



LICENSING AND REGISTRATION COMMITTEE

DATE:	Wednesday, 2 October 2024
TIME:	6.30 pm
VENUE:	Committee Room, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor J Henderson (Chairman)
Councillor Wiggins (Vice-Chairman)
Councillor Bray
Councillor Casey
Councillor Codling

Councillor A Cossens
Councillor Davidson
Councillor Skeels Jnr.
Councillor Smith
Councillor Thompson

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DATE OF PUBLICATION: Tuesday, 24 September 2024

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 7 - 14)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Wednesday, 24 July 2024.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Miscellaneous Licensing Sub-Committee (Pages 15 - 16)

The Committee will formally receive and note, for its information only, the minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Tuesday, 9 July 2024.

6 Premises/Personal Licences Sub-Committee (Pages 17 - 40)

The Committee will formally receive and note, for its information only, the minutes of the Premises/Personal Licences Sub-Committee meetings held on Monday, 17 June 2024, Wednesday, 31 July 2024, Monday, 2 September 2024 and Monday, 9 September 2024.

7 Report of the Assistant Director (Governance) - A.1 - Licensing Enforcement and Inspection Policy 2024-2028 (Pages 41 - 56)

This report is submitted to the Committee to enable it to consider the revised Licensing Enforcement and Inspection Policy following a 5-week period of consultation on a draft revised policy. This report sets out the proposed policy to be adopted and the outcome of the consultation.

8 Report of the Assistant Director (Governance) - A.2 - Sex Establishment Policy (Pages 57 - 80)

This report is submitted to the Committee to enable it to consider recommending to Cabinet a revised Sex Establishment Policy following a 5-week period of consultation on a draft revised policy. This report sets out the revised proposed policy to be adopted and the outcome of the consultation.

9 Report of the Assistant Director (Governance) - A.3 - Gambling Act 2005 Policy (Pages 81 - 124)

This report is submitted to the Committee to enable it to consider the revised Gambling Act 2005 Policy following a recent 5-week period of consultation on a draft revised policy. This report sets out the proposed policy to be adopted and the outcome of the consultation.

10 Report of the Assistant Director (Governance) - A.4 - Pavement Licensing Policy (Pages 125 - 142)

This report is submitted to the Committee to enable it to consider the Pavement Licensing Policy following a 5-week period of consultation on a draft revised policy. This report sets out the proposed revised policy to be adopted and the outcome of the consultation.

11 Date of the Next Meeting of the Committee

To enable the Committee to discuss fixing the date of its next meeting.

12 Exclusion of Press & Public

The Committee is asked to consider passing the following resolutions:-

- a) *“that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 13 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.” and,*
- b) *“that under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting during consideration of Agenda Item 14 on the grounds that the public interest in so doing outweighs the public interest in that part of the hearing taking place in public.”*

13 Exempt Minutes - Miscellaneous Licensing Sub-Committee (Pages 143 - 148)

The Committee will formally receive and note, for its information only, the exempt minutes of the Miscellaneous Licensing Sub-Committee held on Tuesday, 9 July 2024.

14 Exempt Minutes - Premises/Personal Licences Sub-Committee (Pages 149 - 152)

The Committee will formally receive and note, for its information only, the exempt minutes of the meeting of the Premises/Personal Licences Sub-Committee held on Wednesday, 31 July 2024.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Licensing and Registration Committee is to be held in the at Time Not Specified on Date Not Specified.

Information for Visitors

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 fire exits in the hall and follow the exit signs out of the building.

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**MINUTES OF THE MEETING OF THE LICENSING AND REGISTRATION
COMMITTEE,
HELD ON WEDNESDAY, 24TH JULY, 2024 AT 6.30 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors J Henderson (Chairman), Wiggins (Vice-Chairman), Bray, Casey, Codling, A Cossens, Davidson and Smith
In Attendance:	Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Keith Durran (Committee Services Officer) and Bethany Jones (Committee Services Officer)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Skeels and Thompson (with no substitutions).

2. MINUTES OF THE LAST MEETING

It was moved by Councillor Smith, seconded by Councillor Davidson and:-

RESOLVED that the minutes of the previous meeting of the Committee, held on Monday, 25 March 2024 be approved as a correct report and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were no declarations of interest noted on this occasion.

4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted a notice of a question.

5. MISCELLANEOUS LICENSING SUB-COMMITTEE

It was moved by Councillor A Cossens, seconded by Councillor Codling and:-

RESOLVED that the Committee formally received and noted, for its information only, the Minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Monday, 11 March 2024.

6. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) - A.1 - VARIOUS LICENSING PROVISIONS - APPLICATIONS APPROVED UNDER DELEGATED POWERS

The Committee was told the details of the licences, certificates and permits granted as set out under the separate headings below:

- (i) Premises Licences/Club Premises Certificates

The total of Premises Licences / Club Premises Certificates that have been approved under Delegated Powers during the period 31 August 2022 to 31 January 2023. For comparison, the following also shows the numbers approved for the periods shown:

Type of Licence	Number of Licences as at			
	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)	Jan to March 2024 (Q4 2023/24)	April to June 2024 (Q1 2024/25)
Premises Licences/Club Premises Certificates - Approved	16	10	21	15

(ii) **Personal Licences under the Licensing Act 2003**

The total of Personal Licences approved under Delegated Powers since 7 February 2005, the 'First Appointed Day' on the dates shown were.

Type of Licence	Number of Licences as at			
	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)	Jan to March 2024 (Q4 2023/24)	April to June 2024 (Q1 2024/25)
Personal Licences	2409	2436	2456	2479

(iii) **Gambling Licences/Permits**

Below is a table showing the number of gambling licences and permits that were licensed with this Authority on the dates shown.

Type of Licence	Number of Licences as at			
	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)	Jan to March 2024 (Q4 2023/24)	April to June 2024 (Q1 2024/25)
Adult Gaming Centres	17	17	17	17
Betting Premises	11	11	11	11
Bingo Premises	15	15	15	15
Family Entertainment Centres	0	0	0	0
Unlicensed Family Entertainment Centres	27	27	26	26
Prize Gaming Permits	1	1	1	1
Club Gaming & Club Machine Permits	22	22	21	21
Licensed Premises Gaming Machine Permits	21	21	21	20
Licensed Premises Machine	116	122	120	119

<i>Notifications</i>				
<i>Small Society Lottery Permits</i>	114	122	118	117

(iv) **Hackney Carriage/Private Hire Licence**

Below is a table showing the number of drivers, vehicles and operators that were licensed with this Authority on the dates shown.

Type of Licence	Number of Licences as at			
	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)	Jan to March 2024 (Q4 2023/24)	April to June 2024 (Q1 2024/25)
<i>Hackney Carriage Driver</i>	285	287	290	289
<i>Private Hire Driver</i>	6	6	7	8
<i>Hackney Carriage Vehicle</i>	200	202	208	202
<i>Private Hire Vehicle</i>	28	29	30	28
<i>Private Hire Operator</i>	20	19	19	19
<i>Temporary Insurance Vehicles</i>	1	2	0	1

Members were told that, although the numbers of driver applications processed was broadly the same now as had been the case over the last year, there had been a drop in the number of existing licenced drivers renewing (and a comparative increase in new individuals being licensed).

It was **RESOLVED** that the Committee noted the information set out in the Officer report (A.1).

7. **REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) - A.2 - LICENSING ACT 2003 - REGULATED ENTERTAINMENT - EXHIBITIONS OF FILM - FILM CLASSIFICATION POLICY**

The Committee heard that the Council was the Licensing Authority under the provisions of the Licensing Act 2003 (the Act). A function of the Licensing Authority under the Act was to receive, consider and determine applications for Premises Licences or Club Premises Certificates. The Act regulated various activities (known as licensable activities or in the case of a private club operating pursuant to a Club Premises Certificate, qualifying club activities). Those activities included the provision of regulated entertainment.

Members were told that the Act sought to promote 4 licensing objectives. Those were:

- Prevention of crime and disorder;
- Prevention of public nuisance;
- Public safety; and
- Protection of children from harm.

Schedule 1 of the Licensing Act 2003 set out what activities were regarded as the provision of regulated entertainment. The description of entertainment activities

licensable under the Act included the exhibition of film. To be licensable, an activity needed to be provided for the purpose (at least partly) of entertaining an audience; had to be held on premises made available for the purpose of enabling that activity; and must also either:

- Take place in the presence of a public audience, or
- Where that activity took place in private, be the subject of a charge made with a view to profit.

The Committee was informed that, all premises licences that permitted regulated entertainment in the form of the exhibition of films had a mandatory condition attached to it relating to the admission of children to that premises. Children under the Licensing Act 2003 were defined as anyone under the age of 18. The mandatory condition was a requirement under Section 20 of the Licensing Act 2003.

Officers also told Members that the mandatory condition read as follows:

“Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.”

Members were made aware that, when considering any film which had been put forward for classification, the Licensing Authority would consider it in terms of how the exhibition of the film would impact on the licensing objectives, namely the protection of children from harm. That would apply to any film that had been put forward for a classification that would permit children to watch it. There were seven BBFC classification tiers (U, PG, 12, 12A, 15, 18 & R18) relating to what age a child may be permitted to watch the film on their own or whether there should be any parental or adult supervision.

The Committee learnt that the Licensing Authority deferred to the British Board of Film Classification (BBFC) as the standard classification body for films. However, the Licensing Authority was ultimately able to set film classifications relating to the exhibition of films within the District of Tendring and had the power to classify films away from those adopted by the BBFC. Having said that, it would be unreasonable to disregard any classification applied by the BBFC for a particular film. In addition, when classifying any film, it had been the Licensing Authority’s approval to have regard to the BBFC Guidelines and one element of the proposal in the Officer report was to formally confirm that approach.

Members also were told that, there were specific factors that may influence a classification decision such as:

- Discrimination,
- Drugs,
- Imitable behaviour,
- Language,
- Nudity,
- Sex,
- Threat, and,
- Violence.

Finally, the Committee was reminded that, at its meeting held on 25 March 2024, it had agreed to undertake an 8-week public consultation on the draft policy for Film Classification for the District.

It was moved by Councillor Smith, seconded by Councillor Davidson and:-

RESOLVED that, having considered the outcome of the public consultation on a draft Film Classification Policy, it formally recommends to Cabinet that the policy attached to the Officer report (Appendix A) be adopted.

8. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) - A.3 - LICENSING ENFORCEMENT AND INSPECTION POLICY 2024-2028

The Committee was told that it was best practice that the Licensing Authority kept its policy on enforcement processes under review to ensure that it they were kept up to date with the most current information and that appropriate guidance was made available to applicants, taking into consideration the legislation and resources available. That was then made available to applicants, licensees, those seeking to address issues with licensees, the Licensing Authority's partner agencies and the public.

Keith Simmons (Head of Democratic Services & Elections) made the Committee aware that there were typing errors in the Policy, but that the overall message was still the same and that the Policy would be amended before going out for public consultation.

It was moved by Councillor Davidson, seconded by Councillor Wiggins, and unanimously:-

RESOLVED that:

- a) that the draft revised Licensing Enforcement and Inspection Policy, as set out in Appendix A of the Officer report (A.3) (but subject to the correction of typographical errors) be approved for the purposes of the consultation in resolution b) below; and
- b) the draft revised Licensing Enforcement and Inspection Policy (as duly corrected) be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the Committee.

9. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) - A.4 - SEX ESTABLISHMENT POLICY

The Committee heard that it was best practice that the Licensing Authority kept its Policy on Sex Establishments under review to ensure that it was kept up to date with the most current information and guidance, legislation and resources available. That was then made available to applicants, licensees, those seeking to address issues with regards to Sex Establishments, the Licensing Authority's partner agencies and the public.

Officers made the Committee aware that there were typing errors in the policy in the Officer report (A.4) but that they would be corrected before going out to public consultation.

It was moved by Councillor Bray, seconded by Councillor Smith and unanimously:-

RESOLVED that:

- a) the draft Sex Establishment Policy, as set out in Appendix A of the Officer report (A.4) (but subject to the correction of typographical errors) be approved for the purposes of the consultation in resolution b) below; and
- b) the draft Sex Establishment Policy, as duly corrected, be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the Committee.

10. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) - A.5 - GAMBLING ACT 2005 POLICY

The Committee was told that the Council was 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 was subject to public consultation and must be adopted by Full Council upon recommendation from both the Licensing and Registration Committee and Cabinet.

Members heard that the Review had been last undertaken three years ago, and that no significant issues had arisen through use of the Policy since that time. The proposed changes were considered minor; however, internal consultation would be undertaken with the Council's Corporate Enforcement Group through that process.

The Committee was informed that the Government had introduced a Gambling White Paper in April 2023. Once that review was concluded, it was likely that there would be changes to the Gambling Commission's guidance issued to Local Authorities, which was likely to have an impact on the Council's Gambling Policy.

Officers also told Members that, the conclusion of the review could fall during the consultation or determination of the Council's Policy review, which might therefore present an unintended clash.

Members also heard that, the Council was unable to extend the existing Gambling Act Policy until the national review had concluded and must review its existing policy within the statutory period.

The Committee was finally told that, it was therefore proposed to undertake a light touch review in 2024 to ensure that the Authority met its obligations to publish its revised policy by 31 January 2025.

It was moved by Councillor A Cossens, seconded by Councillor Bray and unanimously:-

RESOLVED that:

- a) the draft Gambling Policy, as set out in Appendix A of the Officer report (A.5) be approved for the purposes of the consultation in resolution b) below; and

- b) the draft Gambling Policy be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the Committee.

11. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) - A.6 - PAVEMENT LICENSING POLICY

The Committee was told that under the Business and Planning Act 2020, pavement licensing had been delegated to the Licensing Authority as a temporary measure due to the COVID pandemic. The Levelling Up and Regeneration Act 2023 had now become legislation which superseded the aforementioned Business and Planning Act 2020.

Members heard that the temporary legislation had been due to expire at the end of September 2024; however, the Government had made the scheme permanent, with some amendments, through the aforementioned Levelling Up & Regeneration Act 2023 which had received Royal Assent last year and had come into force on Sunday 31 March 2024.

It was moved by Councillor Smith, seconded by Councillor Davidson and:-

RESOLVED that:-

- a) the changes to temporary pavement licensing as a result of the Levelling Up and Regeneration Act 2023 be noted;
- b) the draft Pavement Licensing Policy, as set out in Appendix A of the Officer report (A.6) be approved for the purposes of the consultation in resolution c) below; and
- c) the draft Pavement Licensing Policy be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the Committee.

12. DATE OF THE NEXT MEETING OF THE COMMITTEE

It was **RESOLVED** that the next meeting of the Committee would be held on Wednesday, 2 October 2024, commencing at 6.30 p.m.

13. EXCLUSION OF PRESS & PUBLIC

It was **RESOLVED** that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of Agenda Item 14 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.

The Head of Democratic Services & Elections (Keith Simmons) made Members aware that the only reason why the next Agenda Item was being discussed in private, was because it had an individual's private information in the Item and was therefore not for the public record.

14. EXEMPT MINUTES - MISCELLANEOUS LICENSING SUB-COMMITTEE

It was moved by Councillor Smith, seconded by Councillor Davidson and:-

RESOLVED that the exempt minute of the meeting of the Miscellaneous Licensing Sub-Committee held on Monday, 11 March 2024 be formally received and noted.

The meeting was declared closed at 6.54 pm

Chairman

**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,
HELD ON TUESDAY, 9TH JULY, 2024 AT 10.00 AM
IN THE SUNSPOT - SUNSPOTS**

Present:	Councillors Smith (Vice-Chairman, in the Chair), Codling and A Cossens and Davidson
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Bethany Jones (Committee Services Officer), Emma King (Licensing Officer) and Alfie Smith (Licensing Enforcement Officer)

37. CHAIR

The Vice-Chairman of the Sub-Committee (Councillor Smith) informed the meeting that the Chairman of the Sub-Committee (Councillor J Henderson) was absent from the meeting and that therefore he would occupy the Chair.

38. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Casey (with no substitution) and J Henderson (with Councillor Davidson substituting).

39. MINUTES OF THE LAST MEETING

It was moved by Councillor Davidson, seconded by Councillor Codling and:-

RESOLVED that the minutes of the last meeting of the Sub-Committee, held on Monday, 11 March 2024 be approved as a correct record and be signed by the Chairman.

40. DECLARATIONS OF INTEREST

Councillor Smith (Vice-Chairman, in the Chair) declared for the public record that he was a London Taxi driver of 34 years' experience but that he had no ties in that capacity to the District of Tendring.

41. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor A Cossens, seconded by Councillor Davidson, 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 Items 5, 6 and 7 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.

42. EXEMPT MINUTES

It was moved by Councillor Davidson, seconded by Councillor Cossens and:-

RESOLVED that the Exempt Minutes of the last meeting of the Sub-Committee, held on Monday, 11 March 2024, be approved as a correct record and be signed by the Chairman.

43. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - B.1 - REVIEW OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE AND HACKNEY CARRIAGE VEHICLE LICENCE

RESOLVED that the Sub-Committee were in support of the 12 Enforcement Penalty Points already imposed on the individual's Hackney Carriage/Private Hire Driver's Licence, the refusal to carry a guide dog was a really serious offence and they could have lost their licence, and that if they was to come back to the Sub-Committee within 2 years with the points still on the licence then a harsher action may be required. The points would remain on their licence the full two years until February 2026.

44. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - B.2 - REVIEW OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE AND HACKNEY CARRIAGE VEHICLE LICENCE

RESOLVED that the Sub-Committee were in support of the 13 Enforcement Penalty Points already imposed on the individual's Hackney Carriage/Private Hire Driver's Licence and that they would keep those points for the next two years. Further, if the individual was before the Sub-Committee before the Enforcement Penalty Points had expired then a harsher decision would be considered but they would keep their licence now and could keep working.

The meeting was declared closed at 11.41 am

Chairman

Public Document Pack Agenda Item 6

Premises / Personal Licences Sub-Committee

17 June 2024

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON MONDAY, 17TH JUNE, 2024 AT 10.00 AM
HELD IN THE COMMITTEE ROOM, IN THE TOWN HALL, STATION ROAD,
CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors J Henderson (Chairman), Davidson, Smith and Casey (stand-by member)
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Ian Ford (Committee Services Manager), Katie Wesley-Smith (Environmental Protection Manager), Sarah Opene (Litigation Lawyer), Emma King (Licensing Officer) and Keith Durran (Committee Services Officer)
Also in Attendance:-	James Kingston (Applicant), Rebecca Duff-Cole (Technical Officer (Environmental Protection)), Larissa Scotney (Technical Officer (Environmental Protection)) and Cheyenne Zephaniah (Technical Officer (Environmental Protection))

1. CHAIRMAN OF THE MEETING

It was moved by Councillor Davidson, seconded by Councillor Smith and:

RESOLVED that Councillor J Henderson be elected as Chairman for the meeting.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence, or substitutions.

3. MINUTES OF THE LAST MEETING

It was moved by Councillor Davidson, seconded by Councillor Smith and:-

RESOLVED that the minutes of the meeting held on Monday 11 March 2024, be approved as a correct record and be signed by the Chairman.

4. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

5. REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - TEMPORARY EVENT NOTICE - LEFT FIELD, HIGH BIRCH ROAD, WEELEY, REF: TENOP/5161/24 AND TENOP/5162/24

It was reported that two Temporary Event Notifications (TENs) has been sent to the Licensing Authority of Tendring District Council in accordance with Section 100 of the Licensing Act 2003 by Mr James Kingston.

The Sub-Committee was aware that Temporary Event Notices (TENs) were intended to allow an individual to use premises for one or more licensable activities on an infrequent

basis. There was no application process, but the premises user was required to give at least 10 working days' notice to the relevant Licensing Authority, the relevant Chief Officer of Police, and the local authority's Environmental Health department (not including the day of the event or the day of receipt of the Notice). There was no provision to attach any terms, conditions, limitations, or restrictions to such a Notice.

Members were informed that Mr. Kingston (referred to in the Licensing Act as the 'premises user') had submitted the following Temporary Event Notifications to cover the licensable activities on the below dates:

Ref: TENOP/5161/24 – Left Field Event Site

Date	Activity	Times
21/06/2024 22/06/2024 23/06/2024	Sale of Alcohol on the premises and Late Night Refreshment	1800 – 0200 1100 – 0200 1100 – 2300
21/06/2024 22/06/2024 23/06/2024	Provision of Regulated Entertainment	1800 – 2300 1100 – 2300 1100 – 2300

For the above events the main FOH stage system would be closed down at 11.00 p.m. on all days and instead run background music during serving hours.

Ref: TENOP/5162/24 – Left Field Event Site

Date	Activity	Times
12/07/2024 To 14/07/2024	Sale of Alcohol on the premises and Late Night Refreshment and Provision of Regulated Entertainment	1100 – 2300

The address of the event was Left Field, High Birch Road, Weeley. The premises did not hold a valid premises licence under the Licensing Act 2003.

It was reported that the TENs had been submitted electronically to the Licensing Authority on 6 June 2023. Essex Police and Environmental Health had been informed on the same day. During the three full working days' objection period, which had expired on 11 June 2023, the Licensing Authority had received an objection notice from Tendring District Council's Environmental Services department.

The Sub-Committee was made aware that this hearing must therefore consider the points raised in the Objection Notice and to make a determination on the TEN. When carrying out its functions the licensing authority must have regard to the four licensing objectives. The objectives were:-

- *The prevention of crime and disorder*
- *Public Safety*
- *The prevention of public nuisance*
- *The protection of children from harm*

The Sub-Committee was also required to determine the matter in accordance with the Licensing Act 2003 (Section 105), Tendring District Council's own Licensing Policy and

the Home Office Guidance issued under Section 182 Licensing Act 2003, having due regard to the applicant's submissions and objections by the statutory body.

The Applicant and Tendring District Council's Environmental Services had been invited to attend the hearing and were given the opportunity to address Members.

Members noted that the Safety Advisory Group, which included Tendring District Council's Environmental Services department had met on Tuesday 14th May 2024 to discuss the proposed event/s. As a result of that meeting, the applicant had been requested to provide sufficient evidence to address the concerns relating to noise impact. More information on that had been provided in the Appendix to the Officer report (A.1).

