

Public Document Pack

TENDRING DISTRICT COUNCIL

AGENDA

Prayers

1 Summons to Council (Pages 1 - 2)

2 Apologies for Absence

The Council is asked to note any apologies for absence received from Members.

3 Minutes of the Last Meeting of the Council (Pages 3 - 16)

The Council is asked to approve, as a correct record, the minutes of the Council Meeting held on 27 November 2018.

4 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

5 Announcements by the Chairman of the Council

The Council is asked to note any announcements made by the Chairman of the Council.

6 Announcements by the Chief Executive

The Council is asked to note any announcements made by the Chief Executive.

7 Statements by the Leader of the Council

The Council is asked to note any statements made by the Leader of the Council.

Councillors may then ask questions of the Leader on his statements.

8 Statements by Members of the Cabinet

The Council is asked to note any statements made by Members of the Cabinet (Portfolio Holders).

Councillors may then ask questions of the Portfolio Holders on their statements.

9 Petitions to Council - Report of the Chief Executive - A.1 - Petition: Ipswich Road Toilets (Pages 17 - 18)

The Council will note a petition received in accordance with the Scheme approved by the Council.

10 Petitions to Council - Report of the Corporate Director (Operational Services) - A.2 - Petition: Public Conveniences in the District (Pages 19 - 22)

To enable Council to respond to a Petition reported at the meeting of the Council held on 27 November 2018.

11 Questions Pursuant to Council Procedure Rule 10.1

Subject to the required notice being given, members of the public can ask questions of the Leader of the Council, Portfolio Holders or Chairmen of Committees.

The Chairman shall determine the number of questions to be tabled at a particular meeting in order to limit the time for questions and answers to half an hour.

There are none on this occasion.

12 Questions Pursuant to Council Procedure Rule 11.2

Subject to the required notice being given, Members of the Council can ask questions of the Chairman of the Council, the Leader of the Council, Portfolio Holders or Chairmen of Committees or Sub-Committees.

The time allocated for receiving and disposing of questions shall be a maximum of 45 minutes. Any question not disposed of at the end of this time shall be the subject of a written response, copied to all Members unless withdrawn by the questioner.

There are none on this occasion.

13 Report of the Leader of the Council - A.3 - Urgent Cabinet or Portfolio Holder Decisions (Pages 23 - 24)

The Council will receive a report on executive decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 16.2, Budget and Policy Framework Procedure Rule 6(b) and/or Overview and Scrutiny Procedure Rule 18(i).

14 Minutes of Committees (Pages 25 - 38)

The Council will receive the minutes of the following Committees:

- (a) Resources and Services of Thursday 29 November 2018;
- (b) Community Leadership of Monday 3 December 2018;
- (c) Resources and Services of Monday 17 December 2018; and
- (d) Resources and Services of Thursday 3 January 2019.

NOTE: The above minutes are presented to Council **for information only**. Members can ask questions on their contents to the relevant Chairman but questions as to the accuracy of the minutes **must** be asked at the meeting of the Committee when the relevant minutes are approved as a correct record.

15 Motion to Council - "Ensure that all available enforcement powers are utilised to combat street drinking and anti-social behaviour in Clacton Town Centre" (Pages 39 - 40)

The Council will consider the following motion, notice of which has been given by Councillor P B Honeywood, pursuant to Council Procedure Rule 12.

"That this council looks forward to the new Anti-Social Patrol Officer being appointed and asks that that person works closely with the Police and the dedicated PCSO for Clacton to ensure that all available enforcement powers are utilised to combat street drinking and anti-social behaviour in Clacton Town Centre to the fullest of their ability."

16 Recommendations from the Cabinet - A.4 - Review of the Council's Constitution - Phase 2 (Pages 41 - 68)

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of proposed changes to the Council's Constitution and Committee Structure.

NOTE: Cabinet considered this matter at its meeting held on 18 January 2019. The Cabinet's recommendations to Council will be tabled at the meeting.

17 Reports Submitted to the Council by an Overview and Scrutiny Committee

The Council is asked to consider any reports submitted to it by an Overview and Scrutiny Committee.

There are none on this occasion.

18 Recommendation from the Licensing and Registration Committee - Review of Statement of Gambling Policy (Pages 69 - 146)

The Council is asked to consider the recommendation submitted to it by the Licensing and Registration Committee in respect of the revised Statement of Gambling Policy.

NOTE: The Licensing and Registration Committee considered this matter at its meeting held on 7 November 2018. The relevant Committee Minute and Report are contained within the Council Book.

19 Report of the Chief Executive - A.5 - Non-Attendance at Meetings (Pages 147 - 148)

In accordance with Article 2.06 of the Council's Constitution to formally report that Councillor Laurie Gray has exceeded four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee.

20 Urgent Matters for Debate

The Council will consider any urgent matters submitted in accordance with Council Procedure Rules 3(xvi), 11.3(b) and/or 13(q).

Date of the Next Scheduled Meeting of the Council

Tuesday, 5 February 2019 at 7.30 pm - Princes Theatre

INFORMATION FOR VISITORS

PRINCES THEATRE FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the four fire exits in the auditorium and follow the exit signs out of the building.

Please follow the instructions given by any member of staff and they will assist in leaving the building.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

The assembly point for the Princes Theatre is in the car park to the left of the front of the building as you are facing it. Your calmness and assistance is greatly appreciated.

PUBLIC ATTENDANCE AT TENDRING DISTRICT COUNCIL MEETINGS

Welcome to this evening's meeting of Tendring District Council. This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you are included on the agenda to ask a public question, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record council meetings subject to the provisions set out below:-

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, which came into effect on 6 August 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting).

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission had not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

Agenda Item 1

TENDRING DISTRICT COUNCIL

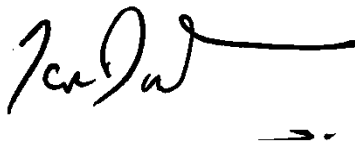
Committee Services
Town Hall
Station Road
Clacton-on-Sea
Essex
CO15 1SE

14 January 2019

Dear Councillor

I HEREBY SUMMON YOU to attend the meeting of the Tendring District Council to be held in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea at 7.30 p.m. on Tuesday 22 January 2019 when the business specified in the accompanying Agenda is proposed to be transacted.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ian Davidson', with a long horizontal flourish extending to the right.

Ian Davidson
Chief Executive

To: All members of the
Tendring District Council

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**MINUTES OF THE MEETING OF THE COUNCIL,
HELD ON TUESDAY, 27TH NOVEMBER, 2018 AT 7.30 PM
PRINCES THEATRE - PRINCES THEATRE**

Present:	Councillors Platt (Chairman), Yallop (Vice-Chairman), Alexander, Amos, Baker, Bennison, Broderick, B Brown, J Brown, Bucke, Bush, Callender, Calver, Cawthron, Chapman, Chittock, Coley, Cossens, Davis, Everett, Fairley, Ferguson, Fowler, Griffiths, C Guglielmi, V Guglielmi, Heaney, I Henderson, J Henderson, Hones, P Honeywood, S Honeywood, King, Massey, McWilliams, Miles, Newton, Nicholls, Porter, Raby, Scott, Skeels Jnr, Skeels (Snr), Steady, Stephenson, Stock OBE, Talbot, Turner, Watson, White, Whitmore and Winfield
In Attendance:	Ian Davidson (Chief Executive), Martyn Knappett (Deputy Chief Executive (Corporate Services)), Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Richard Barrett (Head of Finance, Revenues and Benefits Services & Section 151 Officer), Karen Neath (Head of Leadership Support and Community), Ian Ford (Committee Services Manager & Deputy Monitoring Officer), William Lodge (Communications Manager) and Debbie Bunce (Legal and Governance Administration Officer)

74. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Bray, M Brown, Gray, Land and Pemberton.

75. MINUTES OF THE LAST MEETING OF THE COUNCIL

RESOLVED that the minutes of the ordinary meeting of the Council, held on Tuesday 11 September 2018 be approved as a correct record and signed by the Chairman, subject to it being made clear in Minute 66 that Councillor Bush had not, in fact, seconded Councillor Bray's motion.

Further to Minute 58(3), Councillor G V Guglielmi was pleased to inform Council that Grace Mi had now been granted an extra 2.5 year leave to remain in the United Kingdom and that a lawyer was now acting on her behalf to try and obtain a permanent visa.

76. DECLARATIONS OF INTEREST

Councillor Miles declared a personal interest in relation to agenda item 9 (Petition to Council – Old Fire Station, Mill Lane, Walton-on-the-Naze) insofar as she was acting as a liaison between local residents and Officers on this matter.

77. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL

Invitation

In addition, the Chairman extended a warm invitation to all Members and Officers to join him in the Chairman's Parlour after the meeting to enjoy seasonal refreshments.

Councillor Daniel Land

The Chairman invited Members to join him in congratulating Councillor Daniel Land for his achievement in making the shortlist in the Community Champions category of the recent LGIU and CCLA Councillor Achievement Awards 2018. Although Councillor Land had not won, the Chairman stated that this was worthy of special note especially as he believed that Councillor Land had been the first Tendring District Councillor to reach that stage of the awards.

Members showed their appreciation for Councillor Land's achievement with a round of applause.

78. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

There were none on this occasion.

79. STATEMENTS BY THE LEADER OF THE COUNCIL

Local Plan

"As all Members will be aware the North Essex authorities have received a positive response from the Planning Inspector to the letter sent to him in October, which set out the proposals to continue to progress the shared strategic section 1 Local Plan examination.

In the letter, the Inspector commends the local authorities for constructive proposals for taking the examination forward. The Inspector has also confirmed that he believes the authorities are approaching the work with an appropriately open mind and without preconceptions as to the outcome and it is hoped that this provides comfort to those who have questioned this element of the Council's approach.

The letter requires the North Essex Authorities to provide a number of clarifications in relation to the evidence base and the Sustainability Appraisal process and these will be sent to the Inspector as soon as possible. Once these are received it is expected that the examination will be formally suspended by the Inspector until the evidence work has been completed. To aid the consideration of this, the Inspector has asked for a monthly update on progress which will help with the planning of the timetable for the remaining elements of the Local Plan examination.

The Inspector notes that the North Essex Authorities should take as much time as is needed to address the points raised in the June letter and in the light of this we have been reconsidering the timetable to ensure that the evidence base that is being produced is the most comprehensive and thorough possible and there is sufficient time built into the programme to allow for constructive local engagement and the transparent approach we have always prided ourselves on at Tendring. I shall therefore be suggesting to the other authorities that when we write to the Inspector at the end of this week we propose that the consideration of revisions to the Local Plan is moved to mid-summer 2019 rather than earlier in the year as it was previously intended. This would

mean further examination sessions would hopefully take place in the late autumn with a final Inspector's report before the end of 2019.

As we have done throughout this process I will continue to keep Members updated on the progress of the Local Plan."

80. STATEMENTS BY MEMBERS OF THE CABINET

There were none on this occasion.

81. PETITION TO COUNCIL - OLD FIRE STATION, MILL LANE, WALTON-ON-THE-NAZE

In accordance with the Council's approved scheme for dealing with petitions, the Chief Executive formally reported the receipt of a petition submitted by Mr Steven Walker, as lead petitioner on 22 October 2018. The petition was signed by 105 local residents and requested that the Council made the necessary arrangements including the issuing of a preservation order to protect the Old Fire Station building in Mill Lane, Walton-on-the-Naze from demolition.

Council was informed that, in accordance with the Council's approved scheme for dealing with petitions, this matter would now be investigated and a report would be prepared and presented to the Cabinet on the basis that it contained between 30 and 249 signatures.

Members were aware that the next practicable ordinary meeting of the Cabinet was on 14 December 2018.

The Chief Executive advised Council that, at that meeting, and in accordance with the Council's approved scheme, Mr Walker, as the lead petitioner, would be invited to address the Cabinet, present the petition and outline the action that the petitioners would like the Council to take. Members would then discuss the petition and decide what action, if any, should be taken. Mr Walker would then be informed, in writing, of the Cabinet's decision and the decision would be published on the Council's website.

It was moved by Councillor Stock, seconded by Councillor G V Guglielmi and:-

RESOLVED - That the receipt of the Petition and the contents of the report be noted.

82. PETITION TO COUNCIL - PUBLIC CONVENIENCES IN THE DISTRICT

In accordance with the Council's approved scheme for dealing with petitions, the Chief Executive formally reported the receipt of a petition submitted by Mr Mike LeCornu, as lead petitioner on behalf of TenPAG and Unite, on 31 October 2018. The petition was signed by 271 local residents and requested that the Council replaced those public conveniences that had been closed for being 'not fit for purpose'.

Council was informed that, in accordance with the Council's approved scheme for dealing with petitions, this matter would now be investigated and a report would be prepared and presented to the Council on the basis that it contained more than 250 signatures.

Members were aware that the next practicable ordinary meeting of the Council was on 22 January 2019.

The Chief Executive advised council that, at that meeting, and in accordance with the Council's approved scheme, Mr LeCornu, as the lead petitioner, would be invited to address the Council, present the petition and outline the action that the petitioners would like the Council to take. Members would then discuss the petition and decide what action, if any, should be taken. Mr LeCornu would then be informed, in writing, of the Council's decision and the decision would be published on the Council's website.

It was moved by Councillor Stock, seconded by Councillor G V Guglielmi and:-

RESOLVED - That the receipt of the Petition and the contents of the report be noted.

83. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1

No questions had been received, on notice, from members of the public on this occasion.

84. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2

Subject to the required notice being given, Members of the Council could ask questions of the Chairman of the Council, the Leader of the Council, Portfolio Holders or Chairmen of Committees or Sub-Committees.

One question had been submitted as set out below:

Question

From Councillor Griffiths to Councillor McWilliams, Portfolio Holder for Health and Education:

"A number of St James' residents have expressed concern over the number of drunks in Clacton town centre, who by their general poor behaviour and foul language are creating an unpleasant environment for residents and visitors.

Could the Portfolio Holder tell us, what action they intend to take, along with other partner agencies, to combat this problem, and how they intend to create a more pleasant environment for those visiting Clacton Town Centre?"

Councillor McWilliams replied along the following lines:-

"I do understand that the behaviour of some of those that frequent Clacton Town Centre can be distressing for some residents and visitors to the Town and that people want to see positive actions taken to limit the visibility of drinkers in the Town.

However, the powers that we have are around dealing with anti-social behaviour. So whilst someone may not act, dress or behave in a way that meets our own standards we need to distinguish between true anti-social behaviour and actions where other support, advice or guidance is needed to support a vulnerable person.

With this in mind there are a number of actions that we are taking through the Community Safety Partnership.

There is a Public Spaces Protection Order in place for Clacton Town Centre. I would like to make it clear that this does not make the Town Centre an alcohol ban area. The Order is about preventing anti-social behaviour not about stopping people drinking. If we made the PSPO a drinking ban that would prevent everyone drinking including those who might want a glass of wine with their picnic on the beach or just have one can of beer on a sunny day on Christmas Tree Island. However, the Order does allow us to act where there is begging, loitering or wholly unreasonable behaviour. If the unreasonable behaviour is clearly caused by drinking then our officers can ask someone to stop drinking or to hand over alcohol.

We do have officers that patrol in the Town Centre and are accredited to issue Fixed Penalty Notices where ASB is being committed. However, the primary role of these officers is to undertake enforcement on our off street car parks and I do accept that this can limit the effectiveness in tackling ASB in the Town. I am pleased therefore to advise Members that a post has recently been agreed for an Anti-Social Behaviour Patrol Officer that is dedicated to the Town Centre. It is hoped that funding for this will be approved in the budget to allow us to have someone in post and up to speed before Easter next year. Initially this officer would be based in Clacton but could be used to patrol other Towns in the District. The Police have a PCSO who is dedicated to Clacton Town Centre and it will be beneficial for this officer and ours to work together. We do work well with the Police. The jointly funded Operation Spider over the Summer reduced ASB incidents by 29%. I think it is important to remember that not all ASB is down to the street drinkers and we should retain a focus on all ASB incidents that, although maybe not so visible, can be much more harmful than street drinking. My officers are also investigating whether it would be feasible to provide a designated area for street drinkers. These have worked in other areas and we are looking into this.

As I said we do also have a range of actions that look to support street drinkers away from alcohol. These are by their nature longer term measures but complement the pure enforcement. We are working with the Restorative Justice Hub to undertake a mediation process including partner agencies, businesses and the drinkers themselves. This approach worked particularly well in Southend. We also have a Street Drinkers Working Group that has partner agencies including Open Road sitting on it. Phoenix Futures are actively engaging with the street drinkers trying to provide some support mechanisms for them

We have looked at whether CCTV can provide a solution to dealing with street drinkers. Typically TDC uses CCTV to passively monitor our streets and action is taken when directed by the police or other enforcement agencies. We cannot watch a group of people just because they are drinking in the streets, this is not a crime. If there is anti-social behaviour then that is a different matter, but we would still need the police to attend or report the incident ourselves. An alternative to monitoring the drinkers themselves is to target the source of the alcohol. It is an offence for an off license to sell alcohol to someone who is obviously intoxicated. We have done these sorts of operations in the past but their success relies on having a resource to monitor the cameras constantly or on getting intelligence that someone obviously drunk has purchased alcohol. I have asked officers to look into the resources that would be required to use CCTV to produce evidence that could result in the suspension or revoking of an alcohol licence where that licence has been breached.

We all want Clacton to be a welcoming and enjoyable place to live in and visit and groups of street drinkers that are shabbily dressed, swearing and generally unkempt do not enhance that. I have set out a number of actions that we are taking with partners to address this. Where enforcement is merited then we absolutely should be using our powers to issue FPNs but this alone does not necessarily remove the problem. It just moves it on. So we are also taking steps to try to address the issue in the longer term.”

85. REPORT OF THE LEADER OF THE COUNCIL - URGENT CABINET OR PORTFOLIO HOLDER DECISIONS

In accordance with the requirements of Rule 16.2 of the Access to Information Procedure Rules and Rule 18(i) of the Overview and Scrutiny Procedure Rules, Council received a report from the Leader of the Council which notified Members of any recent Executive Decision(s) taken in the circumstances set out in Rule 15 of the Access to Information Procedure Rules and/or Rule 18(i) of the Overview and Scrutiny Procedure Rules.

(1) Award of £4,200 to The Pharos Trust for Emergency Works regarding LV18

It was reported that, on 14 September 2018, in view of the urgency of the issue concerned and in accordance with Rule 18(i) of the Overview and Scrutiny Procedure Rules, the Finance and Corporate Services Portfolio Holder (Councillor G V Guglielmi) had sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee’s (Councillor Stephenson) consent that his decision to award £4,200 to The Pharos Trust to support emergency works relating to LV18 be exempt from the call-in procedure.

Councillor Guglielmi’s decision had been as follows:

“To award £4,200 (funded from the Big Society budget) to The Pharos Trust to support emergency works to ensure that LV18 is relocated whilst vital dredging is carried out. Upon return the LV18 will continue as a public tourist attraction in Harwich run by volunteers.”

It had been felt at that time that any delay likely to be caused by the call-in process would have seriously prejudiced the Council’s and the public’s interest for the following reasons:-

“The LV18 was currently attached to its moorings via temporary measures and it was important to reduce the period of time that the ship was exposed to the associated risks. This ship also had to be moved in a timely manner to ensure that its berth could be dredged by the Harwich Haven Authority, who had made an offer to carry out the work free of charge once the ship had been moved.”

(2) Participation in a revised Essex Business Rates Pool

It was further reported that, on 24 September 2018, in view of the urgency of the issue concerned and in accordance with Rule 18(i) of the Overview and Scrutiny Procedure Rules, the Finance and Corporate Services Portfolio Holder (Councillor G V Guglielmi) had sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee’s (Councillor Stephenson) consent that his decision to agree the Council’s participation in a revised Essex business rates pool in 2019/2020

and to support an application to the Government to become a pilot area in the same year be taken using the 'special urgency procedure and that it also be exempt from the call-in procedure.

Councillor Guglielmi's decision had been as follows:

"(a) the Council confirms its participation in an All Essex Business Rates Pool in 2019/20 and supports the application to the Government to become a pilot area in the same year;

(b) subject to a) above, delegation be given to the Deputy Chief Executive to agree the final pooling agreement and application to become a pilot area in 2019/20;

(c) subject to a) and b) above, delegation be given to the Deputy Chief Executive in consultation with the Portfolio Holder for Finance and Corporate Resources to withdraw from the pool / pilot if disadvantageous for the Council to remain a member."

It had been felt that any delay likely to be caused by the call-in process and by not being allowed to use the special urgency process would have seriously prejudiced the Council's and the public's interest for the following reasons:-

"The application to form an Essex business rate pool and pilot for 2019/20 had to be submitted to the Government by 25 September 2018."

Council noted the foregoing.

86. MINUTES OF COMMITTEES

It was **RESOLVED** that the minutes of the following Committees, as circulated, be received and noted:

- (a) Community Leadership of Monday 3 September 2018;
- (b) Resources and Services of Monday 17 September 2018;
- (c) Human Resources and Council Tax of Monday 24 September 2018;
- (d) Audit of Thursday 27 September 2018;
- (e) Community Leadership of Monday 1 October 2018;
- (f) Standards of Wednesday 3 October 2018;
- (g) Local Plan of Tuesday 30 October 2018; and
- (h) Resources and Services of Monday 5 November 2018.

87. MOTION TO COUNCIL - "PROPOSED TOWN COUNCIL FOR CLACTON-ON-SEA"

Council had before it the following motion, notice of which had been given, pursuant to Council Procedure Rule 12, by Councillor Newton:-

"This Council, in accordance with the Local Government and Public Involvement in Health Act 2007 (as amended) and the statutory guidance issued by DCLG in 2010, conducts a Community Governance Review with a view to creating a Clacton Town Council to come into effect in 2023.

The Council will consult with members of the public and other stakeholders as to the creation of a Clacton Town Council which will be intended to serve the areas of Clacton-in-Sea that are not currently being represented by a Town or Parish Council.

