What if someone is going to put on a play next year for an audience of a couple of hundred people. Do they need a licence?

A: We intend to introduce measures to deregulate plays as soon as possible, but until changes come into force, the existing rules apply. Organisers should check whether they need a licence with their local licensing authority.

Q: What happens to plays with nudity?

A: If the performance is solely or principally provided for the purpose of sexually stimulating any member of the audience then it will remain regulated. An organiser of plays that feature nudity or semi nudity may check with their local licensing team if they are concerned as to whether the sexual content amounted to 'relevant entertainment' for the purposes of the Local Government (Miscellaneous Provisions) Act 1982.

Q: What about obscene plays?

A: This is already covered in law. A person who presents or directs an obscene play commits a criminal offence under the Theatres Act 1968.

Q: What about plays that cause public order problems?

A: This is already covered in law. A person who presents or directs a public performance of a play, which involves the use of threatening, abusive or insulting words or behaviour and is likely to give rise to a breach of the peace, commits a criminal offence under the Theatres Act 1968.

Q: What about safety in theatres?

A: Anyone involved in the organisation or provision of entertainment activities must comply with their lawful duties under other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning).

The audience is covered by the Health and Safety at Work Act 1974 together with disability legislation, offers protection in relation to the safety of the public at an event, placing a clear duty to take reasonable steps to protect the public from risks to their health and safety. In addition, legislation such as the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) provides a clear framework in which fire safety issues need to be addressed.

Activities: Indoor sport

Q: How exactly will indoor sport be deregulated?

A: Indoor sport events will only need specific licence permission if they are held before 8am, after 11pm or if there are more than 1,000 people in the audience. This should benefit many sporting organisations and local authority venues that are currently captured by the licensing process. An example is where a local authority swimming pool is regulated under the 2003 Act for swimming galas attended by the public – when the local authority is already subject to many other health and safety controls.

Q: Why is there a higher audience limit for indoor sport than for plays and dance?

A: We have taken a risk-based approach to deregulation. In general, indoor sporting events take place in venues which are purpose built and under local authority ownership or control, or where they are organised in partnership with local authorities.

Q: What about boozy events like darts at Lakeside or snooker championships?

A: These events will continue to be regulated by alcohol controls.

Q: What is indoor sport?

A: As defined in the Licensing Act 2003, an "indoor sporting event" is a sporting event which takes place wholly inside a building, and at which the spectators present at the event are accommodated wholly inside that building. A "sporting event" means any contest, exhibition or display of any sport, and "sport" includes any game in which physical skill is the predominant factor, and any form of physical recreation which is also engaged in for purposes of competition or display. It is not the activity that is licensable it is for the protection of the audience at the event, i.e. Health and Safety.

Q: What is a building in regard to indoor sport?

A: A "building" means any roofed structure (other than a structure with a roof which may be opened or closed) and includes a vehicle, vessel or moveable structure.

Q: Why are you regulating combined fighting sports when the consultation asked for views on deregulating entertainment?

A: The consultation exercise proposed that boxing and wrestling should continue to be licensable, and asked for views on whether the definition of boxing or wrestling should be refined to ensure licensing requirements would continue to apply to events such as martial arts and cage fighting. In response, there was overwhelming support from local government, responsible authorities and residents to ensure that cage fighting and mixed martial arts were clearly regulated in Schedule One and should stay regulated even if indoor sporting events were deregulated, and we will be bringing forward legislation to ensure that this is the case.

Q: What are combined fighting sports?

A: The description of combined fighting sports is a contest, exhibition or display which combines boxing or wrestling with one or more martial arts.

Activities: Live music

Q: What about Live Music?

A: We are proposing to raise the audience limit for live music to 500 to bring it in parity with the other deregulated activities.

Q: Why aren't you deregulating live music fully apart from in licensed premises?

A: The Government is fully behind creativity. But there is a balance to be found in protecting our communities from potential noise nuisance.

We think that the exemptions that will be put in place, as well as raising the audience threshold from 200 to 500 people in on-licensed premises and in workplaces, is a great deal for sensible musicians and audiences.

Q: Why aren't you waiting to assess the impact of the Live Music Act 2012 before going ahead with further deregulatory measures in this area?