The Council's Environmental Protection Manager (Katie Wesley-Smith) put forward the statutory body's objections as follows:-

- *Purpose of the Objection was to ensure compliance with the licensing objective for the prevention of public nuisance;*
- *Concerned regarding excessive noise and loud music from this site and also the proposed 2.00 a.m. finish;*
- *Had objected to previous three day electronic music event over May Bank Holiday but had withdrawn in order to enable event organiser opportunity to evidence good noise management from that site. However, Officers not satisfied after monitoring that event that good noise management was in place;*
- *Concerned regarding site location, which was a rural setting with low-level background noise. Complaints received from several residents in relation to Bank Holiday weekend event;*
- *Concerned at number and frequency of these events;*
- *Concerned not necessarily over overall level of noise under the Guidance but rather base levels of noise given that in this rural location noise can carry 1-2kms from site to properties;*
- *Following previous weekend's event, Council had received formal online complaints plus verbal complaints from residents whilst Officers were conducting noise monitoring of the site;*
- *Therefore, Officers not satisfied in relation to multiple day electronic music festival that noise could be managed to such a point that it would not cause a public nuisance or a statutory noise nuisance to nearby residents.*

There were no questions from Members, or the applicant, to Ms. Wesley-Smith, at this juncture.

Mr. Kingston, the applicant then put forward his submission as follows:-

- *He had been an event professional for last 30 years both in UK and abroad. He was now MD of Intersonic Productions, a company that worked in the local area. Had been involved in large festivals across the country and smaller festivals in Colchester. This year was their first involvement within the Tendring District.*
- *These events at Left Field were part of a wider series of 7 planned events at this site which would be a mixture of electronic music and folk/soul festival music events.*
- *There was no intention to destroy the social fabric of the area. Rather it was to bring more arts entertainment and culture to the local area and its residents. Had invited*

- the local residents to attend on the Bank Holiday weekend. 19 did so and there was positive feedback on the local Facebook groups.*
- *He understood that there had been complaints, which he took seriously. His company had undertaken a huge amount of effort to control noise on the site including building a temporary structure on the site, which had been made soundproof to a degree to reduce the bass music level that could be heard from the site. Had also put 130 large agricultural bales (2.4m long, 1.2m width, 1,000kg weight) around that structure to help control noise.*
 - *These events were not 'raves' as had been portrayed by some.*
 - *He had reacted to the complaints by employing at great cost the services of Rob Miller (F1 Acoustics) who was the principal sound monitoring engineer for Glastonbury and other major UK festivals. Mr. Miller had carried out a background noise survey, which had established a 44-48 decibel range. That had been provided to TDC Environmental Health along with, subsequently, a Noise Management Plan.*
 - *On the previous Saturday, his company had monitored the event at regular intervals. The levels had been within the sound range set for them by Rob Miller.*
 - *In UK, when multiple events are held on multiple days at the same site throughout the year the accepted sound levels are reduced drastically. On a one event day at the nearest noise sensitive property the accepted level would be 62db up until 11.00p.m. For multiple events, the db level was reduced, due to the cumulative nuisance that might impinge on local residents, by a further 20db. Hence 46db which was within the range set by Rob Miller.*
 - *He had researched and established a presence on the local Facebook groups so that residents could engage with his company.*
 - *The Funk and Soul Food event was planned for local residents to come and enjoy free of charge.*
 - *He referred to the planning permission for a 'glamping' facility on this site. The landowner wanted to expand his business and to see his 'glamping' site come to fruition. The landowner had brought his company in to control the events, control the sound and to build a professional relationship with TDC and local residents. The best way was to control the sound emissions in conjunction with Environmental Health. He felt that his company had worked with them every step of the way. From his company's readings he felt that there had been an improvement from the bank Holiday event to last Saturday's event.*
 - *Mr. Kingston pointed out that the UK music industry was valued at £14billion. Last year there had been 936 successful festivals that had generated one-third of that amount in addition to the indirect monetary benefits to the local economy from use of 'Air B n Bs', garages, hotels, caravan/camping sites etc. In this case the landowner had also benefited to the amount of £2,000 from the provision of the aforementioned bales.*
 - *Mr. Kingston also made reference that holding multiple events helped create jobs. In this instance, 20 jobs and potentially 50.*
 - *The planned folk festival would involve 75 local musicians from bands or single musicians that usually went to 'open mike' events and did not get the opportunity to play on the big stages. There was always the potential to find the next Ed Sheeran. The UK was renowned for its grass roots music. Music was also one of the UK's biggest 'soft power' exports.*
 - *Acknowledged once more and understood there were some local objections. Were always going to be those who wanted to complain and what nothing to change in their locality. Very conscious of that and his company had spent lot of money so far to resolve that and were working with the Environmental Health service.*

- *Fairly astounded that the folk festival had been objected to as it would be just a guy on a double bass though it would be amplified sound. He understood the concerns about the repetitive bass beat of electronic music but with the technology now available specific frequencies could be taken out. The 40-50 herz range could be removed from the amplifiers. This was the range that generated longer distance complaints i.e. the annoying bass sounds. That could be controlled on site.*
- *Mr. Kingston had the figures from the last event and they had registered well within the range set by Rob Miller. Mr. Miller was beyond reproach with regard to his professionalism. He had been in the business for 30 years. He had set those limits based on the guidance given by Environmental Health.*
- *He argued that you had to hold these events in rural areas as they were not suitable in a densely populated area. At the first event he had received only two complaints and he had responded immediately in turning down the volume. For last Saturday's event, he had received no telephone calls this weekend even though residents had access to his telephone number.*

Matters raised by Members of the Sub-Committee:-	Mr. Kingston's response thereto:-
<i>How many people, approximately, attend these events?</i>	<i>Maximum of 300.</i>
<i>How do you control the noise from people going to and from the site and their impact on local residents especially after 11.00 p.m. or 2.00 a.m. finishes? 300 people who will be alcohol fuelled. They will make a lot noise. How will you govern that?</i>	<i>We've had no complaints in that regard or notifications from the Police that there was ASB beyond our site. At Saturday's event there were four shuttle buses bringing people backwards and forwards from that event. That limits the traffic we have on site. There are no pedestrians leaving the site at all. Everything is by cabs or shuttle buses. They board high up into the site i.e. not near anyone's houses. They are then taken off the site so there are no pedestrians making noise.</i>
<i>Where do the shuttle buses take people to?</i>	<i>Straight back to their homes in Colchester. As it was a three day event some people camped on site.</i>
<i>Have you got any proof of the musicians that you have booked for either of these events?</i>	<i>Yes, but I did not think that I would need to bring it with me today.</i>
<i>Have you got any such proof for the stallholders? Is anything written down?</i>	<i>I have details of communications. Obviously, it is difficult to confirm with agents whilst these events are not yet authorised. It's been economically challenging. The smaller events have had to be private and for the folk festival tickets are being sold but on the proviso that they will be refunded if permission is not forthcoming and the artists will have to be cancelled. There are written agreements with the promoters. Though you don't have the same contractual obligations with local artists. Promoter has a budget of £3,500 to book the local musicians.</i>
<i>The weather was atrocious</i>	<i>Yes, definitely, our attendance figures were lower</i>

<p><i>on Saturday so do you believe that your sound recordings were a true record given the lower attendance?</i></p>	<p><i>than we would have expected/hoped for. Only got permission to hold the event one week beforehand. That impacted on ticket sales. Difficult ticket sales climate nationally. Not recovered post-Covid. Wind and rain can have a very challenging effect on the amplification of sound. The wind can carry the noise further so you can end up with a noise complaint that you would not have necessarily received in good weather conditions.</i></p>
<p><i>How were the shuttle buses and taxis able to access the site given the inclement weather and adverse ground conditions?</i></p>	<p><i>They were fine. It is obviously a farm site that needs upgrading but obviously we are in a position that we have a tranche of proposed improvements such as improving the roads within the site, improving further the soundproofing etc. All of these are very expensive. Without commercial viability it makes it very difficult for us as a company to make those investments which obviously we'd like to. If it's not possible here then we'd have to look at another site in another District. There's a strong economic statement that can be made from these events happening and that has to be weighed against the public concerns about noise and whether they can be managed. Our noise readings over the weekend were very positive for us though to be fair we have taken positive readings before and they did not turn out the way that we expected. We did not receive any calls over the weekend from the Environmental Health service.</i></p>
<p><i>Do you feel that the residents might not be concerned if there were less frequent events? You seem to be wanting more and more two day or three day events rather than a couple here and a couple there.</i></p> <p><i>You have to accept that would not be everyone's favoured experience.</i></p>	<p><i>Obviously, any change in the countryside environment has an impact on residents. Can't deny that that's the case. It's unfortunate that the current programme has produced back-to-back events. We'll try to avoid that in the future to give some space between events. With regards to three day events, if you do a one day event there's a huge amount of effort as you are bringing everything for that event to the field i.e. power, toilets, the bar and other structure built for that event. Understandably, that's an expensive process and the only way that you can get the economic value back out of that is to do that over a three day period because that's when you get the bar sales. I keep the ticket prices down. The UK average ticket price for a three day event is £147. Our ticket prices for a three day festival are £65. The only way we can deliver those ticket prices is to have a reasonable shot at the bar for those three days. If we only do it for one day then the ticket price has to include all of the infrastructure costs and it becomes too expensive and no one will attend. So there is an economic point. One of the ways that we try to mitigate that is to invite all of the local residents free</i></p>

	<p><i>of charge whether that's the electronic music event which is private (ticket only) and has been going for 13 years.</i></p> <p><i>Yes, 100%, which is why we try to vary the line-up such as the folk festival, which could be more people's 'cup of tea'.</i></p>
<p><i>You referred to putting buffers in place. Were they in place for the last festival? Or is it something that you plan to do?</i></p>	<p><i>Yes, they were but we're improving on that every single time.</i></p>
<p><i>You said that Rob Miller and yourself feel that you have worked well with the Environmental Health team but if that were the case we would not be here today. Somewhere along the line your feeling of working well has not been right so how do we resolve that?</i></p>	<p><i>We respond to the information that is given back to us but it does seem that everything that we want to do is opposed which is a difficult commercial situation for us. We do this across the country; we deal with other Councils. We are always open to working directly with them. We have our sound recordings taken over the weekend, which, for us, were very promising. We were given a limit by Rob Miller which was 46 – 50db (50db if you take into account the "stop and start" as cars went past). We were well within those limits for that weekend, So for a statistical, evidence based approach, a scientific based approach we were within our limits. That does not take into account the Environmental Services team who have the right to supersede that information and determine a noise nuisance.</i></p>
<p><i>What other local authorities have you worked with? What was the outcome?</i></p>	<p><i>Braintree, Bury St. Edmunds, Chelmsford and Colchester. Positive but with occasional issues. Particularly positive 6 year experience with Braintree.</i></p>
<p><i>Why did it end with Braintree?</i></p>	<p><i>A noise complaint meant that the company had to look elsewhere.</i></p>

<p>Matters raised by a Councillor:-</p>	<p>Ms Wesley-Smith's and Mr. Kingston's responses thereto:-</p>
<p><i>Have we been in touch with any other Councils?</i></p>	<p><u>Ms Wesley-Smith</u></p> <p><i>A query was put out to colleagues in some other local authorities. Chelmsford City Council responded that they had had an 'out of hour' complaint about an unbeknownst event. Their Environmental Senior Protection Officer had considered serving an Abatement Notice in regard to continuing events. Anecdotally they did hold discussions with the site owner and Mr. Kingston in regard to a Temporary Event that was due to take place especially its 3.00 a.m. finish time. It was agreed to end it at Midnight and then it came back with a later finish. The event was then pulled at the</i></p>