This will be inclusive of the following District Council Wards (as effective from May 2019)

–

Bluehouse
Burrsville
Cann Hall
Coppins
Eastcliff
Pier
St Bartholomews
St James
St Pauls
West Clacton and Jaywick Sands"

Councillor Newton informed Council that she wished to amend her motion by now including St Johns in the above list of District Council Wards and also by correcting a minor typographical error in the second paragraph so that it read "Clacton-**on**-Sea" rather than "Clacton-**in**-Sea".

Councillor Newton formally moved the motion, as amended, and Councillor Bucke formally seconded the motion, as amended.

The Chairman informed Council that, pursuant to Council Procedure Rule 12.4, he would refer the motion, as amended, to the Community Leadership Overview and Scrutiny Committee.

Councillor Newton's motion, as amended, thereupon stood referred, without speeches or discussion, to the Community Leadership Overview and Scrutiny Committee for its consideration and report.

88. MOTION TO COUNCIL - "FREE SWIMMING LESSONS FOR CHILDREN"

Council considered further the following motion, which had been moved by Councillor Pemberton and seconded by Councillor Gray at the meeting of the Council held on 11 September 2018 and which had stood referred to the Cabinet for its consideration and report:-

"That this Council takes the necessary steps to offer, at Clacton Leisure Centre and other suitable venues, up to six free swimming lessons every year for all children under the age of 15 years, in order to see that every child in the District of Tendring can be taught to swim, cope with a riptide or strong current, swim/float fully clothed and learn basic life-saving."

Council was aware that Cabinet had considered Councillor Pemberton's motion at its meeting held on 12 October 2018. The relevant Cabinet Minute and the Cabinet's recommendation to Council were contained within the Council Book.

It was moved by Councillor Stock OBE and:-

RESOLVED that Council does not support the motion in its original format and that instead the following amended motion be approved:-

"That this Council takes the following steps in order to see that every child in the District of Tendring can be taught to swim, before they leave primary school education:

(a) the Community Leadership Overview and Scrutiny Committee invite the Director for Education from Essex County Council to attend a future meeting of that Committee in order to discuss how all schools can meet their statutory duty and move towards 100% of the District's children learning to swim before they leave primary school education; and

(b) that Officers continue work with partners to develop a cohesive plan to further improve safety measures across the District's coastline and report back with findings and any recommendations to Cabinet in February 2019, for implementation prior to the 2019 season."

89. MOTION TO COUNCIL - "PROPOSED PLANNING CONDITION RE: DUST SUPPRESSION AT DEVELOPMENT SITES"

Council considered further the following motion, which had been moved by Councillor Bray and seconded by Councillor Bush at the meeting of the Council held on 11 September 2018 and which had stood referred to the Planning Committee for its consideration and report:-

"This Council resolves that:-

- 1. Subject to there being no objection from the Planning Inspectorate, ALL future planning applications approved by this Council, contain a condition requiring the developer / constructor to take all reasonable steps, using dust suppression techniques to ensure that, as far as possible, existing residents living in near proximity to the construction site are not adversely affected by construction related dust; and*
- 2. If any objection is received from the Planning Inspectorate, that objection will be disclosed fully to Councillors in order that this motion can be amended to take account of any such objection at some future time."*

Council was aware that the Planning Committee had considered Councillor Bray's motion at its meeting held on 22 October 2018. The relevant Committee Minute and the Planning Committee's recommendation to Council were contained within the Council Book.

Councillors Turner, Porter, Heaney, Miles, Scott and Broderick addressed the meeting on the subject matter of this item.

Councillor Stock OBE, in his capacity as both Leader of the Council and Chairman of the Local Plan Committee, informed Members that he had requested, via the Council's Monitoring Officer, that the Constitution Review Portfolio Holder Working Party look at the terms of reference of the Local Plan Committee (and also its title) with a view to enabling that Committee to produce procedures, protocols and also planning conditions that could be put on every planning application that was granted approval in order to avoid any detriment to local neighbourhoods.

It was moved by Councillor White and:-

RESOLVED that Council does not support the motion in its original format and that instead the following amended motion be approved:-

"This Council resolves that, where applicable, for planning applications that are recommended for approval by this Council the following condition should be considered:

"During development the constructor/developer will take all reasonable steps, using dust suppression techniques to ensure that, as far as reasonably practicable, residents living in near proximity to the site are not adversely affected by construction related dust."

90. RECOMMENDATIONS FROM THE CABINET - THE LOCAL COUNCIL TAX SUPPORT SCHEME 2019/2020 - COUNCIL TAX EXEMPTIONS/DISCOUNTS FOR 2019/2020 AND THE ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2019/2020

The Council considered the recommendations submitted to it by the Cabinet in respect of the Local Council Tax Support Scheme 2019/2020, Council Tax Exemptions for 2019/2020 and the Annual Minimum Revenue Provision Policy Statement 2019/2020.

Council was aware that Cabinet had considered this matter at its meeting held on 9 November 2018. The relevant Cabinet Report and Minute and the Cabinet's recommendations to Council were contained within the Council Book.

It was moved by Councillor P B Honeywood and:-

RESOLVED that –

- (a) the Local Council Tax Support Scheme (LCTS) remains the same as the current year, as set out as Appendix A to item A.7 of the Report of the Housing Portfolio Holder submitted to Cabinet on 9 November 2018 and that therefore:
 - i) the LCTS be approved with the maximum LCTS award being 80% for working age claimants; and
 - ii) the Deputy Chief Executive be authorised, in consultation with the Housing Portfolio Holder, to undertake the necessary steps and actions to implement the LCTS scheme from 1 April 2019.
- (b) the Council Tax Exceptional Hardship Policy, as set out in Appendix B to the aforesaid report, be approved.

- (c) the proposed discretionary Council Tax exemptions and discounts remain unchanged, as set out in Appendix C to the aforementioned report, and that the Deputy Chief Executive, in consultation with the Housing Portfolio Holder, be authorised to undertake the necessary steps and actions to implement the Council Tax exemptions and discounts from 1 April 2019.
- (d) the Annual Minimum Revenue Provision Policy Statement for 2019/20, as set out in Appendix D to the above report, be approved.

91. RECOMMENDATIONS FROM THE CABINET - REVIEW OF THE COUNCIL'S CONSTITUTION

The Council considered the recommendations submitted to it by the Cabinet in respect of the proposed changes to the Council's Constitution.

Council was aware that Cabinet had considered this matter at its meeting held on 9 November 2018. The relevant Cabinet Report and Minute and the Cabinet's recommendations to Council were contained within the Council Book.

Council was also aware that it would not be discussing at the meeting Sub-Sections (a) and (b) in the Current Position Section of Part 3 (Supporting Information) of the Report previously submitted to Cabinet (i.e. the sub-sections that referred to the Council Procedure Rules) as those matters had been deferred by Cabinet for further consultation with Members.

Councillors I J Henderson, Broderick, Heaney, Talbot, Miles, Everett, Calver and P B Honeywood addressed the meeting on the subject matter of this item.

It was moved by Councillor G V Guglielmi that –

- (a) the Council's Constitution be amended to reflect the proposed changes, as set out in Appendices B to N attached to item A.3 of the Report of the Finance and Corporate Resources Portfolio Holder submitted to Cabinet on 9 November 2018; and
- (b) all changes come into effect immediately.

After debate it was moved by Councillor Stock OBE and seconded by Councillor Everett that Councillor G V Guglielmi's motion be amended to read as follows:-

- (a) the Council's Constitution be amended to reflect the proposed changes, as set out in Appendices B to H and J to N attached to item A.3 of the Report of the Finance and Corporate Resources Portfolio Holder submitted to Cabinet on 9 November 2018;
- (b) all changes come into effect immediately; and
- (c) consideration of Appendix I be deferred until the January meeting of the Full Council in order to allow the Constitution Review Portfolio Holder Working Party to re-examine the proposed changes to the Planning Committee delegations in the light of the issues and concerns raised by Members in relation to the Members' Referral Scheme.

Councillor G V Guglielmi indicated that he was content to alter his motion to incorporate Councillor Stock's amendment.

Councillor G V Guglielmi's motion, as amended, on being put to the vote, was declared **CARRIED**.

92. REPORTS SUBMITTED TO THE COUNCIL BY AN OVERVIEW AND SCRUTINY COMMITTEE

There were none on this occasion.

93. REPORT OF THE CHIEF EXECUTIVE - A.4 - NON-ATTENDANCE AT MEETINGS

In accordance with Article 2.06 of the Council's Constitution the Chief Executive formally reported that Councillors Andy Massey and Giles Watling MP had exceeded four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee.

He informed Council that the last meeting that Councillor Massey had attended was the meeting of the full Council held on 3 July 2018.

He further informed Council that the last non-executive meeting that Councillor Watling MP had attended was the meeting of the full Council held on 9 May 2017.

The Chief Executive made Council aware that, since that date, Councillor Watling MP had attended meetings of the Cabinet held on 26 May 2017, 14 July 2017, 15 December 2017, 19 January 2018 and 15 June 2018.

Councillor I J Henderson addressed the meeting on the subject matter of this item.

Council noted the foregoing.

94. JOINT REPORT OF THE MONITORING OFFICER AND HEAD OF LEADERSHIP SUPPORT AND COMMUNITY - A.5 - APPOINTMENT OF INDEPENDENT PERSONS AND THE INDEPENDENT REMUNERATION PANEL

The Council's approval was sought to appoint Mrs Clarissa Gosling, Mrs Jane Watts, Mr David Irvine and Mrs Susan Gallone as the Council's Independent Persons and members of the Independent Remuneration Panel for a term of office expiring at the Annual Meeting of the Council in 2023.

It was moved by Councillor Heaney, seconded by Councillor Miles and:-

RESOLVED that -

- (a) the Independent Remuneration Panel consists of four people and that there are four Independent Persons and that the relevant procedures and protocols be updated to reflect this number accordingly;

- (b) the appointment of Clarissa Gosling, Jane Watts, David Irvine and Susan Gallone to the Independent Remuneration Panel and as the Council's Independent Persons be agreed with immediate effect; and
- (c) all the above appointments be for a term of office expiring at the Annual Meeting of the Council in 2023.

95. URGENT MATTERS FOR DEBATE

There were none on this occasion.

96. EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and:-

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 25 on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph(s) of Part 1 of Schedule 12A, as amended, of the Act."

97. EXEMPT MINUTES OF COMMITTEES

It was **RESOLVED** that the exempt minutes of the following Committees, as circulated, be received and noted:

- (a) Human Resources and Council Tax of Monday 24 September 2018; and
- (b) Audit of Thursday 27 September 2018.

The Meeting was declared closed at 8.38 pm

Chairman

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COUNCIL

22 JANUARY 2019

REPORT OF CHIEF EXECUTIVE

A.1 PETITION: IPSWICH ROAD TOILETS

(Report prepared by Lisa Hastings)

In accordance with the Council's approved scheme for dealing with petitions, I formally report the receipt of a petition submitted by Councillors Broderick, Winfield and King, as lead petitioners, on 3 January 2019. The petition is signed by 247 local residents and requests that the Council *maintains human rights to "Spend a Penny" by re-opening (or better still replacing) the Ipswich Road toilet.*

In accordance with the Council's approved scheme for dealing with petitions, this matter will now be investigated and a report will be prepared and presented to the Cabinet on the basis that it contains between 30 and 249 signatures.

Members will be aware that the next practicable ordinary meeting of the Cabinet is on 15 February 2019.

At that meeting, and in accordance with the Council's approved scheme, a lead petitioner is invited to address the Council, present the petition and outline the action that the petitioners would like the Council to take. Due to the fact that there are 3 lead petitioners identified, and all being Ward Councillors, one of those elected Members will be permitted to present the Petition in accordance with the approved Scheme. Members will then discuss the petition and decide what action, if any, should be taken. Cabinet's decision will be confirmed in writing and the decision will be published on the Council's website.

RECOMMENDED - That the receipt of the Petition and the contents of the report be noted.

IAN DAVIDSON
CHIEF EXECUTIVE

COUNCIL

22 JANUARY 2019

**BACKGROUND PAPERS LIST FOR
REPORT OF CHIEF EXECUTIVE**

A.1 PETITION: IPSWICH ROAD TOILETS

Petition submitted by Councillors Broderick, Winfield and King, as lead petitioners, on 3 January 2019.

COUNCIL

22 JANUARY 2019

REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES)

A.2 PETITION: PUBLIC CONVENIENCES IN THE DISTRICT

(Report prepared by Ian Taylor)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Council to respond to a Petition reported at the meeting of the Council held on 27 November 2018.

EXECUTIVE SUMMARY

This report places before Council a Petition, which was reported at the meeting of Council held on 27 November 2018, relating to public conveniences in the District and which has been investigated in accordance with the provisions of the Council's approved scheme for dealing with petitions.

Council can determine what action they wish to take having regard to the Petition, which will be presented by the lead Petitioner at the meeting.

RECOMMENDATION

That Council determines what action they wish to take having regard to the Petition.

PART 2 – SUPPORTING INFORMATION

BACKGROUND

At the meeting of Council held on 27 November 2018, the Chief Executive reported the receipt of a petition submitted by Mr Mike LeCornu, on behalf of TenPAG and Unite. The petition is signed by 271 residents of the District and requests that the Council replaces public conveniences in the District that have been closed for being 'not fit for purpose'.

The front page of the Petition states:-

"This is a joint petition from TenPAG (Tendring Pensioners Action Group) and UNITE community Clacton-on-Sea. Tendring District Council have been closing toilets that they say are impossible to maintain, open to abuse and not fit for purpose. These toilets were considered necessary in the past and should be replaced with new fit for purpose ones."

In accordance with the Council's scheme this matter has been investigated and brought back to Council on the basis that it had contained over 250 signatures. Mr LeCornu, as the lead petitioner, is invited to address the Council, present the petition and outline the

action that the petitioners wanted the Council to take. Subsequently, Council will discuss the petition and decide what action, if any, should be taken. Mr LeCornu will be informed, in writing, of the Council's decision and the decision would also be published on the Council's website.

CURRENT POSITION AND RESULTS OF INVESTIGATION

The aim of the Council's public convenience strategy for Tendring adopted in June 2017 was to provide accessible, safe, high quality public conveniences for residents and visitors.

The strategy proposed to achieve this aim by rationalising existing facilities that were considered to be operating from buildings that could no longer be maintained cost effectively, were located in areas which resulted in under use, or unacceptable levels of misuse and investing savings from closing such facilities into the refurbishment and improvement of remaining public toilets, bringing them up to appropriate standards.

A budget reduction impact assessment was carried out at the time which noted a potential impact on closing some public toilets on the elderly or disabled.

However the impact assessment acknowledged that closing some public conveniences would in turn be mitigated by a programme of significant refurbishments and service improvements, noting that the aim of the public convenience strategy was to provide enhanced and improved facilities in the locations they were most needed.

The assessment also noted that provision of public toilets is a discretionary and not a statutory service provided by the local authority.

The Council's public convenience strategy has ensured that all areas of the district that previously had public toilets would continue to be served by them and that by streamlining the service it would be possible improve the overall quality of the asset and the service thereby enhancing the Council's reputation.

To date the Council has closed ten out of its thirty nine public toilets and achieved a year on year revenue saving of £100,000.

At the same time the Council has refurbished facilities at:

- The Quay, Harwich,
- Rosemary Road Clacton-on-Sea
- Promenade Way, Brightlingsea

In addition the old public toilet at the Naze has been replaced with a new modern public facility in the Naze visitor centre.

The Council has also been able to introduce a further specialist Changing Place facility into Walton-on-the-Naze making a total of four such facilities throughout the District, all funded externally by grant aid.

The Council has further investigated and reviewed the toilets that were closed.

The Council remains with thirty public toilets and four specialist Changing Place facilities across the District, which compares extremely favourably with most other local authorities.

By adopting a strategy for public conveniences the Council has ensured that all areas of the District where public toilets were previously provided not only remain with public toilets, but also continue to benefit from a programme of improvements into the future.

All assets agreed for closure have been market tested by the Council's property service for continued use where viable.

It has been over a year since the public convenience strategy was adopted and High Streets continue as before and visitor / tourist areas of the District also continue to be well served by refurbished and improved public toilets.

The public convenience strategy has so far enabled the Council to invest over £200,000 into improving public toilets throughout the District.

The Head of Public Realm has previously met with the petitioners both in a meeting in the Council and at a meeting of the pensioner's action group whereby the Council's public convenience strategy was explained and discussed at length.

The claim that because toilets were once provided in a location means they should always continue to be provided precisely as before requires examination.

It is not possible or a prudent use of public money to continue to provide assets in areas that are no longer well used, or in buildings that are old and no longer capable of sustaining facilities to meet modern standards.

No area of the District that had previously been provided with public toilets has been left without one as a consequence of the public convenience strategy and of the toilets that remain a programme for continued improvement is in place.

AVAILABLE COURSE OF ACTION

There are several course of action available to Council, including:

- No action (with reasons as to why no action is proposed)
- Taking the action requested in the petition
- Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners
- Referring the petition to the relevant Overview and Scrutiny Committee
- Holding a public meeting

BACKGROUND PAPERS FOR THE DECISION

- Petition submitted by Mr Mike LeCornu on 31 October 2018.

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COUNCIL

22 JANUARY 2019

REPORT OF LEADER OF THE COUNCIL

A.3 EXECUTIVE DECISIONS TAKEN AS A MATTER OF URGENCY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To notify Members of recent Executive Decision(s) taken in the circumstances set out in the Council's Constitution in:-

- (a) Rule 15 of the Access to Information Procedure Rules (Special Urgency); and/or
- (b) Rule 18(i) of the Overview and Scrutiny Procedure Rules (Call-in and Urgency).

EXECUTIVE SUMMARY

In accordance with the requirements of Rule 16.2 of the Access to Information Procedure Rules and Rule 18(i) of the Overview and Scrutiny Procedure Rules, this report notifies Members of recent Executive Decision(s) taken in the circumstances set out in Rule 15 of the Access to Information Procedure Rules and/or Rule 18(i) of the Overview and Scrutiny Procedure Rules.

RECOMMENDATION

That the contents of the report be noted.

PART 2 – SUPPORTING INFORMATION

BACKGROUND

The "Special Urgency" procedure in Rule 15 of the Access to Information Procedure Rules provides that where a key decision cannot be reasonably deferred to allow the procedure in Rule 14 (General Exception) of those procedure rules to be followed, it may still be taken with the agreement of the Chairman of the relevant overview and scrutiny committee, or failing him/her, the Chairman or Vice-Chairman of the Council.

Rule 18(i) of the Overview and Scrutiny Procedure Rules provides that the "call-in" procedure will not apply to a decision if the Chairman, or failing him/her the Vice-Chairman, of the relevant overview and scrutiny committee agrees both that the decision is reasonable in all its circumstances and that any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

DECISIONS TAKEN AS A MATTER OF URGENCY

- (1) **Appointment of Gipping Construction Limited to carry out extension work at Barnes House as part of the Office Transformation project**

On 30 November 2018, in view of the urgency of the issue concerned and in accordance with Rule 18(i) of the Overview and Scrutiny Procedure Rules, the Head of Property

Services (Andy White) sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee's (Councillor Stephenson) consent that the Head of Building and Engineering Services' (Damian Williams) decision relating to the appointment of Gipping Construction Limited to carry out extension work at Barnes House as part of the Office Transformation project be taken using the 'special urgency procedure.

The Head of Building and Engineering Services' decision was as follows:

"Following a competitive tendering exercise, to award the contract to the lowest returned tender submitted by Gipping Construction."

It was felt that any delay likely to be caused by the usual forthcoming key decision process would have seriously prejudiced the Council's and the public's interest for the following reasons:-

"It would have delayed the start of the project until mid-January which would have had a knock-on effect of a month long delay throughout the whole programme of works."

BACKGROUND PAPERS

(1) Appointment of Gipping Construction Limited to carry out extension work at Barnes House as part of the Office Transformation project

Letter dated 30 November 2018 from the Head of Property Services to the Chairman of the Resources and Services Overview and Scrutiny Committee.

Reply dated 30 November 2018 from the Chairman of the Resources and Services Overview and Scrutiny Committee signifying consent to allow the decision to be taken under the 'Special Urgency' procedure.

Officer Decision by Head of Building and Engineering Services.

APPENDICES

None.

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON THURSDAY, 29TH NOVEMBER, 2018 AT 7.00 PM
IN THE COUNCIL CHAMBER - COUNCIL CHAMBER**

Present:	Councillors Stephenson (Chairman), Alexander (Vice-Chair), Amos, Baker, Broderick, M Brown, Everett, Miles, Scott and Steady
Also Present:	Councillor M J D Skeels (Snr) (Leisure and Tourism Portfolio Holder)
In Attendance:	Paul Price (Corporate Director (Operational Services)), Anastasia Simpson (Head of People, Performance and Projects), Richard Barrett (Head of Finance, Revenues and Benefits Services & Section 151 Officer) and Debbie Bunce (Legal and Governance Administration Officer)

40. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Newton. There was no substitute appointed.

41. MINUTES OF THE LAST MEETING

The Minutes of the meeting of the Committee held on 5 November 2018 were approved as a correct record and signed by the Chairman.

42. DECLARATIONS OF INTEREST

There were none made at this time.

43. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

Subject to providing two working days' notice, a Member of the Committee could ask the Chairman of the Committee a question on any matter in relation to which the Council had powers or duties which affected the Tendring District and which fell within the terms of reference of the Committee.

There were no such questions on this occasion.

44. TOURISM STRATEGY

Pursuant to the provisions of Overview and Scrutiny Procedure Rule 13 and the decision taken by the Committee at its meeting held on 17 September 2018, the Committee scrutinise the emerging Tourism Strategy with a view to submitting its comments and/or recommendations to the Cabinet. Cabinet would then agree a draft Strategy which would go out for further consultation.

The Portfolio Holder for Leisure and Tourism (Councillor Skeels Snr.) and the Corporate Director (Operational Services)(Paul Price) attended the meeting.