A: To bring it in parity with the other deregulated activities and to avoid unnecessary confusion. But we will of course keep all these changes under review

Q: Why didn't you extend the Live Music Act deregulation until midnight?

A: Residents groups, local authorities and the police all had concerns about deregulating beyond 11pm, which is recognised in noise legislation as a time when disturbance caused by noise can have a greater impact. However, we will keep these changes under review.

Q: What is the definition of a workplace in relation to regulated entertainment?

A: The term is defined in the Workplace (Health, Safety and Welfare) Regulations 1992 and is, broadly speaking, any non-domestic place where someone works.

Activities: Recorded music

Q: What is recorded music?

A: Recorded music activities amount mainly to discos and DJ events – where the audience is there primarily to be entertained by the music activity. If in doubt, check with your local licensing authority.

Q: Why have you not deregulated recorded music?

A: The Government is fully behind the creative industries but there is a balance to be found in protecting our communities from potential noise nuisance. We think that the exemptions that will be put in place, as well as freeing up on-licensed premises from entertainment licensing is a boost for those holding responsible recorded music events.

Q: Why is live music allowed in workplaces but not recorded music?

A: As recorded music events are easily portable, they have in the past been more prone to noise and public order problems from unscrupulous operators. We have looked to support responsible community events, but retain controls where the risks are higher.

Q: Won't this allow raves?

A: No. Recorded music activities (usually disco and DJ events) will only be deregulated in the following places (between 08:00-23:00):

- In premises with an alcohol licence (unless this has been precluded by a licence condition)
- In events organised by Local authorities, schools, nurseries or hospitals, or in 'community premises'.

Q: What if a recorded music event is noisy?

A: Other legislation is already in place which gives powers to Local authorities and the police to deal with issues, arising from a problem event. We do not see this situation as much different to the status quo.

Boxing and wrestling:

Q: Why are you not deregulating boxing?

A: We said in our consultation that we did not intend to deregulate boxing. Responses to the consultation agreed with this position.

Q: Why are you not deregulating wrestling?

A: We are not going to deregulate wrestling as we said in our consultation; however, we do intend to deregulate the low risk Olympic disciplines of Freestyle and Greco-Roman wrestling.

Activities: Film

Q: What do you mean by film exhibition?

A: The Licensing Act 2003 defines the exhibition of film as any exhibition of moving pictures.

Q: Why are you not deregulating film?

A: We stated in the consultation that we would only deregulate film if a suitable solution to child protection issues were found. New ideas were not forthcoming so we have not taken this aspect forward.

We would though like to help sensible and safe community film exhibition. We will consult in the New Year on the specifics of where this might be possible. We take child protection issues very serious and would want to be completely sure any proposals were really robust.

Q: When will the consultation be made available?

A: We expect the consultation to be launched shortly.

Activities: Circuses

Q: Why are circuses licensed?

A: The Licensing Act 2003 licenses certain aspects of circuses – for example, clown performances are usually scripted and are thus often treated as the “performance of a play”, while high wire/trapeze is also sometimes licensed as indoor sport. We do not think this is proportionate. Circuses are also particularly restricted by performance limitations under the 2003 Act.

Q: What will the new position be for circuses?

A: Circuses will no longer in general need a licence, as they will be exempt, with no audience limitations, from the regulation of live music, recorded music, indoor sport, the performance of a play and a performance of dance, between 08:00-23:00. If alcohol is sold or supplied, or if (for example) the performance includes the exhibition of a film, or a boxing or wrestling match is held, then a licence or Temporary Event Notice under the 2003 Act will still be required.

Q: Why are you deregulating circuses more than other mixed entertainment venues?

A: Our intention is to deregulate tented, touring circuses which operate in many different locations, requiring numerous licences or Temporary Event Notices. This means they face a higher regulatory burden than fixed premises and are also less able to change their itinerary at short notice in response to changing circumstances, such as poor ground conditions.

Prior to 2005, circuses were exempt from entertainment licensing as travelling fairs and there is little evidence that the absence of a licensing requirement caused significant public protection issues that warranted their being brought into the regime. There seems no reason why circuses should be treated differently to fun-fairs, which have remained outside the licensing system but are governed by other legislation such as health and safety.