	<p><i>last minute due to poor ticket sales. During end September 2023 TDC received four separate complaints from residents that related to two events in July and one in September that TDC was not aware of as the local authority. Investigations were initiated by colleagues in the Licensing Section with regards to land ownership. TDC first requested NIA form for these events on 14th May, which was seven days after we were notified of all of the 7 events that had been submitted. That was during a Safety Advisory Group. Further request was made after the first event was held in May. Online meeting was held on 3rd June when Mr. Kingston advised he would do his own monitoring of the site. On 6th June Mr. Kingston agreed to have a NIA performed. We had concerns that it was late in the day for the Council to receive the NIA to give it the relevant review that it required and to then outline concerns.</i></p> <p><u>Mr. Kingston</u></p> <p><i>In response to the Chelmsford events we had two successful TENs rather than just one. The unsuccessful one being the one cancelled for poor ticket sales. Had a midnight finish for the first two and a 1.00 a.m. extension for the third (later cancelled) event due to successful noise management of the previous events. Other events held were private events on private land i.e. there were no sales of alcohol and no more than 499 attendees.</i></p>
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Matters raised by Katie Wesley-Smith:-	Mr. Kingston's response thereto:-
<p><i>We have had a number of meetings in relation to these events and several times we requested that a Noise Impact Assessment (NIA) be prepared by a qualified Acoustician to give that Council an idea of the existing background levels. Based on the background levels when you look at the relevant noise guidance and dependent on the number of events that you wish to hold in a calendar year the level of noise is then determined in line with the Guidance. The first event, the Council was unaware of the background levels, there was no NIA performed, we then asked for those. This was done but the NIA was only submitted to this local authority on Friday morning (14th June). The level originally discussed was either 65db LEQ</i></p>	<p><i>We took LEQ readings throughout the day and before 7.00 p.m. and I have the evidence of those readings, which I can share with Environmental Health. During adverse weather conditions, the L90 reading also becomes significant that is the reading at 90% of the 15 minutes, plus the LEQ, which takes into account vehicles, and the inclement weather conditions, et cetera. We were in contact with Rob Miller during the event to discuss with him regarding the impact of the wind and rain.</i></p>

over 15 minutes or +15db over the background level. The Acoustician's report clearly outlined that with the corrections made the existing background level, including the +15db above is 46db LEQ not 50. In addition, when this was transferred into a Noise Management Plan (NEP) (which was also submitted to us on Friday morning) it made reference to the noise levels relating to 7.00 p.m. to 11.00 p.m. and no consideration has been given to before or after these times. This weekend noise monitoring was performed by Officers from the Team but given the adverse weather conditions any sound recordings that were taken would be classed as 'null and void' due to the increased wind, rain so it was down to Officers on site and their professional judgement. Officers during the day advised that it was clearly audible which it would given that it is not a defined, closed space it is an open space area so environmental factors do play a huge part in that. In the evening monitoring was performed by myself and another colleague between 10.30 p.m. and 11.00 p.m. The LEAQ at that time (given that the NMP stated that it should not exceed 46db) was actually 54.8db. However, there is a caveat that at that time there was vehicle movement to and from the site. There were also people leaving on foot from the site, which was also apparent on the previous occasion. As advised any sound recordings taken during the day would not be suitable to be put forward due to the adverse weather conditions hence why Officers from the Environmental protection Team when they went out to do the monitoring did not use the sound level monitors. One was performed in the evening when the wind had dropped and there was no rain. That was high but did include vehicle movements.

I will also state that it appeared to Officers that there were private vehicles moving people to and from the site. There were a number of pedestrians walking down the track onto the main road to the Albion Bath Centre, which is adjacent to one of the nearest noise sensitive properties. There is concerns over that as well.

At 2.20 p.m. the L90 was 41 dba.
At 2.40 p.m. the L90 was 40 dba
At 4.30 p.m. the L90 was 40 dba.
At 6.45 p.m. the L90 was 34 dba.
At 7.00 p.m. the L90 was 33.5 dba.
At 9.42 p.m. the L90 was 33dba.
The LEQ for that period was 54 but that would be taking into account the inclement weather.

Readings were taken at Rectory Road and High Birch Road. Normal speaking volume is 50-60db. So the readings above were far below speaking volume and right at noise sensitive properties.

From our perspective everything that has been said has been correct. Our Security team is very reputable company who do events at Wembley Stadium. Unfortunately, one of the Shuttle buses had a mechanical fault so there were a lot of people calling cabs and the easiest place that they could call a cab to was the Albion Bathrooms. Once we were aware of this we stopped people from going down the road.

We have got actual sound readings but the reason we concentrated on the evening was that was the period that was agreed with Rob Miller and Environmental Health. Our daytime figures show that we were well within the limits.

We would like the opportunity to work further with Environmental Health.

We are here and we have spent as much money as we have such as we are professional and looking to run a successful commercial venture whilst not overstepping the bounds of what is legal. Our figures show that we did not overstep those bounds throughout the day in

We were approached by a lady who, when asked, was unable to provide identification but stated that she was security for the site who requested Officers to show their ID. Officers did choose to show their ID though they were not on the private event site but on an authorised piece of land for the owners of the noise sensitive receptors.

I will also state that Mr. Kingston has advised that there 250+ properties along Heath Road, Rectory Road and High Birch Road. This is incorrect. Additionally, we did request on a number of occasions prior to these events taking place that Mr. Kingston look to undertake a NIA if he is serious with regards to events continuing to take place on this site. This was contentious and efforts were made to negotiate and Mr. Kingston did agree to drop the finish time for the first event from 2.00 a.m. to 1.00 a.m. and Mr. Kingston is correct I did call him on the evening of 25th May at 11.59 p.m. requesting that the level of noise be turned down. Mr. Kingston made attempts to do that and asked her to stay on the telephone whilst he adjusted the sound. However, even with the adjustments the bass level was still audible and would also have been audible within one of the noise sensitive receptors.

As explained we do have concerns as to compliance with these levels and Mr. Kingston's willingness to work with the Council. If there had been a more productive relationship at the beginning of this process we would have less reservations with regard to continued compliance with the NMP and the NIA.

We are now satisfied with the NIA that Mr Miller has produced. A telephone conversation was also held with Mr. Miller regarding the Council's concerns. We reiterate that the NMP only refers to noise levels between 7.00 p.m. and 11.00 p.m. It discounts the daytime period i.e. from 11.00 a.m. to 7.00 p.m. We also dispute the Hertz levels stated by Mr. Kingston, as the NIA advises a different Hz range.

question.

To receive an objection after we had followed the guidance was disappointing.

<p><i>Overall, we have concerns over the frequency of these events and for the ability for them to be managed without causing undue adverse impacts to residential properties.</i></p>	
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The Chairman (Councillor J Henderson) adjourned the meeting at this time whilst the Sub-Committee retired to deliberate this matter. The Head of Legal Services (Linda Trembath) and the Committee Services Manager (Ian Ford) retired with the Sub-Committee in case they were asked to assist Members in those deliberations.

Upon the resumption of the meeting and upon being asked by the Chairman, the Head of Legal Services confirmed that she had not proffered any legal advice to the Sub-Committee during its retirement.

The Sub-Committee unanimously **RESOLVED** the following decision:-

“The Premises/Personal Licences Sub-Committee have considered all they have heard this morning in relation to both Temporary Event Notices first for what is called a “multiple day electronic music festival” over 21 June to 23 June 2024 and a “3 day 2 stage local live music folk and blues festival” 12 to 14 July 2024. These are two separate applications and we will deal with them separately.

The 21 June to 23 June 2024 multiple day electronic music festival – we have considered all that we have heard and have decided to refuse this application (TENOP/5161/24).

The reasons are that there are significant concerns about the noise levels emanating from the site during the hours noted on the application, from 1800 hours on Friday 21 June 2024 to 2300 hours on Sunday 23 June 2024 – effectively a three day event. Another recent event that was, in part, affected by weather conditions still had unacceptable levels of noise coming from the site, and a number of complaints were made by local residents.

The Sub-Committee have to have regard to the four licensing objectives in considering the application for a Temporary Event Notice, and any objections raised. Here the primary concern is around the prevention of public nuisance, but in all the Sub-Committee have heard, it is possible other licensing objectives might also be of concern such as public safety.

At the recent event, Tendring DC’s Environmental Health Officers either attended at various times or were on the phone to the applicant, Mr Kingston, about the noise levels that he said he was reducing but were clearly still audible.

Throughout Mr Kingston’s address to the Sub-Committee he referred to his past work in setting up and running events, to the security companies and officers who handled those aspects for him, or to the acoustics or sound engineers specifically referring to a Rob Miller who, the Sub-Committee were told, worked at the Glastonbury Music Festival. Mr Kingston also advised that the number of cars or vehicles coming to or

leaving the site were minimised because people either came on shuttle buses that had been arranged by him or taxis, and that no-one walked to or from the site.

Again although reference was made to all of the companies or contractors who were engaged to perform specific functions for the events, there was little in the way of names or companies actually referred to, and no documentation or other evidence provided. However, none of this detracts from the concerns around noise coming from the site, although some of these matters do raise concerns about public safety because the roads along which people would walk are dark and there would be concerns about people safely negotiating these roads.

Although there appears to have been some engagement with the Council's Environmental Health Team, given the timing of information being sent to that team, and the quality of that information, that engagement does not appear to be all that it could be and it is disappointing that that relationship does not appear to be particularly constructive.

However, the main concern of this Sub-Committee is the noise emanating from the site, throughout the entire time of the event although at night, when all other noise levels will drop, those concerns are greater and, as has been noted, the area is rural so that for both of these reasons any noise will carry, or be heard, further away than either in the day time or in an urban area. In addition, it was noted that a number of complaints were received.

We now move on to the second application.

The Friday 12 July to Sunday 14 July "3 day 2 stage local live music folk and blues festival" – we have considered all that we have heard and have decided to refuse this application number TENOP/5162/24.

It is noted that this particular event is proposed to run from 1100 hours on Friday 12 July 2024 to 2300 hours on Sunday 14 July 2024 – effectively a three day event.

As before, the Sub-Committee have to have regard to the four licensing objectives in considering the application for a Temporary Event Notice, and any objections raised. Here the primary concern is around the prevention of public nuisance, but in all the Sub-Committee have heard, it is possible other licensing objectives might also be of concern such as public safety.

As for the first TENs being considered by this Sub-Committee the same concerns arise and accordingly the reasons for this refusal are the same as for the previous decision. Accordingly the reasons in that decision notice should be read into this decision.

You may have rights to appeal to the Magistrates' Court. The Licensing Team will be in touch with you."

6. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Davidson, seconded by Councillor Smith and:-

RESOLVED that under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the item of business to be considered below on the grounds that the public interest in doing so outweighs the public interest in that part of the hearing taking place in public.

7. **EXEMPT MINUTE OF THE PREVIOUS MEETING**

It was moved by Councillor Smith, seconded by Councillor Davidson and:-

RESOLVED that the Exempt Minute of the meeting of the Sub-Committee, held on Monday, 11 March 2024 be approved as a correct record and be signed by the Chairman.

The meeting was declared closed at 12.34 pm

Chairman

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Premises / Personal Licences Sub-Committee

31 July 2024

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON WEDNESDAY, 31ST JULY, 2024 AT 10.00 AM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Wiggins (Chairman), Casey, A Cossens, Wiggins and Smith (stand-by Member).
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Keith Durran (Committee Services Officer) and Emma King (Licensing Officer)
Also in Attendance:	(Applicant) and Gary Burke (Senior Licensing Officer, Essex Police).

8. CHAIRMAN OF THE MEETING

It was moved by Councillor Casey, seconded by Councillor A Cossens and:
RESOLVED that Councillor Wiggins be elected as Chairman for the meeting.