The Corporate Director gave a presentation on the emerging Strategy which covered the following matters:-

Scope of Strategy
Establishing the Road Map
Background Strategic Planning Process
Taking Stock
Corporate Road Map
Reviewing the Inputs
Vision
Mission Statement
Strategic Goals
Objectives
Tactics
Strategic Positioning
Corporate Social Responsibility and
Recommendations for Success.

Members raised questions and/or concerns which were responded to by the Corporate Director and/or the Portfolio Holder.

The Committee noted the contents of the presentation.

**45. REPORT OF HEAD OF PERFORMANCE, PEOPLE AND PROJECTS - A.1 -
RECYCLING - FINAL REPORT OF TASK AND FINISH WORKING GROUP**

The Committee recalled that, at its meeting held on 30 July 2018 it had, inter alia, agreed the brief for a Task and Finish Working Group to undertake a review of recycling, with a view of finding ways to increase recycling rates within the District. That Group had comprised four members of the Committee (Councillors Alexander, Broderick, Everett and Scott) with Councillor Everett acting as its Chairman.

It was reported that the Working Group had now completed its review and its detailed report was attached at Appendix A to item A.1 of the Report of the Head of People, Performance and Projects.

Having considered and discussed the Working Group's report:-

It was moved by Councillor Scott, seconded by Councillor Miles and:-

RESOLVED that the contents of the Working Group's report be endorsed and that the Committee **RECOMMENDS TO CABINET** that:

- 1) The Portfolio Holder writes to every school across Tendring (Primary, Secondary and Colleges) to ask them what they do to support the recycling agenda and encourage recycling within their individual establishments.
- 2) Any future publications regarding recycling are clear, concise, with hints and tips to encourage recycling.

- 3) A cross party working group is established to review the recycling and waste needs across the District .This should be undertaken two years prior to any new contract.

The Committee thanked Councillor Everett and the Task and Finish group members for all their hard work.

46. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.2 - FINANCIAL PERFORMANCE REPORT - IN-YEAR PERFORMANCE AGAINST THE BUDGET AT END OF SEPTEMBER 2018 AND LONG TERM FINANCIAL FORECAST UPDATE

The Committee had before it a report of the Deputy Chief Executive (Corporate Services), which presented it with an overview of the Council's actual financial position against the budget as at the end of September 2018 and which also presented an updated forecast on an on-going basis as part of developing the budget for 2019/20 and beyond.

The Committee was made aware that, at its meeting held on 9 November 2018, Cabinet had considered the same report and had resolved that:-

- (1) *in respect of the financial performance against the budget at the end of September 2018:*
- (a) *the position be noted;*
 - (b) *the proposed in-year adjustments to the budget, as set out in Appendix H to item A.6 of the Report of the Finance and Corporate Resources Portfolio Holder be agreed; and*
 - (c) *in respect of the Council's Treasury Management Practices, the aggregate amount of money that can be placed overnight with the Council's bankers be increased temporarily from £1.000m to £1.500m for each day the offices are closed over the Christmas break.*
- (2) *in respect of the Updated Long Term Forecast revised at the end of September 2018:*
- (a) *updated forecast be agreed; and*
 - (b) *the Resources and Service Overview and Scrutiny Committee be consulted on the updated position.*

The Cabinet report referred to above was attached as Appendix A to item A.2 of the Report of the Deputy Chief Executive for the Committee's consideration.

Members raised questions and/or concerns which were responded to by the Head of Finance, Revenues and Benefits Services & Section 151 Officer (Richard Barrett).

Having considered and discussed the report:-

It was moved by Councillor Stephenson, seconded by Councillor Scott and:-

RESOLVED that –

- (a) the contents of the report be noted; and
- (b) the Committee **COMMENTS AND RECOMMENDS TO CABINET** that:-
 - 1) The Committee requests that the Section 151 Officer undertakes a review of the digital transformation business case in terms of estimated costs and planned savings and the performance against the budget to date, with an update to be provided in the quarter 3 Corporate Budget Monitoring Report 2018/19.
 - 2) The Committee requests that the Head of IT and Corporate Resilience attends the Resources and Services Committee on 11 February 2019 to discuss digital transformation, as part of the review of the Performance Report 2018/19, third quarter.

The meeting was declared closed at 10.21 pm

Chairman

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Community Leadership Overview and
Scrutiny Committee

3 December 2018

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND
SCRUTINY COMMITTEE,
HELD ON MONDAY, 3RD DECEMBER, 2018 AT 7.30 PM
IN THE COUNCIL CHAMBER - COUNCIL CHAMBER**

Present:	Councillors V Guglielmi (Vice-Chair, in the Chair), Bush, Griffiths, Coley, I Henderson, Raby, Skeels Jnr, White and Alexander
Also Present:	Councillors Stock OBE and McWilliams, Ewan Green (Corporate Director, Planning and Regeneration Services), Karen Neath (Head of Leadership Support and Community), Charlotte Cooper (Leadership Support Officer)
In Attendance:	

21. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence had been received from Councillors Land (with Councillor Alexander as a substitute) Chittock (with no substitute) Newton (with no substitute) and Yallop (with Councillor White as a substitute).

22. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Community Leadership Overview and Scrutiny Committee, held on 1 October 2018, were approved as a correct record and signed by the Chairman.

23. DECLARATIONS OF INTEREST

In relation to Agenda Item 5, Councillor Neil Stock OBE, declared that he is a Director of North Essex Garden Communities Ltd.

24. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were no questions submitted on this occasion.

25. SCRUTINY OF PROPOSED DECISIONS ON THE INTERIM BUSINESS PLAN AND FINANCIAL PROCEDURE RULES FOR NORTH ESSEX GARDEN COMMUNITIES LIMITED

Councillor Stock OBE had earlier declared a Personal Interest in this item insofar as he is a Director of North Essex Garden Communities Ltd.

The relevant Cabinet Member (Councillor Neil Stock OBE) and Officer (Ewan Green, Corporate Director, Planning and Regeneration Services) attended the Meeting to present to the Committee the Business Plan for North Essex Garden Communities Ltd, in order to enable the Committee to scrutinise this forthcoming decision.

The Committee deliberated and raised questions and concerns for Ewan Green and Councillor Stock to answer. Those concerns mainly revolved around the funding of the

project and the ongoing ability for members to scrutinise the business plan and associated documents of North Essex Garden Communities

It was **RESOLVED** that the Corporate Director (Planning and Regeneration) would circulate information to the Committee with further detail of activities which the overall programme funding to date of £4m has been spent on or allocated to. This will now be a regular item on the Committee's Agenda going forward.

26. DRUG AND ALCOHOL SUPPORT IN TENDRING

Matthew Gauden, Centre Manager for Open Road, and Claire Beacham, Senior Project Manager for Phoenix Alcohol Project, attended the meeting to provide Members with an update on the drug and alcohol support in Tendring.

Members deliberated and raised questions for Matthew Gauden and Claire Beacham to answer.

It was **RESOLVED** that Matthew Gauden be requested to send to the Head of Leadership Support and Community (Karen Neath) to circulate to the Committee, a list of mutual aid organisations who work alongside Phoenix Alcohol Project and Open Road. As well as more details on the welfare support staff at Colchester Borough Council who work within HMOs.

27. IMPACT OF HOUSING ON LOCAL COMMUNITIES

Following the sad death of David Black, the Council's Housing Manager, the Chairman informed Members that this item would be deferred until a future meeting of the Committee.

A minutes silence was held in respect for David Black.

28. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.1 -PERFORMANCE REPORT JULY - SEPTEMBER 2018 (QUARTER 2)

The Committee had before it a report of the Deputy Chief Executive (A.1) which presented the performance report 2018/19 (Community Leadership) for the period July – September 2018 (Quarter 2), with the recommendation for the Committee to determine whether it had any comments or recommendations to put forward to Cabinet.

The Committee was made aware that the Performance Report set out the detailed actions and targets for the delivery of the Council's priorities for the coming year that related to the Council's partnership and influencing work. The report included both the Corporate Plan and Priorities and Projects 2018/19. The indicators and projects highlighted in the report were deemed to be 'non-measurable' as Tendring's role was that of 'influence only'.

The Committee was also aware that this report had been presented to the Cabinet on 9 November 2018. Any feedback from the Committee would be presented to a future meeting of the Cabinet as a separate reference report.

The Committee deliberated and raised its concerns over the loss of Libraries and the negative impact this could have on education for pre-school / Primary School children.

It was **RESOLVED** that the relevant officer from Essex County Council, as well as other Tendring District Council members with an interest on the matter, be invited to attend a future meeting of the Committee to scrutinise Essex County Council's consultation on the future of libraries.

29. REVIEW OF THE IMPLEMENTATION OF THE NEW OVERVIEW AND SCRUTINY ARRANGEMENTS

The Committee discussed their experience of the new Overview and Scrutiny arrangements since their implementation in May 2018. The Committee was made aware that any comments and/or recommendations would be submitted to the Finance and Corporate Resources Portfolio Holder's Constitution Review Working Party who would be conducting a review of the new Committee Structure also introduced in May 2018.

The Committee agreed that the new structure of the meetings was beneficial and provided a good opportunity for in-depth discussion on the topics covered. However, the Committee also agreed that they were concerned they were not meeting often enough to be efficient in taking forward the issues they discussed and therefore suggested there should be a meeting of the Committee every two months.

It was therefore **RESOLVED** that the Head of Leadership Support and Community report these concerns to the Head of Governance and Legal Services for her to feed into the Constitution Review Working Party.

30. SCRUTINY OF PROPOSED DECISIONS

Pursuant to the provisions of Overview and Scrutiny Procedure Rule 13, the Committee had before it the Scrutiny of proposed decisions.

Two decisions were put before the Committee: the Dovercourt Town Centre Regeneration and the SME Growth Fund.

No matters were raised by the Committee.

31. CONSIDERATION OF TERMS FOR MARCH MEETING

The Committee were asked to consider items they wish to scrutinise at the next meeting of the Community Leadership Overview and Scrutiny Committee.

It was **RESOLVED** that the Head of Leadership Support and Community consults with the Chairman of the Committee regarding a further meeting before March, at which the following items will be included;

- Consultation on Libraries
- Motion from Council on a Community Governance Review for Claton
- Motion from Council on Free Swimming Lessons for Children – to invite the Director of Education from Essex County Council

The meeting was declared closed at 21:15

Chairman

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Resources and Services Overview and
Scrutiny Committee

17 December 2018

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON MONDAY, 17TH DECEMBER, 2018 AT 9.30 AM
IN THE CONNAUGHT ROOM - CONNAUGHT ROOM**

Present:	Councillors Stephenson (Chairman), Alexander (Vice-Chairman), Amos, Baker, Scott and Steady
Also Present:	Councillors Bush, G V Guglielmi (Finance and Corporate Resources Portfolio Holder)(except item 51 (part)) and Pemberton (except item 51 (part))
In Attendance:	Ian Davidson (Chief Executive)(except item 51 (part)), Anastasia Simpson (Head of People, Performance and Projects), Richard Barrett (Head of Finance, Revenues and Benefits Services & Section 151 Officer) and Ian Ford (Committee Services Manager & Deputy Monitoring Officer)

47. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Broderick (with no substitute), M Brown (with no substitute), Everett (with no substitute) and Newton (with no substitute).

48. MINUTES OF THE SPECIAL MEETING OF THE COMMITTEE HELD ON 29 NOVEMBER 2018

The Minutes of the special meeting of the Committee, held on 29 November 2018, were approved as a correct record and signed by the Chairman.

49. DECLARATIONS OF INTEREST

There were none at this time.

50. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none on this occasion.

51. UPDATED FINANCIAL FORECAST/BUDGET 2019/20

The Committee's comments were sought on the updated Financial Forecast/Budget 2019/20, which had been approved at the meeting of the Cabinet held on 14 December 2018. The Committee was aware that an updated financial forecast for 2019/20 had been prepared which reflected changes since Members had last considered the forecast in November 2018.

The Chief Executive (Ian Davidson) attended the meeting and informed the Committee that the Local Government Finance Settlement had now been received from the Government. Whilst the Settlement would be difficult for those authorities who had adult social care responsibilities (such as County Councils and Unitary Councils), Tendring

District Council had been pretty accurate in its predictions and therefore no major changes were required to the Cabinet's initial budget proposals. He stated that this Council's move to a 'rolling' ten year financial forecast had proved to be a 'boon' in that it had helped to protect a lot of frontline services with its ability to average out savings across the ten year profile. Mr Davidson was pleased to report that the Council had met its £300,000 savings target for 2019/20 and that the ongoing aim was to beat this on an annual basis.

The Chairman thanked the Chief Executive for his attendance and Mr Davidson then left the meeting.

The Finance and Corporate Resources Portfolio Holder (Councillor G V Guglielmi) attended the meeting and stated that he was pleased that the Council's bold approach and robust ten year financial forecast had enabled it to meet its savings target over the last two years more than comfortably. This had enabled the Council to invest in the following:-

- (1) Phase 3A Broadband;
- (2) Harwich Realm, and
- (3) Garden Communities.

In addition, the Council had monies in reserve to meet any difficulties arising with Universal Credit and the business rates retention. Councillor Guglielmi referred to the new culture of constant review of expenditure where by cost pressures and areas for potential savings which required hard decisions could be identified and actioned with no cuts to services. Finally, Councillor Guglielmi referred to the level of planning income which had plateaued due to a decline in the number of planning applications.

Councillor Guglielmi then responded to questions put to him by Members. The Chairman thanked Councillor Guglielmi for his attendance and Councillor Guglielmi then left the meeting.

The Head of Finance, Revenues & Benefits Services (Richard Barrett), outlined the changes in the financial forecast since it had last been considered plus the possible implications for the future. Mr Barrett also informed the Committee that a New Homes Bonus of £1.18 million was available for one-off expenditure by the Cabinet.

Mr Barrett, together with the Head of People, Performance and Projects (Anastasia Simpson), then responded to Members' questions.

The Committee then adjourned for lunch (Noon – 12.50 p.m.). Following that adjournment the Committee resumed and considered the following matters:-

Mr Barrett outlined to the Committee the Initial Net Savings Items 2019/20 and responded to Members' questions thereon.

Mr Barrett then drew to the Committee's attention the Updated Cost pressure Summary for 2019/20 and responded to Members' questions thereon.

Councillors Baker and Stephenson each declared a Personal Interest when the Committee's discussions touched on the subject of Disabled Facilities Grants insofar as both had close family members who had been in receipt of a Disabled Facilities Grant.

Following a discussion of the day's events the Chairman adjourned the meeting until 9.30 a.m. on Thursday 3 January 2019 at which time the Committee would ask questions of members of the Cabinet with regards to service delivery matters related to items in the Financial Forecast that were relevant to their respective portfolios. The Committee would then decide what comments and/or recommendations it wished to submit to Cabinet in relation to the updated Financial Forecast/Budget 2019/20.

The meeting was declared closed at 2.34 pm

Chairman

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**MEETING OF THE RESOURCES AND SERVICES OVERVIEW AND SCRUTINY
COMMITTEE,**

HELD ON THURSDAY, 3RD JANUARY, 2019 AT 9.30 AM

CONNAUGHT ROOM - CONNAUGHT ROOM

Present:	Councillors Stephenson (Chairman), Alexander (Vice-Chair), Baker, Broderick, Scott and Steady
Also Present:	Councillor Carlo Guglielmi (Deputy Leader of the Council) and Councillor Lynda McWilliams
In Attendance:	Ian Davidson (Chief Executive) (except minutes 52-53) , Martyn Knappett (Deputy Chief Executive) (except minutes 52-53), Anastasia Simpson (Head of People, Performance and Projects), Richard Barrett (Head of Finance, Revenues and Benefits), Charlotte Cooper (Leadership Support Officer)

52. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Amos, Everett, Miles, Newton, Nicholls (Portfolio Holder for Corporate Enforcement), Honeywood (Portfolio Holder for Housing), Skeels (Portfolio Holder for Leisure and Tourism), Talbot (Portfolio Holder for Environment) and Stock OBE (Leader of the Council).

53. DECLARATIONS OF INTEREST

Councillor Baker declared that, he has a family member in receipt of a Disabled Facilities Grant.

Councillor Broderick declared that, her daughter is currently employed by the Citizens Advice Bureau, and she has previously been employed by the Citizens Advice Bureau.

54. SCRUTINY OF MEMBERS OF THE CABINET IN RESPECT OF SERVICE DELIVERY OF ITEMS IN THE FINANCIAL FORECAST

Following the adjournment of its meeting held on 17 December 2018, the Committee resumed its scrutiny of the Financial Forecast / Budget proposals for 2019/20 as follows:-

Members of the Cabinet, accompanied by the appropriate Management Team Member, attended the meeting in turn and answered questions put to them by the members of the Committee.

Having considered all of the information that had been given to the Committee and having reconsidered the possible comments and recommendations to Cabinet that had been discussed at the meeting held on 17 December 2018:-

It was **RESOLVED** that the following are the Committee's final and definitive **COMMENTS/RECOMMENDATIONS** to be submitted to the Cabinet:-

1. The Cabinet, via the LGA, lobbies Government about local business rates and how much that can be retained by local Councils. The Council expects to be able to retain as much as possible from the business rates collected locally, so that funding can be used to support key priorities such as the eradication of coastal deprivation across the Tendring area.
2. That Cabinet supports the continuation of the Grant Co-Ordinator post. Ideally the post should be funded from external funds. However, if this is not possible it is recommended that the Cabinet given serious consideration to the continuation of this post through alternative resources.
3. The Milton Road car park business case should be considered as part of the wider Harwich public realm review.

The Committee Comments that;

1. The Government wants local Councils to be self-sufficient and Tendring District Council, alongside other Councils, does not want to have to rely on government funding. A fair deal is required for local Councils to enable this to be achieved.

The Meeting was declared closed at 11.45 am

Chairman

COUNCILLOR PAUL HONEYWOOD'S MOTION TO COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE 12 – "ENSURE THAT ALL AVAILABLE ENFORCEMENT POWERS ARE UTILISED TO COMBAT STREET DRINKING AND ANTI-SOCIAL BEHAVIOUR IN CLACTON TOWN CENTRE"

"That this council looks forward to the new Anti-Social Patrol Officer being appointed and asks that that person works closely with the Police and the dedicated PCSO for Clacton to ensure that all available enforcement powers are utilised to combat street drinking and anti-social behaviour in Clacton Town Centre to the fullest of their ability."

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COUNCIL

22 JANUARY 2019

REFERENCE FROM CABINET

A.4 REVIEW OF THE CONSTITUTION – PHASE 2

(Report prepared by Ian Ford)

PURPOSE OF THE REPORT

To approve the recommended changes to the Constitution put forward by the Cabinet following a review undertaken by the Finance and Corporate Resources Portfolio Holder through a Working Party.

BACKGROUND

On 18 January 2019 Cabinet will consider a report of the Finance and Corporate Resources Portfolio Holder which will request Cabinet to approve the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder through a Working Party.

The main proposals of the Portfolio Holder will cover a revised approach to how Motions on Notice to Full Council are dealt with, the outcome of the six month review of the committee structure, approval of a Member Referral Scheme for the Planning Committee and revised terms of reference for the Local Plan Committee.

The Portfolio Holder's Report and accompanying Appendices which will be considered by Cabinet at its meeting on 18 January 2019 are attached as Appendix A.

The Cabinet's recommendations will be tabled at the meeting.

RECOMMENDATION

That, subject to Members' consideration of the recommendations of the Cabinet arising from its meeting on 18 January 2019, Council agrees that:

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to E, attached hereto;**
- (b) the changes as set out in appendices A to D to come into effect immediately following approval;**
- (c) the changes as set out in Appendix E to the sizes of committees to come into effect from 1st May 2019;**
- (d) the start time of 7.30pm for Ordinary Full Council meetings remains unchanged recognising that a proportion of elected councillors are employed; and**
- (e) the alternative procedure for changes relating to dealing with Motions on Notice, as set out in the report, is agreed in principle only and that revised Council Procedure Rules be produced for approval to the next practicable meeting of Full Council, so that the same can come into effect on 1st May 2019.**

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A.4 – APPENDIX A

Key Decision Required:	NO	In the Forward Plan:	NO
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CABINET

18 JANUARY 2019

REPORT OF THE FINANCE & CORPORATE RESOURCES PORTFOLIO HOLDER

A.4 REVIEW OF THE COUNCIL'S CONSTITUTION – PHASE 2

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Cabinet to approve the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder through a Working Party.

The main proposals cover a revised approach to how Motions on Notice to Full Council are dealt with, the outcome of the 6 month review on the committee structure, approval of a Member Referral Scheme for the Planning Committee and revised terms and reference to the Local Plan Committee.

The key changes to each of these documents are highlighted within the body of this Report.

EXECUTIVE SUMMARY

A Portfolio Holder Constitution Review Working Party (“CRWP”) was established following various matters being raised at previous meetings of Full Council to undertake:

- (i) *a light touch review of the Constitutional Rules and Procedures highlighted by Members and Officers ensuring the governance arrangements are up to date, clear and consistent, with the outcome and recommended changes being presented to Cabinet and Council in November 2018; and*
- (ii) *the 6 month review requested by Full Council on the revised Committee Structure, presenting the findings and recommendations to Council in January 2019.”*

The Portfolio Holder presented the outcome of the first phase of Constitution Review Working Party to Cabinet in November 2018. Cabinet subsequently **RECOMMENDED TO COUNCIL** that:

- (a) *the Council's Constitution be amended to reflect the proposed changes as set out in Appendices B to N attached to item A.3 of the Report of the Finance and Corporate Resources Portfolio Holder; and*

(b) all changes to come into effect immediately following approval.

In respect of the proposed changes to the Council Procedure Rules Cabinet **RESOLVED** that wider consultation be undertaken with all Members of the Council prior to further decisions being taken. This consultation has been carried out and a summary of the feedback is set out within Appendix F. The CRWP considered the outcome of the consultation and the Portfolio Holder's recommendations are set out in the Report.