Q: Does this mean that animal circuses no longer require licences?

A: Definitely not. Defra are responsible for the licensing of wild animals in circuses.

On 1 March 2012, the Government set out its approach to the use of wild animals in travelling circuses in England, confirming that it intends to pursue a ban on the use of such animals on ethical grounds. Defra expects to be able to publish draft legislation on the ban on wild animals in travelling circuses for pre-legislative scrutiny later this session.

In the meantime, the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 establish a licensing scheme to protect the welfare of wild animals before a ban can take effect.

Cross activity exemptions:

Q: What is to stop local authorities/schools/nurseries/hospitals putting on inappropriate events if they are exempt from licensing provisions?

A: We do not think this is likely. Local authorities are democratically accountable to the local community and the other types of establishments fall under management or regulatory regimes which ensure they are well run.

Q: What are Community Premises in relation to the Licensing Act 2003?

A: The precise details of the exemptions will be set out in a Legislative Reform Order which will then be subject to consultation.

Supplementary Questions

Won't these plans to deregulate in increased crime and disorder?

Didn't the police raise strong concerns about these deregulation proposals?

- The original proposals were to deregulate all entertainment events with audiences of up to 4999 people.
- The revised proposals [announced today] have been refined to address the concerns that the police raised, although they still represent a far reaching package to free up community civil society organisations, charities, and business from unnecessary bureaucracy.
- The Government's revised proposals deregulate certain low events for up to 500 people with wider exemptions for "lower risk" environments including events hosted by schools, local authorities and hospitals.
- The changes follow detailed discussions between representatives of the police and others.
- Since the original proposals and after taking in views from the consultation, recorded music – a particular issue of concern for the police and others – will only be deregulated in licensed premises and other "low risk environments" such as events hosted by local authorities. Crucially, events that finish after 11pm remain regulated.
- We accept that that the police have some remaining concerns around advance notification, but we think there is a balance to be found between enabling Big Society events and applying regulatory restrictions. We think the new policy finds the right balance.

Q: Do organisers have to inform the licensing authorities / Police before holding a deregulated entertainment event?

A: No, organisers should consider whether the nature of their event means they could benefit discussing their plans with the police or other relevant authorities.

Q: Has there been an assessment as to the impact of crime and disorder and public nuisance on Licensing Authority and policing resources?

A: Yes, this is available at (link to IA).

Private events:

Q: Do private events that include recorded music such as a disco in a village hall require a licence?

A: Events that are held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity).

For example, a party held in a private dwelling for friends featuring amplified live music, where a charge or contribution is made solely to cover the costs of the entertainment would not be regulated entertainment. Similarly, any charge made to the organiser of a private event by musicians, other performers, or their agents does not of itself make that entertainment licensable – it would only do so if the guests attending were themselves charged by the organiser for that entertainment with a view to achieving a profit.

The fact that this might inadvertently result in the organiser making a profit would be irrelevant, as long as there had not been an intention to make a profit. However, organisers must be mindful of noise legislation (EPA).

Q: What if my performance consists of more than one regulated entertainment and one of those is still licensable?

A: Please check with the Guidance and your local licensing authority if you are not sure if you require a licence for the event.

If you are planning to sell alcohol at your event, however, you will still need a licence.

Q: Will the existing statutory guidance on the Licensing Act 2003 be updated?

A: Yes. We intend this guidance to take effect on the same day as the initial tranche of deregulations come into force and further guidance revisions for the later measures.

Audiences:

Q: What happens if more than 500 people attend a deregulated performance of dance and plays or more than 1000 attend an Indoor Sporting event?

A: This would no longer be a deregulated activity and would require prior authorisation (e.g. a premises licence).

Q: If my event includes two deregulated activities with different audience limits which audience limit must I comply with?

A: You must comply with the audience limits to the specific individual activities.

Q: What happens if I anticipate an audience limit below the level at which I require a licence, but more people attend the event than expected, bringing the total above this limit?