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence nor substitutions.

10. MINUTES OF THE LAST MEETING

It was moved by Councillor A Cossens, seconded by Councillor Casey and:-

RESOLVED that the minutes of the meeting held on Monday 17 June 2024, be approved as a correct record and be signed by the Chairman.

11. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

12. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor A Cossens, seconded by Councillor Casey and:-

RESOLVED that under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the items of business to be considered below on the grounds that the public interest in so doing outweighs the public interest in that part of the hearing taking place in public.

13. REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - APPLICATION FOR THE GRANT OF A PERSONAL LICENCE

The Sub-Committee convened in private session to decide if Members agreed or disagreed with the Essex Police decision to object to the Personal Licence.

It was **RESOLVED** that the Personal Licence grant application submitted be refused.

The meeting was declared closed at 10.58 am

Chairman

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Premises / Personal Licences Sub-Committee

2 September 2024

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON MONDAY, 2ND SEPTEMBER, 2024 AT 10.00 AM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors A Cossens, J Henderson and Thompson
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Keith Durran (Committee Services Officer), Bethany Jones (Committee Services Officer), Alfie Smith (Licensing Enforcement Officer) and Christopher Bailey (Elections and Leadership Support Officer)

14. CHAIRMAN OF THE MEETING

It was moved by Councillor A Cossens, seconded by Councillor Thompson and:-
RESOLVED that Councillor J Henderson be elected as Chairman for the meeting.

15. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence nor substitutions.

16. MINUTES OF THE LAST MEETING

It was moved by Councillor A Cossens, seconded by Councillor Thompson and:-

RESOLVED that the minutes of the meeting held on Wednesday 31 July 2024, be approved as a correct record and be signed by the Chairman.

17. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

18. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - GRANT OF A PREMISES LICENCE, KINGS LOCAL, 65-67 KINGS AVENUE, HOLLAND ON SEA, ESSEX, REF: 24/00399/PREMGR

The Applicant and their representative failed to attend the meeting and as such, the Chairman of the Sub-Committee believed that, being within the public interest it was necessary for the Applicant to be in attendance, and so adjourned this item, A.1 Grant of the Premises Licence, Kings Local, 65-67 Kings Avenue, Holland-on-sea, Essex. Ref: 24/00399/PREMGR, to a later date as to be arranged outside of this meeting.

19. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor A Cossens, seconded by Councillor J Henderson and:-

RESOLVED that under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the item of business to be considered below on the grounds that the public interest in so doing outweighs the public interest in that part of the hearing taking place in public.

20. EXEMPT MINUTE OF THE PREVIOUS MEETING

It was moved by Councillor A Cossens, seconded by Councillor J Henderson and:-

RESOLVED that the Exempt Minute of the meeting of the Sub-Committee, held on Wednesday, 31 July 2024 be approved as a correct record and be signed by the Chairman.

The meeting was declared closed at 10.45 am

Chairman

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Premises / Personal Licences Sub-Committee

9 September 2024

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON MONDAY, 9TH SEPTEMBER, 2024 AT 10.30 AM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors A Cossens, J Henderson, Thompson and Codling
Also Present:	Councillor Codling (stand by Member)
In Attendance:	Linda Trembath (Head of Legal Services), Michael Cook (Licensing Manager), Keith Durran (Committee Services Officer), Bethany Jones (Committee Services Officer), Emma King (Licensing Officer), Alfie Smith (Licensing Enforcement Officer) Matthew Ramsden (Planning Enforcement Officer) and Christopher Bailey (Elections and Leadership Support Officer)

21. CHAIRMAN OF THE MEETING

It was moved by Councillor A Cossens, seconded by Councillor Thompson and:-
RESOLVED that Councillor J Henderson be elected as Chairman for the meeting.

22. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence nor substitutions on this occasion.

23. MINUTES OF THE LAST MEETING

It was moved by Councillor A Cossens, seconded by Councillor Thompson and:-

RESOLVED that the minutes of the meeting of the Sub-Committee held on Monday 2 September 2024, be approved as a correct record and be signed by the Chairman.

24. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

25. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - GRANT OF A PREMISES LICENCE, KINGS LOCAL, 65-67 KINGS AVENUE, HOLLAND ON SEA, ESSEX, REF: 24/00399/PREMGR

The Sub-Committee had before it an Officer report namely item A.1 – Application for the Grant of a Premises Licence, Kings Local, 65-67 Kings Avenue, Holland-on-sea, Essex. Ref: 24/00399/PREMGR. This application had been scheduled to be before the Sub-Committee on Monday 2 September 2024, but the applicant had failed to attend the Sub-Committee. The Chairman at that meeting had decided that it was within the public's best interest to adjourn the item until this date, when the applicant could be present.

Members heard from the Council's Licensing Manager. He explained that the application before the Sub-Committee was in relation to the premises located 65-67 Kings Avenue, Holland on Sea, to be known as "Kings Local", application number

24/00399/PREMGR. He stated that the premises was to be used as a convenience store and that the applicant had said that the store was to be refitted to a new high standard.

Members also heard that the premises used to be a social club and had been licensed for alcohol sales.

It was reported that the proposed licensable activities on this application were for the sale of alcohol, off the premises, every day between the hours of 06:00 and midnight. This was also the proposed opening times of the convenience store.

The Licensing Manager explained how the applicant had outlined steps in the application to promote the four licensing objectives. The report outlined how representations could be made either in support of, or against, an application. In addition, all responsible authorities had been consulted, as was the standard procedure.

The Sub-Committee heard how one email of representation had been received from a member of the public, as well as one representation from Tendring District Council's Planning Authority, as a Responsible Authority, in relation to the planning permission for this premises. Details of both representations were contained within the published agenda pack.

Members were reminded that each application must be considered in its own right and on its own merit, and judged only on how it might impact on the four licensing objectives.

QUESTIONS FROM MEMBERS	OFFICER'S ANSWERS												
Was the Social Club a licensed premises and what were its hours of operation?	It was a licensed premises, and it operated from 10:00 through to 23:00 Monday to Sunday.												
There are other similar businesses local to this one, what are their licensed hours for the sale of alcohol?	<table border="0"> <tr> <td>Tesco</td> <td>06:00 to 23:00</td> </tr> <tr> <td>Co-op</td> <td>07:00 to 22:00</td> </tr> <tr> <td>Morrisons</td> <td>06:00 to 23:00</td> </tr> <tr> <td>Roaring Donkey Pub</td> <td></td> </tr> <tr> <td> Mon to Thur & Sun</td> <td>11:00 to 23:00</td> </tr> <tr> <td> Fri & Sat</td> <td>11:00 to 01:00</td> </tr> </table>	Tesco	06:00 to 23:00	Co-op	07:00 to 22:00	Morrisons	06:00 to 23:00	Roaring Donkey Pub		Mon to Thur & Sun	11:00 to 23:00	Fri & Sat	11:00 to 01:00
Tesco	06:00 to 23:00												
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Morrisons	06:00 to 23:00												
Roaring Donkey Pub													
Mon to Thur & Sun	11:00 to 23:00												
Fri & Sat	11:00 to 01:00												

The Sub-Committee then heard from the Council's Planning Enforcement Officer. He explained that the property did not have the correct planning permission for the use of the building to be a convenience store which required it to be classified as a class E and that currently it was classified a Social Club, which was designated as an F2 premises.

He explained that without the correct permissions in place and if the license was granted, it would encourage the owners to open the store and result in a breach of planning under The Town and County Planning Act 1990.

The Planning Enforcement Officer also outlined that local Planning Officers had been consulted on the matter and that as it stood, there was not enough information to state whether planning permission would likely be granted. He believed that Essex County

Council needed to be consulted for customer parking as well on the means on delivering goods. He pointed out that there was also no information on how waste on the site was to be disposed of.

He informed the Sub-Committee that the Planning Enforcement Team had recently spoken with the applicant via a phone call, and they had said that they did intend to submit a planning application, but nothing had yet been received.

QUESTIONS TO OFFICER	ANSWERS OF OFFICER
<p>If the license which you state was granted today and they didn't get planning permission, then what would be the procedure after that?</p>	<p>There are many things that we can do as an Authority, we have to assess the impact on the local environment, we have to take into account that it is a residential development it's not a rural location, if it was to open at 6:00 we have to then question at what time would deliveries occur, is it that they're going to receive at 5:00 in the morning; are they going to be unsociable hours?</p> <p>As an Authority we can then put a stop notice in, but this of course incurs legal action, so there's other costs that could be incurred to the Council potentially. In enforcement as you may be aware everything is potential, we have to assess it on its merit at the time, but yes we have got ways of stopping it if need be, but we would have to cross that bridge when it comes to it, hopefully not but we have to determine it at the time.</p>

The Sub-Committee then heard from the applicant's agent.

"Thank you Chair, since you have already seen the applications and all the steps that we are taking to promote the licensing objectives, I will go straight into addressing the objectives or objections. Coming back to the planning matter, this is being handled by planning consultants, I think they have been in contact already, so that will be handled, when we put the application in, we didn't know it was needed, so know that we have come to know that there's planning permission needed, it's going through. I don't see a reason it will be rejected, but it's the process that need to go through. The Planning Officer mentioned a number of things, like parking, I know it's not part of the licensing objectives so it can't be assessed. But we are planning parking for at least four cars in the front so there is that. Other things like waste management that will all be handled, there is space, it was a social club, and they had been handling it.

At the moment the landlord is involved in terms of planning, so they are supporting the whole process at the moment, so that's where we are with in terms of planning. Coming back to the hours as we are here for licensing not for planning. We applied for hours between 6:00am and midnight, that is the opening hours of the premises, so what we would like to do is not have the licensing and the opening hours, the same hours. At the

moment we haven't had planning permission but there's no reason the opening hours cannot be provided until midnight since the social club already have been licensed until 23:00, but I'm not sure what were the opening hours, as we don't have much detail, about the planning hours of the Social Club.

The licensing hours, those concerns raised by the objector, point number two concerning people coming out of the pub or bar, buying alcohol from here and hanging around or throwing bottles. That is a concern and it's not been evidenced. It's not been happening, if there were things like that happening that would already have been happening because there is a supermarket closing at 11pm.

We don't see opening an extra hour until midnight would contribute to any problems, as we have no evidence that there are problems at the moment in terms of people drinking in the streets or throwing bottles or cans.

The location is a mostly commercial place, I think it will be a great addition for I mean the way we looked at it we I looked at it is the applicant is putting in an investment to bring that building to life, which is really great for local businesses.

In terms of this convenience store, a lot of places close at 11:00pm, this store means people could come and do their shopping late at night. We understand there are the premises like Co-op and Tesco, but this is about a choice and that the people have a choice of products and prices and other services, which is really great for the community.

There is parking out front for four customers and this kind of supermarket don't normally get early morning deliveries or late-night deliveries, they normally happen between like 8:00 a.m. or 9:00 a.m. to between 5: 00p.m in the evening, so that wouldn't be a concern really, but again you know when we I'm sure the planning people will handle that with a condition.

Coming back to licensing, I think for us we don't see any reason or any concerns that impact the licensing objectives, opening either in the morning 6:00 at midnight thank you”.