At the meeting of Council on 26th November 2018, the CRWP were requested to:

- *provide further clarity and assurances on the Member Referral Scheme, referred to within the Planning Committee's Terms of Reference; and*
- *look at the terms of reference of the Local Plan Committee (and also its title) with a view to enabling that Committee to produce procedures, protocols and also planning conditions that could be put on every planning application that was granted approval in order to avoid any detriment to local neighbourhoods.*

The 6 month review requested by Full Council on the revised committee structure has also been completed and the findings and recommendations to Full Council in January 2019 are set out within the report.

A summary of the changes compared to the existing Parts of the Constitution are provided under each heading in the Current Position section of this report and in each case, the content has been revised to provide greater clarity, ensure effectiveness and efficient working practices for Members and Officers and checked to ensure it is in accordance with legislation, where necessary.

RECOMMENDATION

That Cabinet recommends to Council that:

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to E, attached hereto;**
- (b) the changes as set out in appendices A to D to come into effect immediately following approval;**
- (c) the changes as set out in Appendix E to the sizes of committees to come into effect from 1st May 2019;**
- (d) the start time of 7.30pm for Ordinary Full Council meetings remains unchanged recognising that a proportion of elected councillors are employed; and**
- (e) the alternative procedure for changes relating to dealing with Motions on Notice, as set out in the report, is agreed in principle only and that revised Council Procedure Rules be produced for approval to the next practicable meeting of Full Council, so that the same can come into effect on 1st May 2019.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Agreeing the proposed changes will ensure that the Council demonstrates good governance and operates efficiently in pursuit of its priorities.

FINANCE, OTHER RESOURCES AND RISK

Risk

Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's overall governance arrangements.

LEGAL

In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority considers appropriate.

Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 ("Functions Regulations"), as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by Full Council after receiving a recommendation from Cabinet following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance.

Article 13 of the Constitution provides the principles of Decision Making ensuring that due consideration is given of all the relevant factors and options, taking account the results of any consultation undertaken and the professional advice of Officers.

Subject matters of motions may comprise of either Executive or Non-Executive Functions as determined by the Function Regulations.

Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date. This function takes into account legislative requirements and best practice.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Equality and Diversity implications were considered when taking into account the outcome of the consultation with Members on the proposed changes to the Council Procedure

Rules. One of the matters raised was what consideration had been given to the implications of the Equalities Act with regards to those members who find it difficult to stand at Council meetings?

Council Procedure Rule 23.1 states a Member must stand if possible and traditionally, the Chairman of the Council has readily granted a dispensation from the requirement to stand to those Members who would find this difficult. Research has demonstrated that the approach adopted by the Council is equality compliant and follows best practice; therefore no changes are recommended to the Council procedure Rules in respect of Rule 23.1.

PART 3 – SUPPORTING INFORMATION

CURRENT POSITION

(a) Scheme of Delegation (Non-Executive Functions) – Planning Committee and HR Sub-Committee:

(i) Planning Committee (Part 3.15)

Additional wording to be inserted stating that any written request received from a District Councillor requesting that an application be determined by the Planning Committee, should be in accordance with the Member Referral Scheme.

The Scheme has previously been used by the Council and would be relaunched, with the wording being agreed by Full Council ensuring consistency with the Public Speaking Scheme, Planning Protocol and accepted practice of ward councillors dealing with ward issues.

*Proposed changes to the Planning Committee's delegation, Members Referral Scheme and associated guidance is shown attached in **Appendix A1 & A2**.*

(ii) Human Resources Sub-Committee (Part 3.18):

When considering the changes to the Constitution, Full Council did not make any comments on the proposed amendments to the Human Resources Sub-Committee, however because they were contained within the same appendix as the Planning Committee's delegation, the changes have not been approved. The Panel currently comprises of 3 members including a member of Cabinet being the relevant Portfolio Holder for the service concerned. Additional wording is required to state "*unless that Portfolio Holder requires the Leader to appoint a substitute for them because they will be unable to attend*".

*Proposed changes to the Human Resources Sub-Committee terms of reference are shown attached as **Appendix B**.*

(iii) Local Plan Committee (Part 3.12-14)

The Leader of the Council and Chairman of the Local Plan Committee, requested, via the Council's Monitoring Officer, that the Constitution Review Portfolio Holder Working Party look at the terms of reference of the Local Plan Committee (and also its title) with a view to enabling that Committee to produce procedures, protocols and also planning conditions that could be put on every planning application that was granted approval in order to avoid any detriment to local neighbourhoods.

The CRWP are recommending changes to the Local Plan Committee's terms of reference to make the distinction between planning policies and guidance where functions are reserved to the Cabinet and approve non-statutory planning policy and guidance in the discharge of statutory planning functions, as long as they are not contrary to the National Planning Policy Framework.

The name of the Local Plan Committee should be amended to be the Planning Policy & Local Plan Committee.

*Proposed changes to amend the Local Plan Committee to the Planning Policy & Local Plan Committee and its terms of reference are shown attached as **Appendix C**.*

(b) **6 month review requested by Full Council on the revised Committee Structure:**

Further to the decision taken by Full Council at its meeting held on 27 March 2018 the Working Party was requested to review the first six months' operation of the new Committee structure with a view to deciding the comments/recommendations it wished to submit to Cabinet and then Full Council in January 2019 for approval.

Such review would include considering, and making recommendations on:

- the size of the membership of Committees/Sub-Committees post the May 2019 District Elections when the number of Councillors on Tendring District Council will be reduced from 60 to 48;
- the potential cross-membership of the Planning Committee and the Local Plan Committee; and
- the potential for daytime meetings of the Planning Committee.

Formal comments submitted by the Resources and Services and Community Leadership Overview and Scrutiny Committees were considered.

One of the recommendations from the LGA Peer Review (K5) was that Housing be added to the existing strands of joined up working / Community Leadership particularly with regard to the emerging Housing Strategy and the Homelessness Strategy.

The potential cross-membership of the Planning Committee and the Local Plan Committee had previously been considered by the CRWP who recommended that the previous guidance be incorporated into the Council Procedure Rules with membership for the two committees remaining separate prior to a Local Plan being adopted.

The CRWP agreed to recommend that –

- (i) Leisure, Tourism and Housing Strategy and Homeless matters should be transferred to the terms of reference of the Community Leadership Overview & Scrutiny Committee with the proviso that the Housing Revenue Account remain with the Resources and Services Overview & Scrutiny Committee;
- (ii) guidance for the Members elected in May 2019 in the form of an Overview and

Scrutiny Handbook should be produced to provide further detail, amongst other matters on the roles and responsibilities in undertaking Task and Finish Reviews;

- (iii) better attendance of Members at All Member Briefings should be strongly encouraged;
- (iv) the importance of providing training on overview and scrutiny matters to those Members who have been appointed to serve on an overview and scrutiny committee immediately after the Annual Meeting of the Council in May 2019 should be reiterated;
- (v) with effect from May 2019, the Community Leadership Overview and Scrutiny Committee should meet every two months rather than quarterly as at present;
- (vi) the Head of Governance and Legal Services & Monitoring Officer examines the potential for daytime meetings of the Planning Committee by researching how other Councils operate their Planning Committees; and
- (vii) with effect from May 2019, the size of the Committees and Sub-Committee listed below be as follows:-

Audit Committee = 7 members

Community Leadership Overview & Scrutiny Committee = 9 members

Human Resources & Council Tax Committee = 9 members

Licensing & Registration Committee = 9 members

*Local Plan Committee = 11 members

Planning Committee = 9 members

Resources and Services Overview & Scrutiny Committee = 9 members

Standards Committee = 7 members

Miscellaneous Licensing Sub-Committee = 5 members

*The Proposed changes to the Overview and Committee terms of reference are shown attached as **Appendix D**.*

*Recommendations in respect of the sizes of the Committees and Sub-Committees post 2019 council elections are shown attached as **Appendix E**.*

(c) Council Procedure Rules – Outcome of Member Consultation

As requested by Cabinet in November, the following All Member Briefing included an introduction to the proposed changes to the Council Procedure Rules, as recommended by the CRWP. The proposals were subsequently discussed within political groups and comments were feedback to the Monitoring Officer and captured in the Consultation Outcome, shown attached as **Appendix F**.

The CRWP considered the outcome of the consultation with members and after debate decided that their preferred approach to how motions should be dealt with was as set out in the proposed changes to the Council Procedure Rules contained within Appendix A1 to the Report to Cabinet in November 2018. The comments supporting the CRWP's position are as set out in **Appendix F**.

The purpose of a Working Party is to provide the Portfolio Holder with comments prior to any recommendations being made to Cabinet and Council and in this instance, having taken into account the views of the CRWP and the wider consultation with members, three options are available, which are set out below.

OPTIONS FOR DEALING WITH MOTIONS ON NOTICE:

(1) Stay the same:

The current Council Procedure Rules follows practices adopted in other local authorities to refer motions to be considered by the appropriate body, without debate at Council. This procedure allows for the appropriate body to give due consideration of all the relevant factors and options, taking into account professional advice of Officers, following which a decision is made on whether the motion is supported or not or an amendment is suggested. The CRWP felt that the current procedure does not allow any members to discuss the motion prior to referral and was considered undemocratic. With the current procedure, Tendring Council does in fact go further than some authorities, by ensuring that the motion is referred back to Full Council after consideration for a final decision and is an improvement on previous practices.

(2) Amend to CRWP proposals as set out in Appendix A1 to the Cabinet Report dated 9 November 2018:

The amendments were proposed to the procedure on dealing with Motions on Notice to allow motions to be debated on the night, unless a notice of referral was received and following a vote, being referred to the appropriate body for consideration. The reasoning behind the proposals was to allow the decision to refer motions to rest with Full Council rather than rest in the hands of the Chairman. The proposals allowed a notice of referral to be submitted by an elected member prior to the meeting, if they believed the motion should be referred to an appropriate body for further consideration prior to Full Council making a final decision.

(3) Alternative procedure:

At the meeting of CRWP, when reviewing the outcome of the consultation, the Portfolio Holder after consulting the Monitoring Officer suggested an alternative approach which could be summarised as the following procedure:

- (i) The Motion is moved and seconded, and thereafter the member who moved the motion would be permitted to explain their motion and give reasons why they felt it would be appropriate for it to be dealt with on the night;
- (ii) The Leader, Portfolio Holder or relevant Chairman of the Committee would be permitted to respond either agreeing with the motion being dealt with on the night or setting out reasons why it would be appropriate to stand referred to the appropriate body for further consideration;
- (iii) The Chairman after hearing both representations and receiving professional advice makes a ruling on whether the motion should be debated or referred; and
- (iv) In making the Ruling the Chairman must give consideration to Article 13 of the Constitution and the Executive Functions Regulations and provide a short explanation of the reasons for their decision.

Portfolio holders recommendations summarised:

The recommended alternative approach, as set out in Option 3 above, allows members who move motions to explain them at the meeting to which they are put and if there are no further implications to take into account, could be debated at the meeting. This provides the Chairman with flexibility which does not currently exist.

However, the alternative approach also allows the Chairman to receive representations from the Leader, relevant Portfolio Holder or Committee Chairman and if necessary professional advice prior to making a ruling on whether a matter should be referred.

The benefit of this approach is that the decision is made in an open and transparent manner, allowing members to explain their motions and give reasons why it should be considered on the night whilst protecting the Council in its wider decision making.

(d) Council Procedure Rules – Section 2 (Committees)(Part 4.21 to 4.24):

No comments were received through the consultation with members on the proposed changes to Section 2 of the Council Procedure Rules as shown in Appendix A2 to the November 2018 report. However, these will be recommended to Council following the decision on Section 1 in January 2019.

BACKGROUND PAPERS

Cabinet Report dated 9 November 2018 – Appendices A1 and A2 – proposed changes to the Council Procedure Rules.

APPENDICES

A.4

APPENDIX A1	Part 3	Proposed changes to the Planning Committee's delegation
APPENDIX A2		Draft Members Referral Scheme and associated guidance for planning applications
APPENDIX B	Part 3	Proposed changes to the Human Resources Sub-Committee terms of reference
APPENDIX C	Part 3	Proposed changes to the Planning Policy & Local Plan Committee terms of reference
APPENDIX D	Article 6	Proposed changes to Overview and Committee terms of reference
APPENDIX E	For Article 8	Sizes of the Committees and Sub-Committees post 2019 council elections
APPENDIX F		Consultation Outcome with Members on the Proposed Changes to Council Procedure Rules.

A.4 - APPENDIX A1

Committee	Functions and Terms of Reference	Delegated Functions
<p>Planning Committee</p>	<p><i>The discharge of the Town and Country Planning and Conservation functions as specific in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <p>1. Any formal comment or view on applications or proposals to be determined by Essex County Council, any Statutory Body and government departments relating to matters within the remit of the Committee.</p>	<p>All planning and conservation matters delegated to the Head of Planning except in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <p>(i) Officer recommendations for approval materially contrary to national or local policy.</p> <p>(ii) Officer recommendation of approval contrary to a previous refusal by the Planning Committee, where the policies remain substantially unchanged.</p> <p>(iii) Office recommendation of approval and the application should be referred to the Secretary of State under a Direction(s) or "call in".</p> <p>(iv) The applicant is the Council or someone acting as applicant on the Council's behalf or in respect of Council owned land.</p> <p>(v) The applicant is a Member of the Council, Planning Officer or a Senior Officer and there is an Officer recommendation for approval.</p> <p>(vi) Within 28 days of the commencement of</p>

		<p>formal consultation, a written request is received from a Tendring District Councillor in accordance with the Member Referral Scheme (*) requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.</p> <p>(*) Scheme to be approved by the Full Council</p> <p>(vii) Any application which the Head of Planning in their professional opinion, taking into account the written representations received, plans and policies and other material considerations to be referred to the Planning Committee because it raises more than significant local issues.</p>
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Members' Referral Scheme for Planning Applications

Guidance Note [insert date]

The Terms of Reference of the Planning Committee as set out in the Constitution (Green Part 3.14) delegates all planning and conservation matters to the Head of Planning except in relation to certain planning applications, which are for determination by the Committee. One of the exceptions listed is where members request that an application should be referred to the Planning Committee. The wording (Part 3.15) is as follows:

- (vi) *Within 28 days of the commencement of formal consultation, a written request is received from a **Tending** District Councillor [insert amendment if agreed by Council 'in accordance with the Member Referral Scheme'] requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.*

The MEMBER REFERRAL SCHEME is based on the following principles:

- Elected Members represent their communities and the interests of their ward or of individual residents (in accordance with Article 2 of the Constitution);
- The interests of a ward or individual residents can extend to consideration of planning applications submitted in adjacent wards and those where applications have been made which have a direct impact on other wards;
- A member of the Council's Cabinet may also be permitted to make representations and speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee and requesting the matter to be determined at Committee;
- If an elected Member requests an application to be referred to the Planning Committee for determination, they will be required to personally attend the meeting of the Committee to speak on the item. Planning Services will ensure that the Member is notified when the application is scheduled for determination;
- The Members Referral Scheme does not apply to a householder application, which is defined as follows:

"A 'householder' application is an application to enlarge, expand, improve or alter an existing dwelling, to put up a boundary wall of fence for an existing dwelling or carry out an operation in the curtilage of an existing dwelling that is ancillary to the dwelling-house".

- Members are requested to use the attached letter when referring an application to the Planning Committee to be determined, for ease of reference;

Date:

Chairman of the Planning Committee

LETTER TO THE HEAD OF PLANNING SERVICES

Date:

Dear Head of Planning Services,

MEMBER REFERRAL SCHEME: PLANNING APPLICATION REF:

(*) I am the Ward Councillor for **[insert the Ward]** and in representing the community*/the interests of the ward* or of individual residents* request the above-mentioned application is referred to the Planning Committee for determination. The planning application is located within:

- (a) the Ward to which I am elected to(*); or
- (b) is adjacent to the Ward to which I am elected to(*); or
- (c) directly impacts the Ward to which I am elected to because (*)

.....
in respect of (b) and (c), I can confirm that I have notified the relevant Ward Councillor(s) of my intention to refer this application to the Committee for determination.

(*) I am the Cabinet Member for [insert responsibility] and the proposed development has a direct impact on the portfolio for which I am responsible. The Leader of the Council has approved representations being made to the Planning Committee.

The referral is because of the following material planning considerations:-

In line with/Contrary to* the development plan (Local Plan/LDF) or Government Guidance (please state relevant policies if known)

Negative/Positive* impact on urban design/street scene

Highways impact and/or other traffic issues

Good/Poor* layout and/or density issues

Flood Risk

Positive/Negative* Impact on neighbours

Other material considerations as follows.....

.....
.....
.....

If officers are minded to approve/refuse* then there is no need for this application to be referred.

Please ensure that I am notified of the date of the committee meeting at which this application will be considered so that I am able to attend and speak on the item.

Yours faithfully,

Councillor

* Delete as appropriate.

A.4 - APPENDIX B

Committee	Functions and Terms of Reference	Delegated Functions
Human Resources Sub-Committee	<ol style="list-style-type: none"> 1. Forms part of the recruitment, dismissal and disciplinary process for the appointment of Senior Officers, which includes the following posts: <ul style="list-style-type: none"> • Chief Executive; • Section 151 Officer; • Monitoring Officer; • Chief Officers (Deputy Chief Executive/ Corporate Directors); and • All Deputy Chief Officers (Heads of Service) 2. Forms a panel to undertake interview of applicants for Senior Officer posts who have successfully been shortlisted and undertaken necessary technical interviews and assessments. 3. The Panel will comprise of 3 members consisting of: <ul style="list-style-type: none"> • a member of Cabinet being the relevant Portfolio Holder for the service concerned (unless that Portfolio Holder requires the Leader to appoint a substitute for them because they will be unable to attend); • Chairman or Vice-Chairman of the Human Resources Committee; and • a named committee member from an opposition group. 4. The Panel must take into account the views and professional advice given by the relevant officers before an offer of appointment can be made. 	

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A.4 - APPENDIX C

Committee	Functions and Terms of Reference	Delegated Functions
Planning Policy and Local Plan Committee	<p>To exercise the Council’s functions relating to overseeing the preparation of the Local Plan* and ensuring it meets the “tests of soundness” from national and planning policy.</p> <p>The exercise of the Council’s functions, powers and duties in relation to the following:</p> <ol style="list-style-type: none"> 1. To oversee the preparation of the new Tendring District Local Plan* to ensure that it meets the “tests of soundness” set out in the National Planning Policy Framework. 2. To ensure that the Local Plan* is “positively prepared”, based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. 3. To ensure the Local Plan* is “justified”, promoting the most appropriate strategy for growth, when considered against reasonable alternatives, based on proportionate evidence. 4. To ensure that the Local Plan* is “effective”, being deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities. 	
	<ol style="list-style-type: none"> 5. To ensure that the Local Plan* is “consistent with national policy” enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework. 6. To ensure that the Council effectively complies with the statutory duty to co-operate. 7. To consider and recommend the content of the Local Plan*, in consultation with the Cabinet, for consideration and formal approval by Full Council for either public consultation (preferred options or pre-submission versions), submissions to the Secretary of State (to be examined by a Planning Inspector), or final adoption 	

	<p>(following receipt of the Planning Inspector's report).</p> <p>8. To formally approve Supplementary Planning Documents (SPDs) and other planning documents for public consultation and final adoption.</p> <p>9. To approve the preparation, commissioning and subsequent publication of studies, surveys and other technical documents that form part of the "evidence base" needed to justify the content of the Local Plan*, Supplementary Planning Documents (SPDs) and other planning documents.</p> <p>10. To scrutinise, note and understand the recommendations and conclusions of the "evidence base" to ensure that it provides a robust platform upon which to base policies and proposals in the Local Plan*, SPDs and other planning documents.</p> <p>11. To approve the publication of the Annual Monitoring Report (AMR) each year and to consider whether or not it highlights development trends that may or may not require changes to policies or proposals in the Local Plan*, SPDs or other planning documents.</p> <p>12. To consider representations submitted in response to public consultation exercises on the Local Plan*, SPDs or other planning documents and consider the need for any changes</p>	
	<p>to these documents in response to any issues that they raise.</p> <p>13. To consider and agree responses to consultation exercises on national, regional and sub-regional planning policy issues and on other authorities' planning documents.</p> <p>14. Approve the work programme required for the Committee to undertake its functions effectively and in a timely manner.</p> <p>15. Refer to Cabinet and/or Council any recommendations in respect of the Council's overall strategy, policies and guidance, where functions are reserved to the Cabinet.</p> <p>16. Approve non-statutory planning policy and</p>	

	<p>guidance to be considered by the Council, the Planning Committee and Officers in the discharge of its statutory planning functions, including (but not limited to) avoiding detriment to local neighbourhoods (as long as they are not contrary to the National Planning Policy Framework).</p> <p><i>*The Local Plan can consist of one or more "Development Plan Documents" which could include one document for the majority of the Tendring District and a separate document, if necessary, prepared jointly with Colchester Borough Council, for any major development crossing the Tendring/Colchester border.</i></p>	
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ARTICLE 6 – OVERVIEW AND SCRUTINY FUNCTION

6.02 Terms of Reference:

The terms of reference for each Overview and Scrutiny Committee are set out below:

(i) Community Leadership Overview and Scrutiny Committee

To hold scheduled ~~quarterly~~ meetings **every two months** but with the Chairman able to call additional formal meetings. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

To perform the role of Overview and Scrutiny and its functions in relation to

- Community Leadership developing the external focus of overview and scrutiny on “district-wide” issues’ (and where appropriate sub regional, regional and national issues), in particular through collaborative work with local partner authorities, providers, stakeholders and members of the public.
- Approval of discrete researched and evidenced reviews on the effectiveness of partnership operating in the area with particular focus on:
 - Community Safety
 - Health and Well-being
 - Economy, Skills and Educational Attainment
- Community engagement, development and empowerment
- **Leisure and Tourism (except matters relating to budgets)**
- **Housing Strategy and Homeless Service (except the Housing Revenue Account)**
- Emergency Planning

(ii) Resources and Services Overview and Scrutiny Committee

- To be chaired by a Member of a political group that is not represented on the Cabinet and to hold 8 scheduled meetings per year but with the Chairman able to call additional formal meetings. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.
- To perform the role of Overview and Scrutiny and its functions in relation to the effective use of the Council’s resources including approval of discrete researched and evidenced reviews on the effectiveness of:

Financial ~~Strategy~~ **Forecast**

Budget setting and monitoring (including General Fund & Housing Revenue Account)
Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)
Procurement and Contract Management
Transformation and Digital Strategies
Customer Service and Standards

A.4 - APPENDIX E

CONSTITUTION REVIEW WORKING PARTY – RECOMMENDATIONS IN RESPECT OF THE POST 2019 COUNCIL ELECTIONS COMMITTEE STRUCTURE

Committee/Sub-Committee	Current Number of Seats - 2018	Proposed Number of Seats - 2019	Change +/-	Average Number of Seats Per Non-Executive Member
Audit [meets quarterly]	7	7	No Change	
Community Leadership O & S [meets quarterly]	11	9	-2	
Human Resources & Council Tax [meets twice a year]	11	9	-2	
Licensing & Registration [meets quarterly]	11	9	-2	
Local Plan [meets 3-4 times a year]	15	11	-4	
Planning Committee [meets every four weeks]	11	9	-2	
Resources & Services O & S [meets eight times a year]	11	9	-2	
Standards [meets quarterly. Additional meetings]	7	7	No Change	

arranged if a Conduct Hearing is required]				
Miscellaneous Licensing Sub-Cttee [meets as and when required]	8	5	-3	
TOTALS	92	75	-17	
2018 (52 non-Executive Members)				1.769
2019 (40 non-Executive Members)				1.875

Assumptions

1. Cabinet in 2019 will remain at current membership of eight.
2. Calculation done on the basis that no Executive Members serve on a non-executive Committee (for calculation purposes only).
3. Reductions in Committee membership size of, approximately, 20% to reflect 20% reduction in overall size of the Council (i.e. 48 Members in 2019 [60 in 2018]).