A: An audience in excess of the limit would mean that the performance is a licensable activity. It would be an offence under the Licensing Act 2003 Act for such an event to continue without an appropriate licence. Where the organiser of an event can foresee that it might attract an audience of more than the prescribed limit and in circumstances where it may be difficult to restrict entry, the event organiser should consider whether to obtain a licence, or giving a Temporary Event Notice, to avoid breaching licensing laws.

Q: Will local authorities/organisers check numbers attending and event?

A: It would be up to organisers to determine how to ensure that audience numbers for their event do not exceed the maximum permitted. If an activity is licensable because the number of people in the audience exceeds statutory limits, it will be a criminal offence to carry on that activity without prior authorisation (e.g. obtaining a licence or giving a temporary event notice).

Noise:

Q: If premises are causing noise nuisance can I complain?

A: **Yes.** Residents can complain about licensed premises under the review process in the 2003 Act. In the case of non-licensed premises, local authorities and the police have a range of existing powers to deal with noise issues. However we have not relaxed restrictions around activities and venues that could be problematic. The new measures are a sensible balance between reducing unnecessary red tape, maintaining an appropriate level of proactive protection regarding noise. The new measures are a sensible balance between regulation and helping integrated community activities.

Safety:

Q: Will deregulated events be safe for the public to watch?

A: Anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable – must comply with any applicable duties that may be imposed by other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning).

Children:

Q: What are you doing to ensure that these measures don't undermine the protection of minors?

A: It is up to parent / guardian discretion if they allow their children to attend a regulated / deregulated entertainment performance.

Q: I am hosting a community event that features performing children. Will I need a licence?

A: School age children taking part in entertainment performances may need to be licensed.

Under the Children (Performance) Regulations 1968 apply to all children from birth to the end of compulsory school age, at the end of year 11. The licensing requirements are designed to protect the child's health, education and welfare.

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 (as amended), sets out requirements for children performing in a show.

Conditions:

Q: What would the effect of the deregulatory proposals be on existing licence conditions?

A: Conditions are generally included in licences to promote the licensing objectives of prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. If an activity ceases to be licensable as a result of the proposed deregulation, we envisage that licence holders should be able to remove or modify licence conditions relating to those activities provided that doing so does not detrimentally affect the licensing objectives.

Q: Will premises that continue to hold a licence to sell alcohol be able to host entertainment activities without the need for minor or full variation process to remove conditions that relate to deregulated entertainment?

A: Yes. Conditions on the licence will generally have no effect for deregulated entertainment activities between 08:00 -23:00 as long as the audience is below the specified number for that activity. For activities that take place between 23:00-08:00 or above the specified number conditions will remain in place.

Conditions can only be varied away if they are no longer relevant or necessary.

Transitional provisions:

Q: Will I need to apply to have combined fighting sports on my licence or will it be done automatically by the licensing authority?

A: If your current authorisation (premises licence or club premises certificate) already allows you to hold a contest, exhibition or display of combined fighting sports, you can carry on doing so under the terms of that authorisation. No further action needs to be taken by you, or by your licensing authority.

Q: Will licensing authorities need to reissue licences to include combined fighting sports?

A: No. Currently, combined fighting sports may be authorised under the Licensing Act 2003 as either "an indoor sporting event" or as "a boxing or wrestling entertainment". To the extent that an existing authorisation allows combined fighting sports, the licence will be treated as continuing to allow combined fighting sports notwithstanding their reclassification.

Q: Will the addition of combined fighting sports on a Premises Licence that already includes Boxing & Wrestling add extra conditions?

A: Yes, possibly. Where an existing authorisation does not cover combined fighting sports, you will need to apply to your licensing authority to vary it. The application may be granted possibly subject to the imposition of conditions relevant to combined fighting sports events.

Q: Does that mean that people who have boxing and wrestling on the premises licence can hold a contest, exhibition or display of combined fighting sports?

A: No. You can only do that if your authorisation currently extends to combined fighting sports. The primary means by which this will have occurred is if your application for an authorisation made reference to combined fighting sports and was granted.

Licensing Committee – 12th February 2013

8. Date of Next Meeting

Members are asked to note that the next scheduled meeting of the Licensing Committee will take place on Tuesday 9th April 2013 at 10.00 am at the Council Offices, Brympton Way Yeovil.

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