QUESTIONS TO APPLICANT	APPLICANT'S ANSWERS
How come planning permission wasn't sought before the licence application?	It was operated as a social club so I think it was just the assumption we made that it would be a class E, that it was converted into class E during that conversion period during Coronavirus. I think we should have checked it, but we didn't do it, even the landlord didn't know about it the agents didn't know about it either. Finally, we are here, the planning application would be done before the premises opens as a Supermarket.
When will the planning application be submitted?	It is with our planning consultants now and they will bring it forward when it is ready.
Would you be willing to change your opening hours?	I think the hours on our application fit in with the other local businesses in the area.

The Chairman (Councillor J Henderson) adjourned the meeting at this time whilst the Sub-Committee retired to deliberate this matter. The Head of Legal Services (Linda Trembath) and the Committee Services Officer (Keith Durran) retired with the Sub-Committee in case they were asked to assist Members in those deliberations.

Upon the resumption of the meeting and upon being asked by the Chairman, the Head of Legal Services confirmed that she had not proffered any legal advice to the Sub-Committee during its retirement.

The Sub-Committee unanimously **RESOLVED** the following decision:-

“Premises/Personal Licences Sub-Committee meeting Monday 9 September 2024

This application is for a premises licence for the premises known as King’s Local, at 65-67 King’s Avenue, Holland-on-Sea, Essex for the sale of alcohol between the hours of 6 am and midnight seven days a week.

The premises was a social club, which in planning terms is use F2. A convenience store is use class E and therefore there needs to be a planning application to change the use of the premises. That is an important aspect in this matter and has caused us some concern because if we grant a licence, until the applicant has the relevant planning permission the applicant should not be opening at all. Of course, if planning permission is granted the hours that permission may allow the premises to open may be different from the hours of any premises licence we grant on this application.

Currently not only is there no planning permission for the change of use of the premises, but no planning application has been made. This Committee are concerned that in granting the application now, the applicant would open the premises and commence trading even if planning permission has not been granted and that could involve the authority in taking action against the applicant, including through the Courts. This Committee very strongly advise the applicant not to open the premises for any trading until such time as she has the relevant planning permission.

In addition to the current lack of planning permission, we note the concerns around both customer parking and the delivery of goods, as well as questions around the disposal and removal of waste. The applicant would be well advised to talk to the relevant Council officers and work with them to address the various issues, and to do so as quickly as possible.

Accordingly, although the Committee will grant this application, albeit with slightly reduced hours, they very strongly advise the applicant to apply for a change of use in the planning permission and to make that application today.

This application is granted for the sale of alcohol between the hours of 6.00 and 23.00 hours daily, Monday to Sunday”.

The meeting was declared closed at 11.42 am

Chairman

LICENSING AND REGISTRATION COMMITTEE

2 OCTOBER 2024

REPORT OF THE ASSISTANT DIRECTOR - GOVERNANCE

A1. LICENSING ENFORCEMENT AND INSPECTION POLICY 2024-2028

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report is submitted to the Committee to enable it to consider the revised Licensing Enforcement and Inspection Policy following a 5-week period of consultation on a draft revised policy. This report sets out the proposed policy to be adopted and the outcome of the consultation.

EXECUTIVE SUMMARY

It is best practice that the Authority keeps its policy on Enforcement processes under review enabling the Council to consider the most current information and guidance is made available to applicants taking into consideration the legislation and resources available. The renewed policy will then be available to applicants, licensees, those seeking to address issues with licensees, the Authority's partner agencies and the public.

The Licensing and Registration at its meeting on 24 July 2024 agreed to undertake public consultation on the draft policy.

RECOMMENDATION(S)

- (1) It is recommended that the Committee receive and considers the outcome of the public consultation on a revised draft Licensing Enforcement and Inspection Policy and then determine whether to recommend the policy attached to this report to Cabinet for adoption; and**
- (2) That, on the basis (1) above is approved, Officers be authorised to make minor amendments to the policy to ensure that it reflects operational positions of the Council and legislative / case law relevant to the policy.**

REASON(S) FOR THE RECOMMENDATION(S)

The recommendations seek to provide a process through which the current Licensing Enforcement and Inspection Policy can be updated to take into account of changes since the last policy was adopted and of the views expressed in the consultation on a draft revised policy.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft revised Licensing Enforcement and Inspection Policy set out at Appendix A is intended to support the following themes from the Council’s Corporate Plan 2024-28:

- Pride in our area and services to residents
- Working with Partners to improve quality of life
- Promoting our Heritage offer, attracting visitors and encouraging them to stay longer
- Financial sustainability and openness

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Decisions in relation to a licence holder following matters coming to light will be determined in relation to the specific licensing legislation provisions. They are likely to also amount, amongst other things, to consideration of civil rights and obligations under the Human Rights Act 1998. This policy assists in ensuring that these rights are fully considered. Those considerations will, to the extent that they apply, also be given to those raising matters with the Authority in connection with a licensee. A reasonable and proportionate policy will ensure that the Authority considers and take action against infringements of legislation in a robust, consistent, transparent and proportionate manner which will assist in ensuring that they are defensible in a Court of Law.

The express powers of the Council in relation to inspection for licencing permits, consents and licences are set out in the various separate licensing statutes and include the following:

Licence Type	Powers to Inspect
Street Collections	Section 5 of the Police, Factories, & c. (Miscellaneous Provisions) Act 1916 provides for Councils to adopt Regulations concerning Street Collections. Section 6 of the Tendring District Council Regulations requires Street Collectors to produce written authority to a duty officer. The regulation also sets out a range of requirements on collectors and a breach of requirements is an offence under regulation 18.
House to House Collections	There are no express powers in the House to house Collections Act 1939. There are though powers in that Act that are exercisable by a Police Constable.
Private Hire and Hackney Carriage Vehicles	Section 73(1) of Part II to the Local Government (Miscellaneous Provisions) Act 1976 – It is an (6)(3) Vehicles Licences offence to wilfully obstruct a duly authorised Council Officer or Police Officer acting in pursuance of the licensing requirements in the 1976 Act or otherwise assist them or provide information reasonably required. Section 50(1) – proprietors of licensed vehicles shall present for inspection their vehicle upon a notice from the Council (up to three times a year). Section 50(4) – the insurance documents for the licensed vehicle shall be produced upon request of a duly appointed Council Officer. Section 68 – Duty

	authorised Council Officers or Police Officers may inspect a licensed vehicle at all reasonable times and suspend the vehicle licence if the vehicle is not fit for use.
Private Hire Operators	Section 73(1) of Part II to the Local Government (Miscellaneous Provisions) Act 1976 – It is an offence to wilfully obstruct a duly authorised Council Officer or Police Officer acting in pursuance of the licensing requirements in the 1976 Act or otherwise assist them or provide information reasonably required. Section 56(2) – operators shall produce records of bookings on request to a duly authorised Council Officer or Police Officer. Section 56(4) – operators shall produce their licence on request to a duly authorised Council Officer or Police Officer.
Private Hire and Hackney Carriage (Drivers Licence concluding a Dual Licence)	Section 73(1) of Part II to the Local Government (Miscellaneous Provisions) Act 1976 – It is an offence to wilfully obstruct a duly authorised Council Officer or Police Officer acting in pursuance of the licensing requirements in the 1976 Act or otherwise assist them or provide information reasonably required. Section 51(3) – licensed drivers shall produce their licence badge upon request within five days.
Sex shops/Sexual Entertainment Venues	Paragraph 25 of Schedule 3 to Part II of the Local Government (Miscellaneous Provisions) Act 1982 – A duly authorised Council Officer or Police Officer may enter and inspect a licensed premises. It is an offence (without reasonable excuse) to obstruct such an inspection.
Street Trading Consent	There are no express powers in Schedule 4 to Part III of the Local Government (Miscellaneous Provisions) Act 1982
Scrap Metal Site Licence	Section 16(1) of the Scrap Metal Dealers Act 2013 – Police and Council Officer may enter and inspect on notice to the site manager. Section 16(9) - The officers may inspect scrap metal and records of the licensees including of payments. Section 16(13) – obstruction of an inspecting officer is an offence.
Temporary Event Notice (TENS) under Licensing Act 2003	An authorised Council Officer may enter the premises to which a temporary event notice relates. Where an authorised Council Officer has reason to believe that premises are being/to be used for a licensable activity, he may enter the premises to check authorisation.
Personal Licences under Licensing Act 2003	An authorised Council Officer may require the holder of the personal licence to produce that licence for examination.
Premises Licences under Licensing Act 2003	An authorised Council Officer has the power to require production of a Premises Licence from the Licensee (or nominee). Where an authorised Council Officer has reason to believe that premises are being/to be used for a licensable activity, he may enter the premises to check authorisation.
Club Premises Certificates under Licensing Act 2003	An authorised Council Officer has the power to require production of a Club Premises Certificate from the nominee of the Club. Where an authorised Council Officer has reason to believe that premises are being/to be used for a licensable activity, he may enter the premises to check authorisation.

Club Permits under Gambling Act 2005	An authorised officer may undertake activities for the purpose of assessing compliance with the Act. They may enter premises: (a) to discover whether facilities for gambling other than private and non-commercial gaming or betting are being provided, are about to be provided or have been provided on the premises, (b) to determine whether an operating licence or premises licence is held in respect of the provision of facilities for gambling on the premises, and (c) to determine whether facilities are being, will be or have been provided in accordance with the terms and conditions of an operating licence or premises licence.
Gaming Machine Permits under Gambling Act 2005	See above
Premises Licences under Gambling Act 2005	See above
Gaming Notifications under Gambling Act 2005	See above
Boats and Boatman	There are no express powers in Section 94 of the Public Health Acts, Amendment Act 1907.
Pavement Licence	Section 13 of Levelling Up and Regeneration Act 2023 – Enforcement powers for licensed and unlicensed pavement licences.

In exercising the express powers of the Council as Licensing Authority under the Licensing Act 2003 it must do so with a view to promoting the licensing objectives defined in that Act, as follows:

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

In respect of the express powers under the Gambling Act 2005, the Licensing Authority must carry out those functions with a view to aiming to permit the use of premises for gambling in so far as the authority think it is, inter alia, reasonably consistent with the licensing objectives defined in that Act, as follows:

- 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.

FINANCE AND OTHER RESOURCE IMPLICATIONS

In most cases licensing legislation seeks to protect the public and protect them as consumers. As such this is the general approach the Council will take in relation to Enforcement and Inspections.

Whilst statutory licensing powers do not always permit charging for functions relating to some enforcement, the revised draft Policy would not adversely affect the budgets. The approach to enforcement action may include a staged approach to dealing with matters in order to achieve

compliance.

The implementation of a consistent and staged approach to compliance and enforcement matters will assist Officers when engaged in any enforcement process. This will lead to more robust and defensible decisions in relation to action concerning breaches of the legislation, conditions and unlicensed traders. In adopting a compliance and enforcement policy, the courts will understand the rationale and reason behind Officers' actions where public / customer safety is at serious risk the Council will act swiftly and robustly.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The revision of the policy does not, of itself, directly impact on 'financial' sustainability. Ensuring that, when permitted, enforcement costs are part of the costs recovered through fees in licensing is an important factor likewise enforcement means that compliance by licensees is seen as the appropriate given the licence fees they paid.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The policy directly seeks to support consistently in good decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The implementation of the policy will be reviewed to ensure it can be delivered in a way that supports economic, efficient and effective delivery of services.

MILESTONES AND DELIVERY

The review of the Licensing Enforcement and Inspection Policy this financial year is itself a key milestone in ensuring Licensing Policies remain up to date. Subject to the decision of the Committee, Cabinet will then consider adoption of the proposed policy.