A.4 - APPENDIX F

**OUTCOME OF MEMBER CONSULTATION ON THE
PROPOSED CHANGES TO COUNCIL PROCEDURE RULES**

COUNCIL PROCEDURE RULE	CONSULTATION RESPONSE	CRWP COMMENTS & PFH RECOMMENDATIONS
<p>23.1 Standing to Speak</p> <p>When a Member speaks at full Council they must stand (if possible) and address the meeting through the Chairman.</p> <p>If more than one Member stand, the Chairman will ask one to speak and the others must sit.</p> <p>Other Members must remain seated whilst a Member is speaking unless they wish to make a point of procedure or a point of personal explanation.</p>	<p><i>“What consideration has been given to the implications of the Equalities Act with regards to those Members who find it difficult to stand at Council meetings?”</i></p>	<p><u>Comments</u></p> <p>The Rule states that a Member must stand if possible. This follows the Modular Constitution that was issued by Government in 2001. Most other Councils have a similar rule to TDC. Traditionally, the Chairman of the Council has readily granted a dispensation from the requirement to stand to those Members in physical difficulty</p> <p>A Member standing enables them to be more easily identified by fellow Members, the press/public present at the meeting and also the Officers taking the minutes.</p> <p>In addition, standing will assist the Member to project their voice and enable them to be more easily heard by their fellow Members the press/public present at the meeting and also the Officers taking the minutes. Also their speech is likely to be more clearly recorded on the audio recording of the meeting.</p> <p>Wider research has demonstrated that the approach adopted by TDC is equality compliant and follows best practice.</p> <p>No recommendations were made by the CRWP to change the existing procedure.</p> <p><u>PFH Recommendations</u> <i>To remain with the existing procedure, this is equality compliant and follows best practice.</i></p>

COUNCIL PROCEDURE RULE	CONSULTATION RESPONSE	CRWP COMMENTS & PFH RECOMMENDATIONS
<p>5. Time and Place of Meetings</p> <p>The time and place of Council meetings will be notified in the summons.</p> <p>Meetings will normally be held at 7.30 p.m. 7.00 p.m. in the Princes Theatre, Town Hall, Clacton-on-Sea and the Council may, from time to time, vary the place, date or hour of a meeting or meetings. Where it is not practicable for the Council to meet to agree a variation, such variation shall be determined by the Chairman (or failing him the Vice-Chairman) of the Council.</p>	<p><i>Objection to new proposed start time of 7.00 p.m. for Full Council meetings. It is has been expressed that this is too early for those, who work during the day.</i></p> <p><i>The finish time, it was felt, should not be prescribed, but there could, perhaps, be an aspiration in the rules that the Chairman should seek both to manage the business on the agenda and conduct the meeting such that it aims to finish at a reasonable time.</i></p>	<p><u>CRWP Comments</u></p> <p>CRWP have recommended this change to allow sufficient time within the Council Meeting to enable Motions on Notice to be debated on the night.</p> <p><u>Portfolio Holder's Recommendation</u></p> <p><u>(as set out within the Cabinet Report dated 18 January 2019)</u></p> <p>The start time of 7.30pm for Ordinary Full Council meetings remains unchanged recognising that a proportion of elected councillors are employed.</p>
<p>12. Procedure for Motions on Notice</p> <p>The proposed changes to the Council Procedure Rules were to allow all motions to be dealt with on the night, unless a notice of referral was received and following a vote, being referred to the appropriate body for consideration.</p>	<p>Strong objection to the idea that all motions get debated on the night. There would be the potential for uninformed decisions being made. Due to either "loose" wording leading to unforeseen and unintended consequences or more importantly financial implications.</p> <p>There is no objection to motions being taken on the night that cannot possibly bind or commit the Council.</p> <p>Where the Chairman feels it is appropriate</p>	<p><u>CRWP Comments</u></p> <p>The proposed changes were considered a more democratic approach to allow any elected member to move a motion and, once seconded, be able to explain to Full Council the reasons behind it.</p> <p>If any other elected member felt it was necessary for further work to be undertaken prior to final consideration, an amendment could be moved and if carried, referred to the appropriate body.</p> <p>The current procedure does not provide the Chairman with any flexibility or discretion to allow a motion to be dealt with on the night. In addition, it is considered more democratic to transfer the decision on whether a motion should be referred, to Full Council rather than rest in the hands of the Chairman.</p>

	<p>he has taken debate on the night in accordance with the existing rules.</p> <p>The current procedure works really well and is far tighter than it was previously.</p>	<p><u>PFH Recommendation</u></p> <p>Refer to the body of the Report.</p>
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62. REPORT OF THE CORPORATE DIRECTOR - A.2 - REVIEW OF DRAFT STATEMENT OF GAMBLING POLICY AFTER PUBLIC CONSULTATION.

The Committee had before it a report which asked it to consider the responses received from the public consultation that had taken place for the review of the Council's statement of Gambling Policy and decide whether to amend its draft policy in light of the responses received before agreeing a final policy and recommending its adoption by the full Council. The draft policy had been approved by the Committee at its meeting on 18 July 2018.

The Licensing Manager (Karen Townshend) reported that the draft policy went out to public consultation for a period of twelve weeks from the 1 August to the 24 October 2018. This had encompassed and engaged a large and diverse range of consultees, such as faith groups, local schools, Children's Safeguarding service, voluntary groups, premises licence holders, business representatives, betting and gambling representatives and organisations that work with problem gamblers like Gamblers Anonymous to seek a wide variety of comment and views on the revised draft policy. A list of those groups, agencies, authorities, organisations and businesses who were written to was detailed on page 25 of the revised draft policy.

After some deliberation amongst the Committee, it was moved by Councillor White and seconded by Councillor Amos and **RESOLVED** that:

- a) The final draft statement of Gambling Policy attached to this report which includes any amendments thought necessary to the policy after consideration of the consultation responses received;
- b) That the Chairman of the Licensing Committee recommends this final draft of the revised policy to Full Council for adoption by the Council at its meeting 22 January 2019 and its publication in accordance with the timetable previously agreed by members at their meeting of the 18 July 2018;
- c) That any future amendments to the revised adopted and published policy that are minor or administrative only in nature can be delegated to the head of Customer and Commercial services and the Licensing Manager in consultation with the Chairman and/or the Vice Chairman of the Licensing and Registration Committee; without the need to publicly consult again or readopt the policy by the Committee and Full Council.

RECOMMENDED TO COUNCIL that the final draft of the revised policy be adopted and published in accordance with the timetable previously agreed by the Licensing and Registration Committee at its meeting held 18 July 2018.

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LICENSING AND REGISTRATION COMMITTEE

7 NOVEMBER 2018

REPORT OF THE CORPORATE DIRECTOR [OPERATIONAL SERVICES]

A.2 Review of draft Statement of Gambling Policy after public consultation

Report prepared by Emma King

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To request that the Committee consider the responses received from the public consultation that has taken place for the review of the Council's Statement of Gambling Policy and amend its draft policy in light of any responses received before agreeing a final policy and recommending its adoption by the Full Council.

EXECUTIVE SUMMARY

The Council is required to review and renew its Statement of Gambling Policy every three years in accordance with the Gambling Act 2005. The review and renewal of the policy is subject to public consultation and must be adopted by Full Council on recommendation from the Licensing and Registration Committee. The Committee at its meeting of the 18 July 2018 agreed a revised draft policy to be offered for public consultation and is now asked to consider responses received and agree a final policy and recommend its adoption to Full Council.

RECOMMENDATION(S)

It is recommended that Members agree:

- a) The final draft Statement of Gambling Policy attached to this report which includes any amendments thought necessary to the policy after consideration of the consultation responses received;
- b) That the Chairman of the Licensing Committee recommends this final draft of the revised policy to Full Council for adoption by the Council at its meeting of the 22 January 2019 and its publication in accordance with the timetable previously agreed by Members at their meeting of the 18 July 2018;
- c) That any future amendments to the revised adopted and published policy that are minor or administrative only in nature can be delegated to the Head of Customer and Commercial Services and the Licensing Manager in consultation with the Chairman and/or the Vice Chairman of the Licensing and Registration Committee; without the need to publicly consult again or readopt the policy by the Committee and Full Council.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Our Prosperity

- Build a thriving local tourism industry

- Promote sustainable economic growth

Our People

- Remain a low crime area and reduce the fear of crime

Our Place

- Regenerate the District and improve deprived areas

The Betting, Gaming and Amusements industries in our District provide significant direct and indirect employment, skills and training for local people and particularly in our family friendly and family orientated seaside resort areas of Clacton, Dovercourt, St Osyth, Brightlingsea and Walton on the Naze; they also provide traditional indoor leisure attractions and facilities for many visitors to our District.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The cost of administration in terms of production, consultation and publication of the Council's Statement of Gambling Policy is met within current service budget and gambling licence and permit fee income.

Risk

The Council's reviewed and revised Gambling Policy must be adopted, published and in place by the 31 January 2019.

LEGAL

The Council is required to review its Statement of Gambling Policy every three years in accordance with Section 349 of the Gambling Act 2005 and to widely consult on that review with responsible authorities and other interested parties. The Council has to have its Gambling Policy agreed, published and in place by the 31 January 2019.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

'Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime' is one of the three licensing objectives of the Gambling Act 2005. The Council's Statement of Gambling Policy has been prepared in order to pro-actively support and promote the prevention of crime and disorder in the betting and gaming industry in our District.

EQUALITY AND DIVERSITY

The draft policy agreed by Members at their meeting of the 18 July 2018 has been subject to open public consultation and scrutiny with a diverse body of community and faith groups as well as individual businesses, schools and voluntary groups and the Safeguarding Children's service. It was also available to comment on through the Council's web site and the policy itself has been drafted to ensure that all applicants and licence and permit holders under the Gambling Act 2005 in our District will be treated equally and in a transparent and fair way.

AREA/WARDS AFFECTED

All

CONSULTATION

The revised draft policy agreed by Members at their meeting of the 18 July 2018 was open to public consultation and scrutiny for a period of twelve weeks from the 1 August to the 24 October 2018. The consultation encompassed and engaged a large and diverse range of consultees such as faith groups, local schools, Children's Safeguarding service, voluntary groups, premises licence holders, business representatives, betting and gaming representatives and organisations that work with problem gamblers like Gamblers Anonymous to seek a wide variety of comment and views on the revised draft policy. A list of those groups, agencies, authorities, organisations and businesses who were written to and invited to comment is shown on page 25 of the revised draft policy.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Section 349 of the Gambling Act 2005 53 prescribes that:-

(1) A licensing authority shall before each successive period of three years—
(a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and
(b) publish the statement.

(2) A licensing authority shall—
(a) review their statement under this section from time to time,
(b) if they think it necessary in the light of a review, revise the statement, and
(c) publish any revision before giving it effect.

(3) In preparing a statement or revision under this section a licensing authority shall consult—
(a) either—

(i) in England and Wales, the chief officer of police for the authority's area, or
(ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area,

(b) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and

(c) one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

The Gambling Act 2005 places a statutory responsibility on all Local Authorities to be responsible for the issuing of various permissions, permits and notices relating to the use of premises for gambling activities:-

- a) Consideration of applications for premises licences for:
- Casinos
 - Bingo premises

- Betting premises and Race tracks
 - Adult gaming centres
 - Family entertainment centres
- b) Consideration of applications for permits for:
- Gaming machines in alcohol-licensed premises, such as pubs
 - Gaming machines for members clubs
 - Gaming in members clubs
 - Unlicensed family entertainments centres (category D machines only – i.e. those that have the lowest level of stakes and prizes)
 - Prize gaming
- c) Temporary use notices
d) Occasional use notices
e) Provisional Statements
f) Registration of small society lotteries

Each Authority is legally required to formulate its own Gambling Licensing Policy Statement which must be reviewed and re-published every three years.

The policy must be based on the three licensing objectives, which are;

- **Preventing gambling from being a source of crime and 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 people from being harmed or exploited by gaming**

The Council's current Statement of Gambling Policy has been in place and in force since the 31 January 2016. This proposed draft and review of the policy will be the fifth that has taken place since the first policy was adopted in 2006.

The framework of this policy was originally initiated and designed by the Essex Licensing Officers Forum so that applicants and existing businesses in the betting and gaming industry that have outlets across Essex would have a template to recognise and work with across a wide range of different Local Authorities in Essex. It also ensured a framework of generic best practice amongst all Essex Authorities and ensured that any necessary regulatory requirements did not unnecessarily burden businesses who have applications to make for licensed outlets across Essex such as chain of betting shops for example.

This approach has also enabled the development of a robust and practical policy through partnership working in respect of how the Gambling Act 2005 will be administered and how compliance is managed for applicants and licence and permit holders alike.

Since 2006 the policy framework has then been augmented by local requirements and local strategies to reflect this Council's own area as influenced by public consultation and Tendring District Council's Licensing Committee Members.

CURRENT POSITION

The Licensing and Registration Committee is asked to review and agree the proposed revised draft of the Council's Statement of Gambling Policy as attached as **APPENDIX A**

to this report following its public consultation and take into consideration the responses and specific points received to that consultation where Members may consider it to be appropriate to do so.

There were five letters received in response to the consultation which were from Hough & Bollard Ltd, GamCare, The Salvation Army, William Hill and Gosschalks. These responses are attached in full to this report as **APPENDIX B**.

The Licensing Manager has replied to these representations and the points they have raised and has advised that their submissions will be presented in full to Members as part of this report.

These amendments have provisionally been incorporated into the proposed final draft of the policy subject to the agreement of the Licensing and Registration Committee.

The Licensing and Registration Committee is therefore asked to consider the final draft of the Council's Statement of Gambling Policy in light of the consultation responses that have been received and agree a final policy to be recommended to Full Council for its adoption at its meeting on the 22 January 2019.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Appendix A	-	Draft Gambling Policy
Appendix B	-	Consultation Responses

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Tendring District Council



GAMBLING LICENSING POLICY STATEMENT

Gambling Policy Document – Adopted 24 January 2019

FOREWORD

This is the fifth Statement of Licensing Policy produced by Tendring District Council as the Licensing Authority under the Gambling Act 2005 (forthwith referred to as the 'Act' throughout this document) and it will be the basis for all gambling related licensing decisions taken by the Council as the Licensing Authority over the next three years commencing on 03 January 2019.

The new Act created a unified regulator for gambling in Great Britain called the Gambling Commission and also transferred all responsibilities for licensing gambling premises from the Licensing Justices to Licensing Authorities. These Authorities are responsible for issuing a number of different permits, as well as Temporary and Occasional Use Notices.

This Policy sets out how the Council, as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that children, vulnerable people and communities need and expect.

The Council recognises how important this sector of the entertainment industry is within the district and well-run businesses will get the support of the Council. New gambling related developments that are well planned and can demonstrate initiatives that prevent gambling from being a source of crime and disorder, ensure that gambling is conducted in a fair and open way and protect people from being harmed or exploited by gambling are welcomed. However, the Council will not hesitate in dealing firmly where problems of gambling related crime and disorder exist.

This Policy will be kept under review and it will be amended when issues arise that make change necessary. The Council will seek through the licensing process and the decisions it takes, to make Tendring a safe and welcoming place for both residents and visitors to enjoy.

Councillor Mark Cossens
Chairman, Licensing Committee

<p>TENDRING DISTRICT COUNCIL</p> <p>GAMBLING LICENSING POLICY</p> <p>STATEMENT</p>

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PART A

1.0 INTRODUCTION

1.1 This Statement of Licensing Policy sets out the principles that Tendring District Council, as the Licensing Authority under the Act (referred to in this document as 'the Act'), proposes to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an "Interested Party";
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

2.0 THE LICENSING OBJECTIVES

2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:-

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

3.0 DESCRIPTION OF THE DISTRICT

3.1 The Tendring District Council is situated in the County of Essex, which comprises twelve District and Borough Councils and two Unitary Authorities.



The District forms a rural peninsular bounded by the Stour estuary to the North, the Colne estuary to the South and the North Sea to the East. As at 2016 the population stood at an estimated 143,400 who live in well-established towns, the largest of which is Clacton on Sea. However, many residents occupy the rural hinterland in the District's many thriving villages and hamlets.

Tendring is well known for having one of the longest coastlines and the sunniest, driest weather of any District in the country. Tourism thrives in the District with many former visitors choosing to settle here and with tourism being a main source of income for the District.

The District benefits from a good rail and road infrastructure and is within easy reach of London Stansted Airport. The District boasts no fewer than fourteen railway stations, with London Liverpool Street being just one hour away from the mainline station at Manningtree. There are also excellent links to the continent via Harwich International Port and further port expansion in the Bathside area of Harwich has been approved which will lead to increased employment opportunities for the District.

4.0 RESPONSIBILITIES UNDER THE ACT

4.1 The Act has introduced a new licensing regime for commercial gambling, to be conducted by the Gambling Commission and by Licensing Authorities, depending on the matter to be licensed.

4.2 The Act establishes each District or Borough Council as the Licensing Authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Tendring District Council is the Licensing Authority for the Tendring District.

4.3 The Gambling Commission is responsible for issuing Operating and Personal Licences to persons and organisations who:-

- operate a casino;
- provide facilities for playing bingo or for pool betting;
- provide betting or act as intermediaries for betting;

- make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
- manufacture, supply, install, adapt, maintain or repair gaming machines;
- manufacture, supply, install or adapt gambling machine software; or
- promote a lottery.

4.4 The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are covered, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt Small Society Lotteries.

4.5 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as they think it is:-

- in accordance with any relevant Code of Practice under Section 24 of the Act;
- in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
- reasonably consistent with the Licensing Objectives (subject to the above paragraphs, and
- in accordance with the Licensing Authority's Statement of Licensing Policy.

Before the Licensing Authority can consider an application for a Premises Licence, an Operating and Personal Licence, or both, must have been obtained from the Gambling Commission.

5.0 STATEMENT OF LICENSING POLICY

5.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.

5.2 In this document this is referred to as 'the Policy'. This Policy must be reviewed and published every three years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.

5.3 This Policy takes effect on 31 January 2019 and replaces the Policy previously in force.

6.0 CONSULTATION

6.1 In producing this Policy, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A full list of all groups and persons consulted is provided at Annex 'A'.

6.2 The Act requires that the following parties are consulted by the Licensing Authority:-

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

6.3 The other groups and people consulted were:-

- Organisations, including faith groups and voluntary organisations working with people who are problem gamblers, medical practices or primary care trusts and the Citizens' Advice Bureau;
- Other tiers of local government;
- Businesses who are, or will be, holders of Premises Licences;
- Responsible Authorities under the Act.

6.4 The Licensing Authority's consultation took place between 18 July 18 and 15 August 2018.

7.0 APPROVAL OF POLICY

7.1 This Policy was approved at a meeting of the full Council on 22 January 2019 and was published via its website on 31 January 2019. Copies are available on request.

7.2 It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

8.0 DECLARATION

8.1 In this Policy the Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process.

8.2 The Council recognises its diverse responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate schemes such as the Race Equality Scheme and the Disability Equality Scheme.

8.3 Appendices have been attached to this Statement providing further information and guidance that is intended only to assist readers and should not be interpreted as legal advice or as constituent of the Licensing Authority's policy. Readers of this document are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act, or the guidance or regulations issued under the Act.

9.0 RESPONSIBLE AUTHORITIES

9.1 A full list of the Responsible Authorities designated under the Act and their contact details are given in Annex 'B'. It should be noted that under the Act, the Licensing Authority is designated as a Responsible Authority.

9.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-

- the competency of the body to advise the Licensing Authority;
- 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 interest group etc.

9.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates the Essex County Council Children's Safeguarding Service for this purpose.

10.0 INTERESTED PARTIES

10.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application 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,*
- c) represents persons who satisfy paragraphs (a) or (b).'*

10.2 Interested Parties can be persons who are democratically elected, such as District and Parish Councillors and Members of Parliament. 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.

10.3 District Councillors who are members of the Licensing Committee will not qualify to act in this way.

10.4 Other than persons mentioned in 10.2 and 10.3, the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party.

10.5 The Licensing Authority considers that the Trade Associations, Trade Unions and Residents' and Tenants' Associations qualify as "Interested Parties" where they can demonstrate that they represent persons in (a) or (b) above.

10.6 In determining if a person lives or has business interests sufficiently close to the premises that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- The circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- The catchment area of the premises (i.e. how far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area that might be affected.

The Licensing Authority will decide if a representation made in respect of an application is valid based on the following factors:

- It is not frivolous or vexatious.
- It raises issues that relate to Guidance issued by the Gambling Commission.
- It raises issues that relate to this policy.
- It relates to the Licensing Objectives.

11.0 EXCHANGE OF INFORMATION

11.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 1998 will not be contravened;
- the guidance issued by the Gambling Commission;
- Data Protection Act 1998;
- Human Rights Act 1998;
- Freedom of Information Act 2000;
- Environmental Information Regulations 2004;
- the Common Law Duty of Confidence;
- Electronic Communications Act 2000;
- Computer Misuse Act 1990;
- Criminal Procedure and Investigations Act 1996; and
- Crime and Disorder Act 1998.

11.2 In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal

- Scottish ministers
- Any other person or body designated by the Secretary of State in accordance with the Act

11.3 The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we will only share any personal details for this purpose if required to do so by law.

12.0 PUBLIC REGISTER

12.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations will prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

13.0 COMPLIANCE AND ENFORCEMENT

13.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice. This requires that actions should be:

- Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable – The Authority must be able to justify decisions and be subject to public scrutiny.
- Consistent – Rules and standards must be joined up and implemented fairly.
- Transparent – Enforcement should be open and regulations kept simple and user friendly.
- Targeted – Enforcement should be focused on the problems and minimise side effects.

13.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme.

13.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act, will be to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operating and Personal Licences. It is also worth noting that concerns about the manufacturer, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

13.4 The Licensing Authority will keep itself informed of developments as regard to the Department for Business, Energy & Industrial Strategy in its consideration of the regulatory functions of Local Authorities, and will have regard to best practice.

13.5 Where appropriate, complaints will be investigated in accordance with the stepped approach outlined in the Regulatory Services Enforcement Policy. In the first instance we encourage complaints to be raised directly with the licensee or business concerned.

13.6 As part of its ongoing inspection regime, The Licensing Authority may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Licence holders will always be advised of the outcome of the test. *The Licensing Authority expects to be advised of results upon request where operators carry out their own test purchasing.* Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.

13.7 Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:

- Coral – London Borough of Newham
- Ladbrokes – Milton Keynes
- Paddy Power – Reading
- William Hill – City of Westminster
- *Association of British Bookmakers – Reading Council*

PART B PREMISES LICENCES

14.0 DELEGATION OF POWERS

14.1 The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act and this can be found in Annex 'E'.

15.0 GENERAL PRINCIPLES

15.1 Premises Licences will be subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is thought appropriate.

15.2 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:

- Casino premises
- Bingo premises
- Betting premises, including tracks and premises used by betting intermediaries
- Adult gaming centre premises (for category B3, B4, C and D machines)
- Family entertainment centre premises (for category C and D machines) (it is worthy of note that separate to this category, the Licensing Authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).

15.3 Each case will be decided on its individual merits, and will depend upon the type of gambling that is proposed. Also taken into account will be how the applicant proposes that the Licensing Objective concerns can be overcome.

15.4 Licensing Authorities are required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks fit:-

- in accordance with any relevant Code of Practice under Section 24 of the Act;
- in accordance with any relevant guidance issued by the Gambling Commission under Section 25;
- to be reasonably consistent with the Licensing Objectives; and
- in accordance with the Licensing Authority's Statement of Licensing..

15.5 Definition of Premises

Premises is defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises although this will always be considered in the light of the guidance issued by the Gambling Commission. It will always be a question of fact in each circumstance.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licenced or unlicensed).

15.6 Demand

Demand is a commercial consideration and is not an issue for the Licensing Authority.

15.7 Location

Location will only be a material consideration in the context of the Licensing Objectives.

15.8 The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

15.9 In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 06 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) under Section 10; that licencees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licencees must take into account relevant matters identified in this policy.

15.10 The LCCP also states that licencees must review and update (as necessary) their local risk assessments:

- a) to take account of significant changes in local circumstance, including those identified in this policy
- b) when there are significant changes at a licencee's premises that may affect their mitigation of local risks
- c) when applying for a variation of a premises licence
- d) in any case, undertake a local risk assessment when applying for a new premises licence

15.11 The Licensing Authority expects the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in area subject to high levels of crime and disorder
- the ethnic profile of residents in the area and how game rules, self-exclusion material are communicated to these groups
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

15.12 In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected

15.13 Other matters that the assessment may include:

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

The Licensing Authority expects all licensed premises to make their local area risk assessment available on site for inspection on the request of an authorised officer.

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

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

15.16 Licensing Objectives

Premises Licences granted must be reasonably consistent with the Licensing Objectives. With regard to these Objectives, the following will be considered:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime –**

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this Licensing Objective.

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 the need for conditions, such as the provision of Door Supervisors.

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

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. The Licensing Authority notes that in relation to the licensing of tracks, its role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances, the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

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

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are 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.

15.17 Conditions

The Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing Objectives.

Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises 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.

In addition, the Licensing Authority will examine how applicants propose to address the Licensing Objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:-

- Proof of age schemes
- CCTV
- Door Supervisors
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices and signage;
- Specific opening hours; and
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as Gamcare.

15.18 Decisions upon individual conditions will be made on a case by case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. Applicants will also be expected to offer their own suggestions as to the way in which the Licensing Objectives can be effectively met.

15.19 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- any conditions on the Premises Licence which make 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 Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

15.20 Door Supervisors

The Licensing Authority may consider whether there is a need for door supervisors in terms of the Licensing Objectives of protecting of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. As the Act has amended the Security Industry Act 2001, door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority.

15.21 Credit

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATM's) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

15.22 Betting Machines [See Annex C for definition]

In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the Casino*).

- 15.23** When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall 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 or by vulnerable persons.

- 15.24** In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of codes of practice or guidance issued under the Act.

16.0 PROVISIONAL STATEMENTS

- 16.1** In light of the judgement in respect of an application for a Betting Premises Licence in respect of premises located in Southend-on-Sea, notwithstanding paragraphs 7.55, 7.56 and 7.57 of the Gambling Commission's Guidance to Licensing Authorities:- a Premises Licence under the Gambling Act 2005 may lawfully be granted in respect of premises that are not ready to be used for gambling, the premises being about to be or in the course of construction or alteration, and they being premises which the applicant has a right to occupy and in respect of which he/she holds an operating licence which authorises him/her to carry on the activity in respect of which the Premises Licence is sought.

17.0 REPRESENTATIONS AND REVIEWS

- 17.1** Representations and Applications for a Review of a Premises Licence may be made by Responsible Authorities and Interested Parties.

- 17.2** The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is appropriate. For the purpose of exercising its discretion in these matters, the Authority has designated the Council's Head of Legal Services as being the proper person to act on its behalf.

- 17.3** The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:

- Frivolous or vexatious.
- Based on grounds that will certainly not cause the Authority to wish to revoke/suspend a licence or remove, amend or attach conditions on the licence.
- Substantially the same as previous representations or requests for a review.
- In accordance with any relevant codes of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the Licensing Objectives.

- 17.4** There is no appeal against the Authority's determination of the relevance of an application for review.

18.0 ADULT GAMING CENTRES

- 18.1** An Adult Gaming Centre is defined in Annex 'C'. Entry to these premises is age restricted.

- 18.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

19.0 (LICENSED) FAMILY ENTERTAINMENT CENTRES

19.1 A Licensed Family Entertainment Centre is defined in Annex 'C'. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

20.0 CASINOS

20.1 The Licensing Authority has not passed a resolution under section 166 of the Act not to issue casino premises licences. Any future decision to pass or not to pass a casino resolution will only be taken after a full consultation process has been undertaken within the area.

20.2 Casinos and Competitive Bidding

The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style casino, there are likely to be a number of operators which will want to run a casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State. It should be noted that at the time this Statement of Licensing Policy was adopted this area had not been so enabled.

20.3 Betting Machines

The Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the casino*). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things should 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 or by vulnerable persons.

20.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

20.5 Credit

Credit facilities are prohibited in casinos, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

21.0 BINGO PREMISES

21.1 A Bingo premises is defined in Annex 'C'. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

21.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

21.3 Credit

Credit facilities are prohibited in premises licensed for Bingo, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

22.0 BETTING PREMISES

22.1 Betting Premises are defined in Annex 'C'.

22.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

22.3 Betting machines

Conditions may be imposed.

22.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of practice or Guidance issued under the act.

22.5 Fixed Odds Betting Terminals (FOBTs)

In respect to nationally expressed concerns that exist in relation to the potentially adverse impact FOBTs may have on vulnerable groups of adults, the Licensing Authority will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, setting out minimum staffing levels (*if they feel the Licensing Objectives may not be met*); in order to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players (particularly in relation to players who are deemed to be vulnerable and to prevent those under 18 years of age accessing gambling facilities).

22.6 The Licensing Authority expects FOBTs to be positioned in such a way that they can be appropriately monitored *and supervised* by staff, particularly where those staff are positioned at a counter away from the machines. In general the Licensing Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially 9.11.1. *Advice should be sought from the Licensing Authority when erecting privacy screens, and subsequent plans detailing said screens be submitted to the Licensing Authority. Where an existing licensee adds 'privacy screens' a variation application may be required.*

23.0 TRACKS

23.1 A Track is defined in Annex 'C'. Entry to these premises is generally age restricted. On race days, specific areas within the Track may be age restricted dependent on the licensable activities taking place.

24.0 TRAVELLING FAIRS

24.1 The Licensing Authority will determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use. (See Annex 'H').

PART C PERMITS/TEMPORARY OR OCCASIONAL USE NOTICES/REGISTRATIONS

25.0 GENERAL

25.1 Forms and Method of Application and any additional information or documents required for permits covered by this section are shown in Appendix F.

26.0 UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

26.1 Where a premises does not hold a Premises Licence but wishes to provide Gaming machines, it may apply to the Licensing Authority for a 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.

26.2 The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover, together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority.

26.3 Statement of Licensing Principles

The Licensing Authority will expect the applicant to show that there are written 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 suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
- How the applicant proposes to ensure that children will be protected from harm whilst on the premises.
- Training covering how staff would deal with:-
 - ❑ unsupervised, very young children being on the premises,
 - ❑ children causing perceived problems on/around the premises, and
 - ❑ suspected truant children

27.0 (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

27.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of Categories C and/or D. The Premises Licence holder needs to notify the Licensing Authority at least two months prior to the date of expiry of the current permit.

27.2 Gaming machines can only be located on licensed premises that have a bar for serving customers.

27.3 Premises restricted to selling alcohol only with food, will not be able to apply for a Permit.

27.4 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited for 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 machines. Measures will cover such issues as:-

- Adult machines being in sight of the bar;
- Adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
- Appropriate notices and signage; and
- As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as Gamcare.

The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

27.5 Credit facilities are prohibited in premises licensed for bingo, however this does not prevent the installation of cash dispensers (ATM) on the premises; although the Licensing Authority may attach conditions as to the siting of such machines.

28.0 PRIZE GAMING PERMITS

28.1 Statement of Licensing Principles

The Licensing Authority will expect the applicant to show that there are written 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 suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
- How the applicant proposes to ensure that children will be protected from harm whilst on the premises.
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on/around the premises, and
 - suspected truant children

In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

29.0 CLUB GAMING AND CLUB MACHINE PERMITS

29.1 Members' Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.

29.2 A fast-track procedure is available for premises that hold a Club Premises Certificate under the Licensing Act 2003.

30.0 TEMPORARY USE NOTICES (TUN)

30.1 The persons designated to receive TUNs and to issue objections are specified in Annex 'D'.

30.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State

prescribing the activities to be covered. At present a Temporary Use Notice can only be issued for equal chance gaming.

30.3 For the purposes of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.

30.4 The definition of a "set of premises" will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.

30.5 The Licensing Authority will 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.

31.0 OCCASIONAL USE NOTICES

31.1 Occasional Use Notices (OUN) apply only to Tracks, which are described as being premises on any part of which a race or other sporting events take place, or is intended to take place. Tracks need not be a permanent fixture.

31.2 OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a Betting Premises Licence for the track.

31.3 The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.

31.4 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

31.5 The person designated to receive the OUN's and to assess its validity is the Head of Legal Services and Monitoring Officer. (A copy to be served on local Chief of Police).

32.0 SMALL SOCIETY LOTTERIES

32.1 The definition of a Small Society Lottery is contained in Annex 'C' and these require registration with the Licensing Authority.

33.0 DEFINITIONS – Annex 'C'

34.0 TEMPORARY USE NOTICES/HOW TO MAKE A REPRESENTATION

35.0 TABLE OF DELEGATIONS OF LICENSING FUNCTIONS – Annex 'E'

36.0 APPLICATION PROCESS - Annex 'F'

37.0 FEES – Annex 'G'

38.0 USEFUL CONTACTS

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk Some of these organisations provide codes of practice on their particular interest area.

ANNEX 'A'

LIST OF CONSULTEES

British Amusement Catering Trade Association (BACTA)
Churches Together
Citizens Advice Bureau
Essex Fire and Rescue Services
Essex Police
Essex County Council Children's Safeguarding Service
Gamblers Anonymous
Gamcare
Gambling Commission
HM Revenues and Customs
Ladbrokes Betting and Gaming Limited
Local Solicitors
Members of the District Council
Solicitors specialising in licensing issues
Tendring and Colchester Minority Ethnic Partnership
Tendring Community Voluntary Services
Tendring District Council Environmental Services
Tendring District Council Planning Services
North East Essex Primary Care Trust
Town and Parish Councils
Essex County Council Trading Standards
The Salvation Army
Holders of Premises Licences and Permits under the Gambling Act 2005
The Licensing Committee
Public Health

ANNEX 'B'

RESPONSIBLE AUTHORITIES

ORGANISATION	CONTACT AND ADDRESS	TELEPHONE
Tendring District Council [Licensing Section]	The Licensing Team 88-90 Pier Avenue Clacton on sea Essex CO15 1TN	01255 686565
Essex Police	The Chief Officer of Police Essex Police Licensing Unit PO Box 12306 Police Station Newland Street Witham CM8 2AS	101 ext 452035
Essex County Fire and Rescue Service	Workplace Fire Safety East Command Colchester Fire Station Cowdray Avenue Colchester CO1 1XT	01206 574255
Essex County Council Children's Safeguarding Service	Head of Children's Safeguarding Service [Licensing Applications] Essex County Council DG06, D Block Schools Children's and Families Service PO Box 11 County Hall Chelmsford CM1 1LX	01245 492211
Trading Standards [Essex]	Information and Business Support Team Essex Trading Standards New Dukes Way Office 2 Beaufort Road Dukes Park Industrial Estate Chelmsford Essex CM2 6PS	01245 341800
Tendring District Council [Planning]	Planning Support Team Leader Planning Services Tendring District Council Council Offices Weeley Essex CO16 9AJ	01255 686161

Tendring District Council Environmental Health	Environmental Health Tendring District Council Council Offices Weeley Essex CO16 9AJ	01255 686750
The Gambling Commission	The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	0121 230 6500
HM Revenue & Customs	National registration Unit Betting & Gaming Cotton House & Cochrance Street Glasgow G1 1HY	03000 516023

In relation to vessels only, the Navigation Authority having functions in relation to any place where the vessel is or likely to be while activities are carried on in reliance on a premises licence. For this purpose, correspondence should be sent to:

Surveyor-in-Charge
Maritime & Coast Guard Agency
Marine Office
Central Court
1B Knoll Rise
Orpington
BR6 0JA Telephone: 01689 890400

Any further enquiries or assistance can be obtained from the Licensing Authority on the contact details given above. Addresses were correct at the time of publishing but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing.

ANNEX 'C'

DEFINITIONS

Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect.
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting Machines	A machine designed or adapted for use to bet on future real events [not a gaming machine].
Bingo	A game of equal chance.
Casino	An arrangement whereby people are given an opportunity to participate in one or more casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines [3 machines of Categories B,C or D.
Conditions	<p>Conditions to be attached to licences by way of:-</p> <ul style="list-style-type: none"><input type="checkbox"/> Automatic provision<input type="checkbox"/> Regulations provided by Secretary of State<input type="checkbox"/> Conditions provided by Gambling Commission<input type="checkbox"/> Conditions provided by Licensing Authority <p>Conditions may be general in nature [either attached to all licences or all licences of a particular nature] or may be specific to a particular licence.</p>
Default Conditions	Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
Delegated Powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.

Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> ❑ Small Society Lottery [required to register with Licensing Authorities. ❑ Incidental Non Commercial Lotteries. ❑ Private Lotteries. ❑ Customer Lotteries. 																											
External Lottery Manager	<p>An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.</p>																											
Gaming	<p>Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.</p>																											
Gaming Machine	<p>Machine covering all types of gambling activity, including betting on virtual events.</p> <p><u>Categories</u></p> <table border="1" data-bbox="702 996 1380 1339"> <thead> <tr> <th>Category</th> <th>Max. Stake</th> <th>Max. 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>£2</td> <td>£500</td> </tr> <tr> <td>B3A</td> <td>£1</td> <td>£500</td> </tr> <tr> <td>B4</td> <td>£1</td> <td>£250</td> </tr> <tr> <td>C</td> <td>50p</td> <td>£25</td> </tr> <tr> <td>D</td> <td>10p or 30p*</td> <td>£5 or £8*</td> </tr> </tbody> </table> <p>*when monetary prize only</p>	Category	Max. Stake	Max. Prize	A	Unlimited	Unlimited	B1	£2	£4,000	B2	£100	£500	B3	£2	£500	B3A	£1	£500	B4	£1	£250	C	50p	£25	D	10p or 30p*	£5 or £8*
Category	Max. Stake	Max. Prize																										
A	Unlimited	Unlimited																										
B1	£2	£4,000																										
B2	£100	£500																										
B3	£2	£500																										
B3A	£1	£500																										
B4	£1	£250																										
C	50p	£25																										
D	10p or 30p*	£5 or £8*																										
Guidance to Licensing Authorities	<p>Guidance issued by the Gambling Commission 3RD edition dated May 2009.</p>																											
Human Rights Act 1998 Articles: 1,6,8 and 10	<p>Article 1: Protocol 1 The right to peaceful enjoyment of possessions.</p> <p>Article 6: The right to a fair hearing.</p> <p>Article 8: The right of respect for private and family life.</p> <p>Article 10: The right to freedom of expression.</p>																											
Incidental Non Commercial Lottery	<p>A lottery promoted wholly for purposes other than private game, and which are incidental to non commercial events [commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance]</p>																											

Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	A person who:- <input type="checkbox"/> Lives sufficiently close to the premises to be likely affected by the authorised activities. <input type="checkbox"/> Has business interests that might be affected by the authorised activities. <input type="checkbox"/> Represents persons in either of the above groups.
Licensing Objectives	1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. 2. Ensuring that gambling is conducted in a fair and Open way. 3. Protecting children and other vulnerable persons From being harmed or exploited by gambling.
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
Lottery Tickets	Tickets that must:- <input type="checkbox"/> Identify the promoting society; <input type="checkbox"/> State the price of the ticket, which must be the same for all tickets; <input type="checkbox"/> State the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and <input type="checkbox"/> State the date of the draw, or enable the date of the draw to be determined.
Members' Club	A club that must:- <input type="checkbox"/> Have at least 25 members; <input type="checkbox"/> Be established and conducted 'wholly or mainly' for purposes other than gaming; <input type="checkbox"/> Be permanent in nature; <input type="checkbox"/> Not be established to make commercial profit; <input type="checkbox"/> Be controlled by its members equally.
Occasional Use Notice	Betting may be permitted on a 'track' without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in a self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.

Operating Licence	Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling.
Permits	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.
Personal Licence	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.
Pool Betting - Tracks	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.
Premises	Defined as 'any place'. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.
Premises Licence	Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.
Private Lotteries	There are three types of Private Lotteries: <ul style="list-style-type: none"> <input type="checkbox"/> Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society; <input type="checkbox"/> Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises; <input type="checkbox"/> Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	Where an applicant can make an application to the Licensing Authority in respect of premises that he:- <ul style="list-style-type: none"> <input type="checkbox"/> Expects to be constructed. <input type="checkbox"/> Expects to be altered. <input type="checkbox"/> Expects to acquire a right to occupy.
Relevant Representations	Representations that relate to the Gambling Licensing Objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.

Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <ul style="list-style-type: none"> ❑ The Licensing Authority in whose area the premises is partly or wholly situated ❑ The Gambling Commission ❑ The Chief Officer of Police ❑ Fire and Rescue Service ❑ The Planning Authority for the local authority area ❑ Environmental Health Service for the local authority area ❑ The Body competent to advise on the protection of children from harm ❑ HM Revenue and Customs ❑ Authority in relation to vulnerable adults ❑ Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency <p>Full details of Responsible Authorities for the Tendring District are contained in Appendix 'B' to this Policy.</p>
Small Society Lottery	A lottery promoted on behalf of a non commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society, or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice	To allow the use of a 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.
Tote [or Totalisator]	Pool betting on tracks.
Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Travelling Fair	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.

Vulnerable Persons	<p>No set definition, but likely to mean group to include people who:-</p> <ul style="list-style-type: none"> ❑ gamble more than they want to ❑ gamble beyond their means ❑ who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs
Young Person	An individual who is not a child but who is less than 18 years old.

ANNEX 'D'

TEMPORARY USE NOTICES

The organisations designated to receive TUNs and to issue objections are:-

- The Licensing Authority
- The Gambling Commission
- Essex Police
- HM Commission for Revenues and Customs

- If applicable, any other Licensing Authority in whose area the premises are situated (if the premises crosses the border between two Licensing Authority's areas).