ASSOCIATED RISKS AND MITIGATION

The principal risks this policy seeks to address are those around supporting good decision making.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The draft revised Licensing Enforcement and Inspection Policy submitted to the Committee at its meeting of 24 July 2024 was subject to public consultation and scrutiny for a period of 5 weeks from 30 July 2024 to 3 September 2024.

A page was created for the consultation on the Council's website and a public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton on Sea.

The below were written to inviting them to comment on the draft policy:

- All Tendring District Councillors
- All Parish Councils
- Responsible Authorities as defined in the Licensing Act 2003 (including Essex Police)
- Institute of Licensing

- A number of licensing solicitors
- A range of licence holders of local premises licence (including pubs, off-licences, night time economy, street traders, gambling premises and taxis)

In addition to the consultation letters the licensing team also visited a number of licence holders within the District handing out consultation postcards to encourage the trader to voice their opinions.

Two members of the public sent in responses to the consultation. Their comments are as below:

- “The policy itself is fine - but without effective enforcement it is just empty words. In my experience, TDC's enforcement, whether in relation to illegal traders or bylaws is woeful. Unless your enforcement capability is seriously improved, no amount of policy wording will make any difference”.
- “We must acknowledge the income licenced premises bring to the locality however they must adhere to licensing rules to protect the community and the most vulnerable persons in the locality”.

The Council has had due regard with reference to the Human Rights Act 1998 in ensuring no right is unreasonably compromised by the way in which the Council make enforcement decisions and that enforcement is considered with proportionately, balancing the public need with the need of the individual or organisation concerned.

EQUALITIES

In preparing this report, due consideration has been given to the Council’s statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);
- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who do not.

SOCIAL VALUE CONSIDERATIONS

There are no direct social value considerations in respect of this policy.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT 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	The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Tendring District Council as the Licensing Authority has responsibility for licensing and registering a range of functions in the interests of public safety and protection. As such, it has a legal duty to uphold the requirements of various sets of legislation in which we are governed.

It is best practice to be transparent and consistent in how the Licensing Authority achieves compliance and enforcement. It is important the Authority revises its policy on its approach to compliance and enforcement matters to reflect change over time, changes in resources and to reflect changes in legislation in order to maintain public confidence, continue to achieve public safety and prevent offences being committed under the various Acts.

An Enforcement Policy enables clarity on the position of licence holders, what is expected of them, steps the Licensing Authority would expect them to take to rectify an issue and steps we make take to resolve an issue in relation to non-compliance and offences under various Acts.

The Policy will also act as guidance to members of the Miscellaneous Licensing Sub-Committee when making decisions on the status of a licence. The guidance will outline actions that are reasonable and proportionate to ensure decisions are fair, in the public interest and proportionate and that any decision taken will be defensible.

Compliance and enforcement is important to maintain integrity and confidence in the various licensing regimes, and to prevent anyone obtaining an unfair advantage through unlicensed activities and to ensure the security and safety of the public.

Some functions in which we have a duty to ensure requirements, regulations and various licensing objectives are upheld include:

- a) hackney carriage and private hire drivers and vehicles and private hire operators;
- b) alcohol, entertainment and late night refreshment;
- c) charity collections;
- d) sex establishments;
- e) gambling premises, permits and lottery registrations;
- f) scrap metal dealers and collectors.

This Licensing Enforcement and Inspection Policy seeks to cover all relevant licensing functions and all related topics.

The revised policy will replace the previous Licensing Enforcement and Inspection Policy to ensure consistency and fairness in the way in which we regulate licensing functions.

The Licensing and Registration Committee at its meeting on 24 July 2024 agreed to undertake public consultation on the draft revised policy.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

The Authority's Licensing Enforcement and Inspection Policy was last revised by the Licensing and Registration Committee of 6 August 2019 (minute 41 refers)

Licensing and Registration Committee of 24 July 2024 (minute 8 refers)

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Proposed Licensing Enforcement and Inspection Policy

REPORT CONTACT OFFICER(S)

Name	Michael Cook Keith Simmons
Job Title	Licensing Manager Head of Democratic Services and Elections
Email/Telephone	licensingsection@tendringdc.gov.uk 01255 686565

Tendring District Council



LICENSING ENFORCEMENT AND INSPECTION POLICY

Adopted by Full Council as Policy on **XXXX**

Review date by **XXXX**

Introduction

A purpose of licensing is the protection of the public. In order to achieve this, legislation requires licences, permits or registrations to be obtained. These are normally subject to certain conditions.

The effectiveness of legislation and licence conditions in protecting the public depends crucially on persons complying with such legislation and conditions.

The purpose of this policy is to set out what licensees and others can expect from principles and policies which deal with any enforcement and inspection undertaken by the Licensing Section. A review of this policy will take place every five years.

In order to achieve compliance, the Licensing Committee and its Officer will assist licensees to meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who break the law or act irresponsibly.

This policy document is provided for the guidance of Members, Officers, consumers and members of the public.

In making decisions about enforcement action the Council is not solely acting on behalf of an individual complainant but is exercising a wider responsibility to further its primary aim of securing a safe environment for the public consumers and others who may be affected by the actions, inactions or omissions of licensees.

Areas of Licensing included in the Policy

The areas of licensing which are covered by this policy are as follows:

Fundraising

House to House Collections

Street Collections

Licensing Act 2003

Licences under Licensing Act 2003 for supply of alcohol, regulated entertainment and late night refreshment.

Vehicles

Taxis and Private Hire Vehicles

Taxis and Private Hire Drivers

Private Hire Operators

Other Licensing

Boats and Boatmen

Street Trading

Sex Establishment

Gambling Act 2005

Issue premises licences for gambling activities, consider notices for temporary use of premises for gambling, grant permits for gaming and gaming machines in clubs, regulate gaming and gaming machines in alcohol licensed premises, grant permits to family entertainment centres, grant permits for prize gaming, consider occasional use notices for betting tracks and register small society lotteries.

Investigations

Inspections and investigations will be carried out in a professional and consistent manner as set out below.

Authorisations

Only Officers authorised by the Council will be responsible for undertaking investigations. Officers will only be authorised to deal with such investigations who have the knowledge to undertake such duties. Officers are issued with a personal identity card, which will be carried with them at all times and will be shown upon request.

Covert Surveillance

During an investigation into suspected non-compliance with legislation, the Council may need to undertake directed covert surveillance from time to time. This may include using remote sound or video monitoring equipment but is most likely to involve personal observation.

Targeting

Enforcement activities are targeted towards circumstances which carry high risks or where there is or could be a considerable impact as a result of the non-compliance with the licensing conditions or the general law. Enforcement activities may be targeted towards individuals who are primarily responsible for an activity, who have the greatest responsibility to ensure compliance with the law or who have been the subject of previous enforcement action. From time to time, the Council will engage in enforcement initiatives which are directed towards issues where there is a need to draw attention to the existence of legislation and its enforcement.

The Council aims to undertake a programme of inspection and enforcement on all of its licensing functions.

Each licensing function is assessed against risk and this will be taken into account in establishing the nature and the frequency of any inspection or enforcement activity. The following factors will be taken into account when determining the level of risk associated to the particular licensing function:

- The nature of the licensing function
- The history of the licensing function
- The nature and extent of complaints received by the Council
- Information received from other agencies/departments
- Safety and public protection issues

Any inspection of a licensing function undertaken by the Council which results in the exposure of issues which reveal non-compliance with a licence or its conditions will be recorded. Appropriate action will be taken in relation to any particular issue and the licensee will be given an appropriate opportunity and time to address the issue. The licensee will be re-inspected in order to ascertain that the issue has been addressed.

Levels of Enforcement

Where informal methods have been unsuccessful, or a serious breach of a licensing condition/objective or regulation is likely to occur which may endanger the safety of the public, formal enforcement will be taken to ensure compliance with the licence. Each case will be considered on its merits. An emphasis of the Council will be the prevention of offences and further alleged offences wherever possible.

Licensees, businesses or persons generally are expected to comply with the law. The term 'enforcement' covers a wide variety of activities, including:

- Warnings
- Formal Cautions
- Hearings and Reviews
- Prosecutions

Minor breaches of licensing requirements will normally give rise to a verbal and/or written warning. More serious breaches or a continual pattern of minor breaches may involve formal cautions, hearings or reviews and even prosecutions.

In the case of the Hackney Carriage and Private Hire this may involve using the enforcement penalty points system which could lead to suspension or revocation of a licence following action by a Licensing hearing.

In the case of the Licensing Act 2003 this may involve suspension or revocation of a licence following action by the Police or a Licensing hearing.

There are a number of enforcement options and consideration will be given to when we would take action and why we need to take action and the nature of that action. Account will be taken of breaches of legislation and where a person or company has ignored advice or guidance.

Warning

If there has been a minor incident where the law has been broken, it may be decided that the most appropriate course of action is to issue the offender with a verbal and/or written warning. Account will be taken of any previous warnings when we are considering taking formal action.

A written warning will:

- clearly state the nature of the problem and may suggest either specific remedies or a standard which is to be achieved;
- state the actions which may be followed if matters do not improve;
- designate a named officer as a point of contact;

- clearly distinguish between legal requirements and desirable standards;
- indicate any follow up action which may be taken, eg a revisit in 14 days;
- offer to work with the person(s) responsible in finding a solution, if appropriate;
- point the way to specialist advice or additional information, if appropriate;
- be firm, businesslike, unambiguous, polite and helpful.

Formal Cautions

In certain situations, the Council may consider it appropriate to issue a formal caution instead of deciding to prosecute. A formal caution should still be treated as a serious matter and will be recorded.

The issue of a formal caution may influence any future decision to prosecute and may be referred to in any future court proceedings.

Formal cautions may be used to deal with less serious offences quickly. It is unlikely that a formal caution would be given in circumstances where the offender has a history of failing to change their behaviour. When a formal caution is given, the person involved must admit the offence and accept the caution.

Hearings and Reviews

In some circumstances where licence holders have for example:

- been convicted of a relevant offence;
- refused to comply with a condition of the licence;
- behaved in a way which may render that person as unsuitable to hold a licence;
- behaved in a way which is likely to have put the public at risk; or
- appear to breach the Licensing Objectives of the Licensing Act 2003 the licence holder may be reported to the Licensing Committee to review the licence. The Committee may consider that the immediate revocation, suspension or variation of a licence may be the most appropriate course of action.

Where offenders are reported to a Committee for consideration of formal action the Council will:

- give sufficient notice of the date the matter is to be considered;
- give notice to the licence holder of the allegations against them;
- give notice to the Relevant Authorities and Interested Parties;
- provide the opportunity for the licence holder to be represented;
- provide the licence holder with the opportunity to present his/her case and provide supporting evidence;
- ensure the matter is determined in an impartial manner in accordance with the rules of natural justice;
- provide a written notice of the decision with reasons.

Prosecution

The Council will not take prosecution action until the evidence has been assessed. A prosecution will be considered when:

- it will draw attention to the need to follow the law, responsible people would expect prosecution to be appropriate, or where a conviction may deter others from offending;
- the public may have been put in danger or safety may have been compromised;
- the offence is serious;
- there is a history of failure to comply with licensing conditions;
- the evidence is sufficiently strong that the case is likely to result in a conviction;
- a prosecution would be in the public interest.

In general, the more serious the offence, the more likely it is that a prosecution will be considered necessary. The following are examples of factors which may indicate a prosecution is appropriate.