ANNEX 'E'

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate	-	-	X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Consideration of an Occasional Use Notice			X

ANNEX 'F'

APPLICATION PROCESS

This guidance covers those aspects that are the responsibility of the Licensing Authority only; guidance on aspects dealt with by the Gambling Commission can be obtained via the following link: - www.gamblingcommission.gov.uk

PREMISES LICENCES

A Premises Licence is required for any premises where gambling activity is carried out of a type requiring Personal and Operators' Licences to have been issued by the Gambling Commission.

An application may only be made by persons having the right to occupy the premises and who have, or have applied for, an Operating Licence allowing the proposed activities to be carried out. The Premises Licence cannot be granted until the necessary Operator's Licence has been issued.

Premises Licences are issued by the Licensing Authority and are required for Casinos, Bingo premises, Betting premises (including tracks and premises used by betting intermediaries) Adult Gaming Centres and Family Entertainment Centres providing category C gaming machines.

A licence is restricted to one premises only. However one set of premises may have separate licences issued in respect of different parts of the building.

Licensing Authorities are obliged to grant an application for a Premises Licence, provided the application is made in accordance with the Act, the Gambling Commission's guidance and the Licensing Authority's Gambling Licensing Policy Statement. Licences will be subject to mandatory and default conditions applied by regulations issued under the Act.

Premises Licences are valid indefinitely from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the Licensing Authority.

BINGO, BETTING, ARCADES (Adult Gaming Centres & Licensed Family Entertainment Centres)

New Licences or Permissions

Applicants wishing to commence operating after 1 September 2007 may apply from 1 January 2007 to the Gambling Commission for an Operator's Licence and from 31 January 2007 to the Licensing Authority for a Premises Licence.

TRACKS

An Operator's Licence is not required from the Gambling Commission to operate a track but a Premises Licence from the Licensing Authority is required. A number of Premises Licences may be granted for one track, provided each is for a different part of the track.

Betting is usually divided into on-course, off-course and pool betting, the provision of which requires operators to hold either a general Betting Operator's Licence or a Pool Betting Operating Licence from the Commission.

Pool betting on tracks may only be offered by the Tote (in relation to horse tracks) and by the Premises licence holder (in relation to dog tracks). Pool betting may not be provided elsewhere.

Gaming machines, consisting of a maximum of 4 machines of categories B2 – D, may be operated at a track by the Premises licence holder provided they hold a Pool Betting Operator's Licence (for siting and other special considerations in respect of gaming machines at tracks, see *'the Gambling Commission's guidance'* at www.gamblingcommission.gov.uk).

Betting machines may also be operated at tracks (see *'Betting machines'*).

The licensing process is the same as for other premises described above.

BETTING MACHINES

Betting machines are used for accepting bets on live events such as racing, in place of making bets at a counter, e.g. in a betting shop or on a track. These machines are not classed as gaming machines. The Licensing Authority may impose a limit on the number of betting machines that may be used in conjunction with a premise's licence.

GAMING MACHINE SUPPLY & REPAIR

These activities require Operators' Licences to be issued by the Gambling Commission. For advice on applying for licences from the Commission, see their website at www.gamblingcommission.gov.uk).

GAMING MACHINES IN LICENSED PREMISES

Premises Licences issued under the Act automatically authorise the provision of gaming machines, according to the type of premises and gambling activities permitted (but see also *'Tracks'*).

The Act introduces new classes of gaming machines, as shown in figure 1 below. The category and number of machines that may be operated under a Premises Licence are shown in figure 2 below.

Fig. 1

Category of machine	Maximum Stake £	Maximum Prize £
A	Unlimited	Unlimited
B1	2	4000
B2	100	500
B3	2	500
B3A	1	500
B4	1	250
C	.50p	35
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize
D Non money prize (other than a crane machine)	30p	8
D Non money prize (crane grab machine)	1	50

Fig. 2

Premises Type	Machine category							
	A	B1	B2	B3	B3A	B4	C	D
Regional casino			A,B,C and D, except B3A. Maximum of 1250 or 25 x No of gaming tables, whichever is less. (Casino must have at least 40 gaming tables. Otherwise permission is as for large casino)					
Large casino			B,C and D, except B3A. Maximum of 150 or 5 x No of gaming tables, whichever is less. (Large casino must have at least one gaming table)					
Small casino			B,C and D except B3A.Maximum of 80 machines or 2 x No of gaming tables, whichever is less.					
Pre-2005 Act casinos (no machine/ table ratio)			Maximum of 20 machines categories B to D or C or D machines instead (except B3A)					
Betting premises and tracks occupied by Pool Betting				Maximum of 4 machines categories B2 to D not to include B3A				
Bingo Premises						Maximum of 8 category B3 or B4 machines or 20% of the total number of gaming machines, whichever is the greater *	No limit on category C or D machines	
Adult gaming centre						Maximum of 4 category B3 or B4 machines or 20% of the total number of gaming machines, whichever is the greater *	No limit on category C or D machines	
Family entertainment centre (with premises licence)							No limit on category C or D machines	
Family Entertainment Centre gaming machine permit							D	
Club Gaming permit						B3A, B4, C and D	3 total Cat B3A machines are lottery only machines which are only permitted in members clubs and miners welfare institutes.	
Club machine permit					B3A, B4, C and D	3 total		
Licensed premises: automatic entitlement					C and D	2 total		
Licensed premises gaming machine permit					C and D	Unlimited		

*Licensed AGC and bingo premises in existence before 13th July 2011 are entitled to make available four (AGCs) or eight (bingo) category B gaming machines, or 20% of the total number of gaming machines, whichever is greater. AGC and bingo premises licences granted on or after 13th July 2011 but before 1st April 2014 are entitled to a maximum of four or eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1st April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

TEMPORARY USE NOTICES (TUN's)

A TUN may only be issued by a person or company holding an Operating Licence relevant to the proposed temporary use of the premises and may be issued in respect of a 'set of premises' for a maximum of 21 days in any 12 month period. (NB. A TUN may not be issued in respect of a vehicle).

A 'set of premises' is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.

In considering whether a place falls within the definition of 'a set of premises', the Licensing Authority will consider, amongst other things, the ownership/ occupation and control of the premises.

The Licensing Authority will generally aim to permit gambling activities under a TUN but will 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.

Issue

Not less than 3 months and 1 day prior to the day on the which the gambling event is to take place, a TUN must be given to: -

- the Licensing Authority
 - the Chief Officer of Police
 - HM Commissioners for Revenue and Customs
- and, if applicable,
- any other Licensing Authority in whose area the premises are situated

The notice must include details of: -

- the date the notice is given
- the gambling activity to be carried on
- the premises where it will take place
- the dates and times it will take place
- any periods during the preceding 12 months that a TUN has had effect for the same premises, and
- any other information prescribed by Regulations

If there are no objections, the notice will be endorsed by the Licensing Authority and returned to the issuer for display upon the premises at the time the activity takes place.

Objections

Having regard to the Licensing Objectives, those Authorities upon whom the TUN is served may make objections to the gambling activity taking place within 14 days of the date of the notice. Objections must be made to the Licensing Authority and TUN issuer.

Modifications to the notice may be suggested by those objecting to it. If accepted by the issuer, a new notice must be issued. It should be noted that the 3 month, 1 day time limit and a new fee will not apply to the new notice, nor may the original objector[s] object to the new notice.

A Hearing must be held before the Premises/Personal Licences Sub-Committee to hear representations from all parties, unless agreement is reached that a Hearing is unnecessary [e.g. by modification of the notice] within 6 weeks of the date of the notice.

Following a Hearing the Licensing Authority must issue a counter notice setting out whether or not the TUN will have effect, any limitations to the activities permitted, the time period when activities may take place and any conditions that are imposed.

OCCASIONAL USE NOTICES (OUN'S)

Occasional Use Notices may only be issued in relation to tracks that are used on eight days or less in a calendar year.

A track can be any part of a premises on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.

OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. An OUN dispenses with the need for a Betting Premises Licence for the track.

Issue

The notice may be issued by the person responsible for the administration of events on the track or the occupier of the track. **The notice must be served on the Licensing Authority and a copy on the Chief Officer of Police.**

Objections

Generally objections may not be made to the issue of an OUN, except the Licensing Authority must issue a counter notice where the effect of the OUN would result in betting facilities being made available for more than 8 days in a calendar year.

PREMISES LICENCES

PREMISES WHERE AN OPERATOR'S LICENCE HAS BEEN GRANTED TO OPERATE A CASINO, BINGO PREMISES, BETTING PREMISES, ADULT GAMING CENTRE OR LICENSED FAMILY ENTERTAINMENT CENTRE

AFTER 1 SEPTEMBER 2007

1. Attach required documentation
2. Pay prescribed fee

1. Licence lasts indefinitely unless surrendered, lapsed etc.
2. Annual charge payable to licensing authority

GAMING PERMITS

Certain types of gambling are authorised by permits issued by the Licensing Authority. The permits generally authorise low stake gambling for small prizes by: -

- Gaming machines in alcohol-licensed premises, Members' Clubs, unlicensed Family Entertainment Centres (FEC's) and certain other premises, e.g. taxi offices (see '*Other premises*' below)
- Equal chance gaming, games of chance and gaming machines in Members' Clubs, and
- Prize gaming, e.g. at Travelling Fairs.

GAMING MACHINES

The Act introduces new classes of gaming machines that may be operated under a permit, as shown in figure 3 below.

Fig. 3

Category of machine	Maximum Stake £	Maximum Prize £
B3A	1	500
B4	1	250
C	1	35
D (Money prize)	10p	5
D Non money prize (other than a crane grab machine)	30p	8
D Non money prize (crane grab machine)	1	50
D combined money and Non money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

The category and number of machines that may be operated under a premise's licence are shown in Figure 2 above.

Fig. 4

Premises Type	Machine category							
	A	B1	B2	B3	B3(A)	B4	C	D
Clubs or Miners' Welfare Institutes with permits					Maximum of 3 category B3(A) to D machines			
Qualifying alcohol licensed premises upon notification							Automatic entitlement of 1 or 2 category C or D machines	
Qualifying alcohol licensed premises with gaming machine permit							Unlimited entitlement of 1 or 2 category C or D machines	
Family Entertainment Centre (with permit)							Unlimited category D machines	
Travelling Fair							Unlimited category D machines	

ALCOHOL LICENSED PREMISES

Certain types of gambling may take place on alcohol-licensed premises under the Licensing Act 2003 without any authorisation being required. Generally these consist of the playing of cribbage, dominoes and other games for low stakes.

Premises holding a Premises Licence may be authorised to operate machines of Class C or D provided the Premises Licence authorises the sale and supply of alcohol for consumption on the premises without it being a condition that the sale and supply of alcohol has to be accompanied by food.

The following paragraphs apply only to those premises.

Automatic Entitlement

The Act gives an automatic entitlement for the holder of a Premises Licence under the 2003 Act to provide up to two gaming machines on their premises.

An application for a permit is not required but Premises Licence holders must notify their Licensing Authority in writing of their intention to provide the machines and pay the prescribed fee.

The entitlement may be withdrawn if:-

- provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives
- gaming has taken place on the premises that has breached a condition of the Act, e.g. they do not comply with siting and operation requirements
- the premises are mainly used for gaming; or where an offence under the Gambling Act 2005 has been committed on the premises

The Licensing Authority may not exercise their powers to remove the entitlement without first giving the permit-holder the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

New permits

Where the holder of a Premises Licence wishes to provide more than two gaming machines, an application for a permit must be made to the Licensing Authority with the prescribed fee. There is no restriction on the number of machines that may be applied for and applications to vary the number of machines may be made at any time.

In determining an application for an increase in the number of machines, the Licensing Authority will consider: -

- the size of the premises
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons
- any documentary evidence [e.g. supporting statistical evidence providing details of usage, etc.]
- each application on its own merits
- the Codes of Practice or Guidance issued under the Gambling Act 2005

Where the Authority grants the application, a permit will be issued for the number of machines authorised, which will include the automatic entitlement of 2 machines.

Where the Authority intends to refuse an application, or grant it for a different number or category of machines to that requested, the applicant will be given the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary

Where the Premises Licence is transferred, the gaming machine permit must also be transferred or it will lapse. In all other cases the permit will last indefinitely, unless surrendered or revoked.

Although the permit will not need to be renewed, an annual charge will have to be paid to the Licensing Authority.

MEMBERS' CLUBS

The Act permits a Members' Club holding a Club Premises Certificate issued under the Licensing Act 2003, or Miners' Welfare Institute, to hold a **Club Gaming Permit** allowing participation in equal chance gaming or playing games of chance (see Annex C for definitions of 'equal chance gaming' and 'games of chance'). In addition they may operate a maximum of 3 machines of either Class B3(A), B4, C or D.

The Act also permits a Members' Club holding a Club Premises Certificate or a Commercial Club holding a Premises Licence under the Licensing Act 2003 to operate a maximum of 3 machines of either Class B3(A), B4, C or D under a **Club Machine Permit**.

New Permits

Applications for a permit for premises already holding a Club Premises Certificate are subject to a 'fast track' procedure that prevents the making of objections, and restricts the ability of the Licensing Authority to refuse the application.

An application under this process may be refused if the club is established primarily for gaming (other than that permitted); if, in addition to the permitted gaming, facilities are provided for other gaming; or that a club machine permit issued to the applicant within the preceding 10 years has been cancelled.

An application and payment of the prescribed fee is required. A permit has effect for 10 years unless surrendered or revoked.

Applications for a permit for premises not holding a Club Premises Certificate e.g. a Commercial Members' Club with a Premises Licence, may be refused by the Licensing Authority on the grounds that:-

- the applicant does not fulfil the requirements for a Members' or Commercial Club
- the premises are used wholly or mainly by children and/or young persons; an offence under the Act or breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous 10 years
- an objection has been made by the Police or Gambling Commission

Permits may be varied at any time to meet changing circumstances, other than an increase above 3 to the number of machines. Licensing Authorities may only refuse a variation if, on consideration of the proposed variation as a new application, they would refuse a permit.

A permit will lapse if the holder no longer qualifies as a Members' Club or no longer qualifies under the 'fast track' system, or the permit is surrendered. A permit may be cancelled if the premises are used wholly or mainly by children and/or young persons or where an offence under the Act or breach of a permit condition has been committed by the applicant in the course of gaming activities.

Permits are valid for 10 years from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the Licensing Authority.

A registration that is in force on 1 September 2007 will continue to have effect until its natural expiry date. Upon expiry a club will be entitled to apply for either a Club Gaming Permit or Club Machine Permit irrespective of the type of registration previously held.

An application for a new Club Machine Permit must be made at least 2 months before the existing registration expires, together with the prescribed fee.

OTHER PREMISES (TAXI OFFICES, TAKE-AWAY RESTAURANTS, ETC.)

Premises such as taxi offices, take-away restaurants, cafes etc are prohibited from obtaining a new gaming machine permit under the Act and will be unable to operate gaming machines of any kind.

UNLICENSED FAMILY ENTERTAINMENT CENTRES

The Licensing Authority may grant an application for a permit for category D gaming machines in an unlicensed Family Entertainment Centre (FEC) provided it is satisfied the premises will be used as an unlicensed FEC and that the Chief Officer of Police has been consulted. There are no limits to the number of machines that may be applied for in an unlicensed FEC.

The Authority will apply its Gambling Policy Licensing Statement in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Criminal Records Bureau or its equivalent in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the CRB certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

The Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the Licensing Objectives.

Where the Authority intends to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

A permit will last for 10 years unless it ceases to have effect because it is surrendered, it lapses or it is renewed. There is no annual charge payable to the Licensing Authority.

Unlicensed FEC's may also offer equal chance gaming under the authority of their Gaming Machine Permit.

New permits

Applications for new permits may be made to the Licensing Authority.

PRIZE GAMING

Prize gaming may be carried on in premises under a permit issued by the Licensing Authority. A Prize Gaming Permit will not authorise the use of gaming machines.

The Authority may apply its Gambling Licensing Policy Statement in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

The Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Criminal Records Bureau or its equivalent in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the CRB certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

Where the Authority intends to refuse an application, the applicant must be given the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

A prize gaming permit will last for 10 years unless it ceases to have effect or is renewed. There is no annual charge payable to the Licensing Authority.

New permits

Applications for new permits may be made to the Licensing Authority.

Prize gaming without a permit

Prize gaming without a Prize Gaming Permit may be carried on in any premises with a Premises Licence issued under the Act, except that casinos may not offer prize bingo.

Unlicensed FEC's may also offer equal chance gaming only, under the authority of their gaming machine permit.

Travelling Fairs may also offer equal chance gaming only without a permit provided the facilities for gaming are ancillary amusements to the fair.

TRAVELLING FAIRS

Travelling Fairs do not require a permit to provide gaming machines but must comply with codes of practice on how they are operated.

Travelling fairs may provide an unlimited number of category D machines and prize gaming in the form of equal chance gaming provided that facilities for gambling amount to no more than ancillary amusement at the fair.

ALCOHOL LICENSED PREMISES

PREMISES WHERE THE LICENCE PERMITS THE SALE OF ALCOHOL FOR CONSUMPTION ON THE PREMISES AND THE SALE IS NOT CONDITIONAL UPON FOOD BEING SOLD MAY HAVE GAMING MACHINES OF CLASS C OR D

AFTER 1 SEPTEMBER 2007

UP TO 2 MACHINES

1. Automatic entitlement to 2 machines
2. Notify Licensing Authority in writing of proposed intention to operate machines.
3. Pay prescribed fee

MORE THAN 2 MACHINES

1. Apply to Licensing Authority
2. Attach statistical justification showing 'need'
3. Attach plan of premises showing location of machines
4. Pay prescribed fee

1. Permit has effect from date of grant unless surrendered or cancelled
2. Annual charge to be paid to Licensing Authority

1. Licensing Authority can withdraw entitlement for 2 machines where their provision is not consistent with Licensing Objectives; gaming has taken place in breach of a condition; premises are used mainly for gaming; an offence under the Act has been committed.
2. Licensing Authority can cancel a permit where the premises are used wholly or mainly by children or young persons or an offence under the Act has been committed.

BUT

1. Permit holder must be given 21 days notice of the intention to withdraw or cancel
2. Hearing must be held if permit holder requests one
3. Withdrawal or cancellation has no effect until 21 days has elapsed from notice being served where no hearing is requested or 21 days following a hearing or appeal.

MEMBERS' CLUBS

**MAXIMUM OF 3 CATEGORY B3A, B4, C OR D
MACHINES**

AFTER 1 SEPTEMBER 2007

Applications for new permits and renewals must be made to Licensing Authority

ATTACH TO APPLICATION

1. Club Premises Certificate (for fast track applications)
2. Rules of club (if not CPC)
3. Plan of premises showing location of machines
4. Prescribed fee

1. Copy of application and accompanying documents to Police and Gambling Commission
2. Objections may be made (except to 'fast track' applications)
3. Permit lasts 10 years

Application for grant may be refused if: -

1. Applicant does not qualify as a Members' or Commercial Club or Miners' Welfare Institute.
2. The premises are used wholly or mainly by children or young persons.
3. An offence under the Act or a breach of a permit has been committed while providing gaming facilities.
4. A permit held by the applicant has been cancelled in previous 10 years.
5. An objection has been made by Police or Commission.

Application for renewal must be sent to Licensing Authority with fee between 3 and 6 weeks before permit expires and may only be refused on the same grounds as for original grant.

Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

UNLICENSED FAMILY ENTERTAINMENT CENTRE

PERMIT MAY BE ISSUED FOR PREMISES WHOSE PRIMARY USE IS AS AN UNLICENSED FAMILY ENTERTAINMENT CENTRE TO HAVE AN UNLIMITED NUMBER OF GAMING MACHINES OF CLASS D

**NEW PERMIT TO OPERATE
AFTER 1 SEPTEMBER 2007**

1. Attach information required by Gambling Licensing Policy Statement
1. Attach plan of premises showing location of machines
2. Consult Chief of Police
3. Pay prescribed fee
4. Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the Licensing Objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

Permits will lapse if: -

1. Licensing Authority notifies holder premises are no longer being used as an unlicensed FEC
2. Holder no longer occupies premises
3. Holder dies, becomes mentally incapacitated, bankrupt or, in case of a company, ceases to exist or goes into liquidation
4. Court orders holder to forfeit permit
5. Holder surrenders or fails to renew

PRIZE GAMING PERMIT

PRIZE GAMING PERMITS MAY ONLY BE ISSUED IN RESPECT OF PREMISES FOR WHICH THERE IS NO PREMISES LICENCE OR CLUB GAMING PERMIT ISSUED UNDER THE GAMING ACT 2005

**NEW PERMIT TO OPERATE
AFTER 1 SEPTEMBER 2007**

1. Attach information required by Gambling Licensing Policy Statement
2. Attach plans of premises
3. Pay prescribed fee
4. Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the Licensing Objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the Licensing Objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

Permits will lapse if: -

1. Holder no longer occupies premises
2. Holder dies, becomes mentally incapacitated, bankrupt or, in case of a company, ceases to exist or goes into liquidation
3. Court orders holder to forfeit permit
4. Holder surrenders or fails to renew

LOTTERIES

A lottery is unlawful unless it is run in accordance with an Operating Licence issued by the Gambling Commission, or it is exempt. This advice covers only those categories of lottery that are exempt. For more information on the licensing requirements for lotteries, see the Gambling Commission's website on www.gamblingcommission.gov.uk

The Act defines 4 categories of lottery that are exempt from needing an operating licence: -

- Incidental non-commercial lottery
- Private lottery
- Customer lottery
- Small society lottery

Only a small society lottery is required to be registered with the Licensing Authority.

Applications must be made by the promoting society to the Licensing Authority for the area in which the principal address of the society is located. The Licensing Authority must record details of the society in a register and notify the applicant and the Gambling Commission of the registration.

The Licensing Authority will require applicants to declare: -

- the purposes for which the society is established
- that they represent a bona fide non-commercial society, and
- that they have no relevant convictions

The Licensing Authority may refuse an application if: -

- it considers the applicant is not a non-commercial society
- any person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with an application is false or misleading

An application shall be refused if an Operating Licence held or applied for by the applicant has been revoked or refused in the previous 5 years.

The Licensing Authority may revoke a registration where it believes the grounds exist that would permit or require it to refuse an application for registration.

Where the Licensing Authority intends to refuse or revoke the registration application it will give the society: -

- details of the reasons,
- evidence upon which it reached the decision, and
- the opportunity to make written and/or oral representations.

NEW REGISTRATIONS

An application for registration with the prescribed fee must be made to the Licensing Authority under the Act. The registration will be valid indefinitely with an annual fee being payable to the Licensing Authority.

Lottery Requirements

To ensure the main purposes of the lottery are met: -

- the society must apply a minimum of 20% of the proceeds of the lottery to the purposes of the society;
- no single prize may exceed £25000;
- rollovers may be permitted provided every lottery affected is also a small society lottery by the same society and the maximum single prize does not exceed £25000; and
- every ticket must cost the same and must be paid for before being entered into the draw.

Returns

No later than 3 months after making the draw (or in the case of a rollover, the last draw), a return must be sent to the Licensing Authority that: -

- has been signed by 2 members of the society over 18 years of age who are appointed for the purpose in writing by the society or its governing body, if it has one,
- is accompanied by a copy of each member's letter of appointment, and include the following details: -
 - the dates when tickets were available for sale;
 - the dates of any draw and value of prizes, including any rollover;
 - the proceeds raised;
 - the amounts deducted for prizes and expenses incurred in organising the lottery;
 - the amount applied or to be applied to the purposes of the promoting society; and
- whether any expenses incurred in connection with the lottery were paid for other than from the proceeds of the lottery and, if so, the amount and the source(s) from which they were paid.

EXTERNAL LOTTERY MANAGERS

External Lottery Managers require Operators' Licences issued by the Gambling Commission. For more information, see the Gambling Commission's website on www.gamblingcommission.gov.uk

SMALL SOCIETY LOTTERIES

PROMOTED BY A NON-COMMERCIAL SOCIETY ESTABLISHED FOR CHARITABLE PURPOSES; FOR PURPOSE OF ENABLING PARTICIPATION IN OR OF SUPPORTING SPORT, ATHLETICS OR CULTURAL ACTIVITY; OR FOR OTHER NON –COMMERCIAL PURPOSES OTHER THAN PRIVATE GAIN

1. Attach information required: -
- (a) Purpose for which society established
 - (b) Confirm bona fides of society as non-commercial
 - (c) Declare convictions, if any
1. Pay prescribed fee
 2. Registration valid for life, annual fee payable to Licensing Authority

Lottery requirements: -

1. Society must apply minimum 20% of proceeds to purposes of society
 2. No single prize to exceed £25000
 3. Rollovers permitted provided all lotteries affected are small society lotteries & maximum single prize does not exceed £25000
 4. Tickets must cost the same, be paid for before being entered in draw and include details of society, price, name and address of the person responsible for promotion of the lottery and date of draw
- Returns, which must be made no later than 3 months after draw, must be signed by 2 members and include details of: -
5. Dates tickets were available for sale, dates of draw and value of prizes
 6. Proceeds raised, amounts deducted for prizes, expenses incurred in organising lottery and where any were paid for other than from proceeds of lottery, the amount and source
 7. Amount to be applied to purposes of the promoting society

Registration may be refused if: -

1. Society is not considered to be non-commercial
 2. Any person connected with promotion of lottery has been convicted of relevant offence , or
 3. Information provided in application is false/misleading
- Registration must be refused if an operating licence held by or applied for by the applicant has been revoked or refused in the previous 5 years
- Registration may be revoked where grounds exist for an application for registration to be refused. BUT a registration will not be refused or revoked unless the society has been informed of the reasons and the evidence supporting them and been given the opportunity to make representations

ANNEX G

FEES

Classes of Premises Licence	Application for a Permit - New Operator £	Application for a Permit - Existing Operator £	Renewal of a Permit £	Annual Fee £	Fee for application to vary a Permit £	Fee for application to transfer a Permit £	Change of Name £	Copy of Permit £
Prize Gaming	300	100	300	–	–	–	25	15
Family Entertainment Centre Gaming Machine (Category D machines only)	300	100	300	–	–	–	25	15
Club Gaming and Club Machine Permit	200	100	200	50	100	–	–	15
Licensed Premises Gaming Machine Permit	150	100	–	50	100	25	25	15
Notice of Intention to make gaming machines available on premises with an premises alcohol licence. Two or less Category D Gaming Machines				Application for a Permit – New Operator £50				

Non statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Details of current fees can be obtained by contacting

The Licensing Section
88-90 Pier Avenue
Clacton on Sea
Essex
CO15 1TN

Tel: 01255 686565
Fax: 01255 686343

E-mail: licensingsection@tendringdc.gov.uk

or alternatively by viewing the Council's Website.

Contact for further information and
ALTERNATIVE LANGUAGES AND FORMATS OF THIS PLAN

If you require an alternative language or format of this Policy or if you would like further information or have any comments on anything contained in the Policy, please contact the Legal Services, Licensing Team on
01255 686565

or write to us at:-

**Tendring District Council, Council Offices,
Thorpe Road, Weeley,
Essex CO15 9AJ**

Or send us an e-mail at: -

licensingsection@tendringdc.gov.uk

This Policy is also available on the Council's Website

www.tendringdc.gov.uk

BENGALI

যদি আপনার এই নথিটি বাংলা ভাষায় প্রয়োজন হয়, তাহলে www.Tendringdc.gov.uk এর মাধ্যমে অনুবাদ করে দেওয়ার জন্য অনুরোধ করা যেতে পারে।

CHINESE

如果你需要这份文件的简体中文翻译，可以通过www.Tendringdc.gov.uk订购。

GUJERATI

જો આ દસ્તાવેજ તમને ગુજરાતીમાં જોઈતું હોય તો www.Tendringdc.gov.uk થકી એનું ભાષાંતર ખરીદી શકાય છે.

HINDI

यदि आप इस दस्तावेज को हिन्दी में चाहते हैं, तो www.Tendringdc.gov.uk के माध्यम से अनुवाद का ऑर्डर दिया जा सकता है।

POLISH

Jeśli potrzebujesz ten document w J. Polskim, tłumaczenie może być zlecone na stronie www.Tendringdc.gov.uk

TURKISH

Eğer bu dökümanı Türkçe olarak istiyorsanız, çeviri www.Tendringdc.gov.uk yolu ile düzenlenebilir.

URDU

اگر آپ کو اس دستاویز کی ضرورت اردو میں ہے تو www.Tendringdc.gov.uk کے ذریعے اس کے ترجمہ کی فرمائش کی جا سکتی ہے



Public Affairs & Social Policy Unit

Mr Ian Geary
Public Affairs Adviser

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Mob: 07726 695 331
Email: ian.geary@salvationarmy.org.uk

Date: 24 October 2018
Ref: IG24102018

Emma King
Licensing Officer
Licensing Team
Tendring District Council
88-90 Pier Avenue
Clacton on Sea
Essex
CO15 1TN

The Salvation Army response to Tendring District Council on their Gambling Licensing Policy Statement

The Salvation Army is an international Christian church working in 131 countries worldwide. As a registered charity, The Salvation Army demonstrates its Christian principles through social action and is one of the largest, most diverse providers of social welfare in the UK.

The Salvation Army has worked closely on the issue of gambling policy with the Department of Culture Media and Sport and subsequently with the Gambling Commission over several years. We are particularly concerned that the current trend towards the societal normalisation of gambling could lead to an increase in the number of people experiencing the highly damaging consequences of problem or pathological gambling, either directly or indirectly.

The Salvation Army has a long history of working with those whose lives are damaged by addictions, most notably to alcohol and drugs, and a number of those with whom we work also cite gambling among their addictions. We work with faith-based groups who have been working together on gambling for some years. Together we represent The Methodist Church, CARE, the Evangelical Alliance, The Mission and Public Affairs Council of the Church of England and Quaker Action on Alcohol and Drugs.

Along with our ecumenical colleagues, we gave evidence to the Joint Committee that scrutinised the Bill which became the Gambling Act of 2005, as well as to the Culture, Media and Sport Select Committee that sat in 2011/12, and we have interfaced with politicians with from all parties throughout this time. Furthermore, we, alongside our ecumenical colleagues, engaged in the DCMS Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures. We view gambling as a socially harmful industry and that the proliferation of FOBT gaming machines has been a wholly unwelcome development. We were thus delighted by the announcement in May 2018 to limit FOBT stakes announcement and also deeply disappointed by the recent delay its implementation.

The Salvation Army appreciates the invitation to respond to this consultation process and commends Tendring District Council for the general form and content of the Gambling Licensing Policy Statement. Our detailed comments are:

101 Newington Causeway, London SE1 6BN
0207 367 4500 Web: www.salvationarmy.org.uk

The Salvation Army registered Charity No. 214779 and in Scotland SC009359; Social Trust Registered Charity No. 215174 and in Scotland SC037691
Republic of Ireland Registered Charity No. CHY6399; Guernsey Registered Charity No. CH318; Jersey NPO0840; Isle of Man Registered Charity No. 267
The Salvation Army Trustee Company, registered number 00259322 (England and Wales). Registered office: 101 Newington Causeway, London SE1 6BN
General: Brian Peddle Territorial Commander for the United Kingdom with the Republic of Ireland: Commissioner Anthony Cotterill

- We warmly welcome the reference to the Salvation Army as a consultee in Annex A. The Salvation Army has commended councils who include local charities, faith groups, community groups and medical and health providers in their list of interested parties. These groups often have to bear the social cost of problem gambling.
- The Salvation Army believes that gambling premises should not be sited close to schools or other establishments attended by children or vulnerable adults. We also believe that residential areas that have a high number of children ought to be avoided. We welcome the Council's comments in (1.1), (2.1), (9.2), (15.8), (15.11), (15.12), (15.13), (15.16), 15.20 (15.23), (20.3), (22.25), (26.3), (27.4), (28.1) that note the need to protect children and vulnerable persons
- We welcome under section (15.16) the Council's commitment to give consideration to preventing Gambling from becoming a source of crime or disorder and protecting children and other vulnerable persons from harm or exploitation.
- In pursuance of protecting the vulnerable, The Salvation Army welcomes arrangements such as:
 - The provision of adequate signage and adequate division of premises. We also welcome high levels of supervision over machine areas and proof of age schemes (15.17)
 - Stringent door controls to ensure that children are not allowed to gamble and would recommend that door supervisors are made compulsory at gambling venues and that all door supervisors are DBS checked.
 - The Salvation Army encourages all councils to consider insisting on DBS checks on all gambling premises staff as well as specialist training on dealing with underage children and vulnerable persons for both FECs and AGCs. We are opposed to advertising that could influence children and would support restrictions on advertising that could be seen by or be targeted towards young people.
- The Salvation Army pays special attention to the size, division, design and layout of premises. Separation of licensed premises is crucial to ensure that 'drift' does not occur and customers make a 'dedicated trip to gamble'. Ambient gambling is encouraged by insufficient delineation between gambling premises and other forms of entertainment. We welcome the reference to the physical separation of areas in (15.17)
- The Salvation Army has placed on record its concerns regarding the negative impact of FOBT machines and their location in disadvantaged areas. Therefore, we note the concerns detailed in (15.11) with reference to the local risk assessment
- The risks associated with gambling are increased with 'ambient' gambling. If someone does choose to gamble making a dedicated trip to gamble with a predefined budget and timescale offers greater opportunities for self- control. Casual or ambient gambling arrived at through 'drift' does not.
- We support measures that help ensure a solid separation of premises so that people do not 'drift' into a gambling area from another area that is not. There should be an explicit goal of separating gambling areas so as to avoid 'drift' toward gambling activity for example inside shared entertainment complexes. We note this is acknowledged in principle in (15.5)
- The Salvation Army recommends that ATMs should not be sited inside licensed premises. If the Council does allow this to occur, our advice would be that ATMs would be sited in designated 'non gambling areas' or 'chill-out zones'. This would encourage breaks in play

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General: Brian Peddle

Territorial Commander for the United Kingdom with the Republic of Ireland: Commissioner Anthony Cotterill

when gambling and a reminder of how much is being spent. Both of these would act as protection against compulsive patterns of behaviour.

- We note that in (20.1) Tendring District Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005. Where Local Authorities do pass such motions we express our support. We are confident that the social costs of casinos outweigh claims of regenerative benefit.

Thank you for taking our response into account. Please do not hesitate to contact me should you have any comment or queries, or if you require any further input from The Salvation Army.

Yours sincerely,



Ian Geary
Public Affairs Adviser
The Salvation Army

CC Lee Ball, Territorial Addictions Officer, The Salvation Army

Clacton Corps - Major Barry and Major Maria Sampson
Harwich Corps - Lieutenant Caron and Lieutenant Jon Doyle

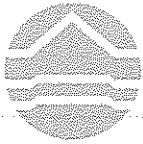
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General: Brian Peddle

Territorial Commander for the United Kingdom with the Republic of Ireland: Commissioner Anthony Cotterill



GOSSCHALKS
SOLICITORS

BY EMAIL ONLY
Licensing Department
Tendring District Council

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / MJM / 097505.00005
#GS2225681
Your ref:
Date: 23 October 2018

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

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

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

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

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

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

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

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

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

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

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

Working in partnership with local authorities

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

LGA – ABB Betting Partnership Framework

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

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

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

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as *"breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

Primary Authority Partnerships in place between the ABB and local authorities

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

Local area risk assessments

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

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

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

Best practice

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

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

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

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

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

Concerns around increases in the regulatory burden on operators

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

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

Employing additional licence conditions

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent

with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

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

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

Considerations specific to the Draft Gambling Licensing Policy Statement 2019 - 2022

Paragraph 4.1 of Part A indicates that before the Licensing Authority can consider an application for a premises licence an operating and personal licence, or both must have been obtained from the Gambling Commission. This is incorrect. An application for a premises licence may be made where an applicant has an operating licence pending. The premises licence cannot be issued until such time as that operating licence is granted. Accordingly, this section should be amended.

Paragraph 13.7 lists Primary Authority Schemes in place. The ABB, on behalf of its members has its own Primary Authority Scheme with Reading Council.

Paragraph 15.11 of Part B contains a list of bullet points detailing matters that the Licensing Authority expects a local risk assessment to consider as a minimum. This list of bullet points should be re-drafted as it contains matters that are not relevant to any assessment of risk to the licensing objectives. For example, the first bullet point refers to whether the premises is in an area of deprivation. The relevant affluence of an area can have no bearing on any assessment of risk to the licensing objectives unless the Licensing Authority has pre-determined that persons in that area are automatically vulnerable or more likely to commit crime as a result of gambling. Similarly, the ethnic profile of residents in the area is an irrelevant consideration unless the Licensing Authority pre-determined that persons in specific ethnic groups are automatically vulnerable or more like to commit crime as a result of gambling. This list of bullet points should be re-drafted to contain matters that are relevant to an assessment of risk to the licensing objectives and nothing further.

Paragraph 22.5 and 22.6 refer to fixed odds betting terminals (FOBT's) in betting premises. Paragraph 22.5 indicates that the Licensing Authority will give due consideration to the need to apply conditions to betting shop premises licences which may include minimum staffing levels. An operator of a betting premises licence is best placed to determine both risks to the licensing

objectives and staffing levels at his/her/its own premises and unless there is clear evidence of a risk to the licensing objectives that would require conditions relating to minimum staffing levels then this is not an area where the Licensing Authority should seek to dictate staffing levels.

The following paragraph refers to privacy screens around FOBT's and requires that where privacy screens are to be installed, a variation application is required. The purpose of a privacy screen is to enhance the customer experience as many customers prefer to play FOBT's without the possibility of people looking over their shoulder. The ABB has engaged with the Gambling Commission over these privacy screens and the general view is that there is no difficulty with them as long as the screens do not impede supervision.

Previous guidance from the DCMS and the Gambling Commission has been that an application for variation will only be required where there are material changes to the layout of the premises. It is accepted that what constitutes a material change could be a matter for local determination but on the basis that a privacy screen does not change layout or impede supervision, it is difficult to see how the installation of such a screen could be considered a material change.

The Gambling Commission Guidance is clear that when considering an application for variation, the Licensing Authority will have regard to the principles S153 Gambling Act 2005. These are not adversely affected by the installation of a screen which does not affect supervision and it is submitted, therefore, that an application for variation of the premises licence should not be required where these screens are installed. Accordingly this section should be re-drafted.

Conclusion

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

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

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

Yours faithfully,



GOSSCHALKS

Emma King

From: Catherine Sweet <catherine.sweet@gamcare.org.uk>
Sent: 09 August 2018 11:05
To: Licensing Section
Cc: Emma King
Subject: RE: GAMBLING ACT 2005 – REVIEW OF STATEMENT OF GAMBLING POLICY
Attachments: GamCare Local Authorities Brochure 2018 (web-version).pdf; GamCare Training Brochure 2017.pdf

Hello,

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

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

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

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

We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are

measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact mike.kenward@gamcare.org.uk

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

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

Kind regards,
Catherine

Catherine Sweet
Head of Marketing and Communications
T: 020 7801 7028
E: catherine.sweet@gamcare.org.uk



Click here to sign up to our free, monthly e-newsletter

From: Emma King <eking@tendringdc.gov.uk>
Sent: 30 July 2018 10:52
To: Emma King <eking@tendringdc.gov.uk>
Subject: GAMBLING ACT 2005 – REVIEW OF STATEMENT OF GAMBLING POLICY

This Message originated outside your organization.

Dear Sir/Madam

In accordance with the provisions of the Gambling Act 2005, the Council as the Licensing Authority is required to review its Statement of Gambling Policy every three years and consult with Chief Officer of Police, one or more persons who represent the interests of persons carrying on gambling businesses in the Tendring District and one or more persons who represent the interests of persons likely to be affected by the exercise of the Licensing Authority's functions under this Act.

The revised policy will run for three years from January 2019 to January 2022 subject to any administrative or legislative amendments that are necessary to be made to it from Central Government or the Gambling Commission.

I am therefore writing to invite you to comment on the proposed draft of the revised policy which has been approved for consultation by the Council's Licensing and Registration Committee at its meeting of the 18 July 2018. **The consultation period will run from the 1 August to the 24 October 2018.** In particular the Council would welcome any thoughts or views that you may have on how the policy may lawfully be improved to support and promote the licensing objectives under the Act which are:

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

All written responses will be shown to the Members of the Council's Licensing & Registration Committee for their consideration.

A.2 - Appendix B

The Policy can be viewed or downloaded from the attached document and comments can be submitted via e-mail to licensingsection@tendringdc.gov.uk

I very much hope that you will be able to reply to this invitation and in the meantime thank you for the time that you have taken to read this e-mail.

Emma King

Licensing Officer

Licensing Team | Customer & Commercial Services | Tendring District Council

☎ 01255 686592 7 01255 686343 ✉ eking@tendringdc.gov.uk

🌐 [Licensing Website](#) 🌐 [Licensing Public Register](#)

📍 Licensing Section, Tendring District Council, 88-90 Pier Avenue, Clacton on Sea, Essex CO15 1TN

Please note that the Licensing Office is now located at 88-90 Pier Avenue, Clacton on Sea, Essex CO15 1TN
Open Reception times are Tuesdays and Wednesdays between 10am and 12 noon and Fridays 1pm till 4pm.
All other times are by appointment only.

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Tendring District Council does not accept service of legal documents by e-mail.

Emma King

From: Debbie Hough Bollard <debbie@houghandbollard.co.uk>
Sent: 02 August 2018 17:14
To: Licensing Section
Subject: Consultation on Review of Statement of Gambling Policy

Categories: Emma

Emma

Thanks for sending me a copy of the proposed Statement for 2019 - 2022 which I have had a read through.

My only comment would be around the Local Risk Assessment which the document refers to a number of times and what it is expected to contain. However, whilst its is a licensing condition under the LCCPS and so obligatory for Operators to carry out a local risk assessment for each site the LCCPs say its only best practice to submit a copy with an application for a premises licence. I cannot specifically see any express requirement in the Statement that a copy should be included with an application and you may therefore wish to consider formally making this part of the application process as some other local authorities are now doing.

I am aware of a number of Representations against premises licence applications being made by an organisation with a large number of arcades across the country. They mainly relate to whether the applicant has demonstrated how they will uphold the licensing objectives which are referred to in the Statement and the Commission's guidance to Local Authorities. One way of covering that off is via a well written Local Risk Assessment which should address those points.

Kind Regards

Debbie Hough Bollard BA (Hons) Assoc CIPD
HR & Licensing Consultancy

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ADVANCED WARNING: PLEASE NOTE THAT OUR OFFICES WILL BE CLOSED FROM MIDDAY 10 TO 31 AUGUST INCLUSIVE

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COUNCIL

22 JANUARY 2019

REPORT OF CHIEF EXECUTIVE

A.5 **NON-ATTENDANCE AT MEETINGS**

(Report prepared by Ian Ford)

Council will recall that at its meeting held on 27 March 2018 (Minute 143 refers) it considered a motion, submitted by Councillor Calver pursuant to Council Procedure Rule 12, in relation to Members' attendance at meetings.

Having considered the motion, Council resolved that –

“Article 2 of the Council’s Constitution, ‘Members of the Council’, be amended to include as an additional paragraph –

“2.06 Attendance

It is a requirement that if a Member exceeds four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee that shall be reported to the next Council meeting.”

In accordance with Article 2.06 of the Council's Constitution I formally report that Councillor Laurie Gray has exceeded four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee.

The last meeting that Councillor Gray attended was the meeting of the full Council held on 11 September 2018.

This item is submitted for **INFORMATION ONLY**.

IAN DAVIDSON
CHIEF EXECUTIVE

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