- The overall seriousness of the offence and harm caused.
- The perpetrator has encouraged others to commit offences.
- The offence was pre-meditated.
- The offender showed disregard for the law.
- The offender stood to gain from the offence.
- The victim, if any, was vulnerable, suffered damage or felt threatened by the offence.
- There is significant harm to any person or relevant issue.
- The offence had a discriminatory element, for example, on the basis of race or religion.
- The offender has previous convictions or cautions that relate to similar offences or instances.
- There is likelihood that further offences may be committed.

Human Rights Act

The Provisions of the Human Rights Act 8.1.1 Of particular importance to the Council's enforcement policy, Article 6 (the right to a fair trial) Article 8 (the right to respect for private and family life) and Protocol 1, Article 1 (Protection of property) will be considered and applied in each case. In all cases, the Council will be objective in ensuring that decisions are not influenced in any way by gender, ethnic origin, religious or political beliefs of the alleged offender.

The Council will only act in accordance with the law. The Council will act as is necessary to secure public safety, prevent crime and disorder, to protect health and well-being, and to protect the rights of others.

Other Action

Each case will be decided on its merits and an informed decision made which is proportionate to the alleged offence and consistent with other similar cases. When an officer witnesses a breach in licensing legislation, he/she is required to make a decision on what correct action should be taken. This could result in a verbal/written warning, formal caution or prosecution. A prosecution will have to be in the public interest. Enforcement activities will be targeted towards situations which carry higher risks to the public.

The Council can sometimes have a shared responsibility for enforcement with another enforcement agency. If this is the case, the other agency will be consulted in order to consider whether the matter should be referred to that authority.

Where the Council take the lead in deciding what enforcement action, if any, is appropriate, it will have regard to this Policy, and any other policy as adopted by the Council as a whole.

In particular the Council will take into account the following factors:

- a) the risk or harm to the public and others;
- b) whether the matter is in the public interest;
- c) the seriousness of the complaint;
- d) any explanation of the offender;
- e) whether the matter is a recurrence;
- f) whether there has been previous contravention of the legislation and/or licence conditions;
- g) the willingness of the alleged offender to prevent a recurrence of the problem;
- h) the availability of witnesses;
- i) the reliability of witnesses;
- j) the sufficiency of the evidence.

All available evidence will be evaluated before a decision on what course of action to take is chosen. This can involve the Council's legal advisers.

A joint approach with other agencies will be used when it is deemed necessary because of the nature of the particular issue and to increase the overall impact of the matter, i.e. joint letter (or campaign) organised by the licensing authority and police or other relevant authorities.

Licensing Authority
Tendring District Council
Town Hall
Clacton on Sea
Essex CO15 1SE

Email: licensingsection@tendringdc.gov.uk

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LICENSING AND REGISTRATION COMMITTEE

2 OCTOBER 2024

REPORT OF THE ASSISTANT DIRECTOR - GOVERNANCE

A2. SEX ESTABLISHMENT POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report is submitted to the Committee to enable it to consider recommending to Cabinet a revised Sex Establishment Policy following a 5-week period of consultation on a draft revised policy. This report sets out the revised proposed policy to be adopted and the outcome of the consultation.

EXECUTIVE SUMMARY

It is best practice that the Authority keeps its Policy on Sex Establishments under review enabling the Council to consider the most current information and guidance, legislation and resources available. The revised policy will then be available to applicants, licensees, those seeking to address issues with regards to sex establishments, the Authority's partner agencies and the public.

The Licensing and Registration Committee, at its meeting on 24 July 2024 agreed to undertake public consultation on a draft revised policy.

RECOMMENDATION(S)

- (1) It is recommended that the Committee receive and considers the outcome of the public consultation on a revised draft Sex Establishment Policy and then determine whether to recommend the policy attached to this report to Cabinet for adoption; and**
- (2) That, on the basis (1) above is approved, Officers be authorised to make minor amendments to the policy to ensure that it reflects operational positions of the Council and legislative / case law relevant to the policy.**

REASON(S) FOR THE RECOMMENDATION(S)

The recommendations seek to provide a process through which a sex establishment policy can be adopted having taken an account of the views expressed in the consultation on a draft revised policy.

ALTERNATIVE OPTIONS CONSIDERED

There is no legal requirement to adopt the legislation or have a policy in place. However, having adopted the legislation, a Policy sets out how the Council will regulate the types of establishments in its area and the manner in which such premises are run. The revised policy seeks to ensure the approach to such matters is kept up to date.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft policy set out at Appendix A is intended to support the following theme from the Council's Corporate Plan 2024-28:

- Pride in our area and services to residents
- Working with Partners to improve quality of life

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The legislative provisions in relation to sex establishment licensing are set out in:
Local Government (Miscellaneous Provisions) Act 1982
Policing and Crime Act 2009

Having a policy which is clearly detailed and compliant with the legislation, fit for purpose and clear to applicants could assist in implementing rules while also being a key document in the event of a legal challenge by way of appeal or judicial review.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There were minor cost associated with carrying out the consultation and publish statutory notices which are being accommodated from existing budgets.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The policy does not, in itself, directly impact on financial sustainability.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The policy directly seeks to support consistency in good decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The implementation of the policy will be reviewed to ensure it can be delivered in a way that supports economic, efficient and effective delivery of services.

MILESTONES AND DELIVERY

The adoption of the Sex Establishment Policy this financial year is itself a key milestone in ensuring licensing policies remain up to date. Subject to the decision of the Committee, Cabinet will then consider adoption of the proposed revised policy.

ASSOCIATED RISKS AND MITIGATION

The principal risks this policy seeks to address are those around supporting good decision making.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The draft revised Sex Establishment Policy submitted to the Committee at its meeting of 24 July 2024 was subject to public consultation and scrutiny for a period of 5 weeks from 30 July 2024 to 3 September 2024.

A page was created for the consultation on the Council's website and a public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton on Sea.

The below were written to inviting them to comment on the draft policy:

- Licensed Sex Establishment Premises
- All Tendring District Councillors
- All Parish Councils
- Responsible Authorities (including Essex Police)
- Institute of Licensing
- A number of licensing solicitors
- A range of licence holders of local premises licence (including pubs, off-licences, night time economy, street traders, gambling premises and taxis)

In addition to the consultation letters the licensing team also visited a number of licence holders within the District handing out consultation postcards to bring the consultation to the attention of the trader and invite them to voice their opinions.

One member of the public sent in responses to the consultation. Their comments are as below:

- "Although, there are only one such premises within the locality it is essential that the policy framework exists to ensure should there be an increase in such venues wishing to establish themselves that the local authority has the tools available to ensure adherence to their rules and to maintain the King's peace without causing intentional outrages of public decency. On the other hand, there must also be provision made to ensure the welfare of those employed in these premises to protect them from any abuses from employers due to the taboo nature of sex establishments".

EQUALITIES

In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);

- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who do not.

SOCIAL VALUE CONSIDERATIONS

There are no direct social value considerations arising in respect of this policy.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT 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	The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The current policy on licensing Sex Establishments was published in 2018.

This Council currently has one licensed sex shop and this is located within Clacton-on-Sea. There are no Sexual Cinemas or Sexual Entertainment Venues currently operating within the District.

Since November 2005, the Licensing Act 2003 (the 2003 Act) has required a wide range of regulated entertainment to be licensed by the Council acting as the Licensing Authority.

Members will be familiar with the restrictions in the 2003 Act which means that any representation against a premises licence can only be based on the four licensing objectives. Whilst licences can be subject to review procedure they otherwise continue in force for the life of the business.

Sex Shops and Sex Cinemas are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives licensing authority a wider discretion in determining whether to grant or refuse licence than is provided for in the 2003 Act, a power to set a limit on the number of premises that may be suitable for a particular location, greater flexibility of applying licence conditions and the ability to accept representations from a wider scope of the community. Sex shop and sex cinema licences are only valid for one year at a time.

Schedule 3 of the 1982 Act through Section 27 of the Policing and Crime Act 2009 extended the definition of Sex Establishments from sex shops and sex cinemas to include sexual entertainment venues. Consequently, from that point on, lap dancing venues and similar premises required licensing under the 1982 Act provisions and the Licensing Act 2003 for alcohol sales etc.

The policy has been developed taking full account of the requirements of the legislation and guidance.

The policy provides that each application will be judged on its own merits but taking into account the various criteria laid out within the policy document. In this way each application will be considered as to whether it is suitable given the nature of the particular locality in question.

The Licensing and Registration Committee at its meeting on 24 July 2024 agreed to undertake public consultation on the draft revised policy.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Licensing and Registration Committee of 24 July 2024 (minute 9 refers)

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Proposed Sex Establishment Policy

REPORT CONTACT OFFICER(S)

Name	Michael Cook Keith Simmons
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Tendring District Council



SEX ESTABLISHMENT POLICY

TENDRING DISTRICT COUNCIL

Statement of Licensing Policy for Sex Establishments (including Sex Shops, Sexual Entertainment Venues and Sex Cinemas)

This policy sets out the Council's approach to regulating sex establishments and the procedures it will adopt in relation to applications for sex establishment licences. The policy is intended as a guide to applicants, licence holders, objectors and members of the licensing committee and provides information on what the Council expects to see in relation to an application.

The advice and guidance contained in the appendices attached to the policy are intended only to assist applicants and other parties and should not be interpreted as legal advice. All parties are advised to seek their own legal advice if they are unsure of any of the requirements of the legislation in so far as they relate to the licensing of sexual entertainment venues. It should be noted that the Council, as Licensing Authority, is required to implement the licensing regime in accordance with the law.

Tendring District Council
Licensing Authority
Town Hall
Station Road
Clacton on Sea
Essex CO15 1SE

Email: licensingsection@tendringdc.gov.uk

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
as amended by the Policing and Crime Act 2009**

SEX ESTABLISHMENTS POLICY

1. Introduction

This policy provides Tendring District Council's approach to the regulation of sex establishments as set out in the 1982 Act and gives guidance to the Licensing Authority when considering and making decisions on applications.

Each application will be determined on its individual merits and this policy should not be regarded or interpreted as an indication that any requirement of the relevant law may be overridden.

The Council may depart from this policy if, in the interests of the promotion of the objectives, the individual circumstances of any case merit such a decision. Full reasons will be given for departing from the policy.

The Local Government (Miscellaneous Provisions) Act 1982 as amended, (The Act) introduced a licensing regime to control Sex Establishments. Tendring District Council has adopted Schedule 3 of the Act. This means that the Council can control and regulate the operation of certain kinds of Sex Establishment within its District. No Sex Establishment can operate unless it has obtained a licence from the Council. Any such licence will contain conditions that will restrict how that premises may trade.

The Policing and Crime Act 2009 amended the Miscellaneous Provisions Act, in so far as it related to the licensing of sex establishments, by adding the new category of "sexual entertainment venue".

In carrying out our licensing functions, Tendring District Council will have regard to the following:

- The Local Government (Miscellaneous Provisions) Act 1982
- Any supporting regulations
- Guidance issued by Central Government
- This statement of licensing policy Tendring District Council must also fulfil its obligations under S.17 of the Crime and Disorder Act 1998, to do all that can be reasonably done to prevent crime and disorder in Tendring.

The Policy should be read in conjunction with, and without prejudice to, other existing national, including the Human Rights Act 1998, the Equality Act 2010, The Provision of Services Regulations 2009, and the Regulators' Code 2014 (as set out under the Legislative and Regulatory Reform Act 2006).

The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimization; to advance equality of opportunity and to foster good relations between persons with different protected characteristics.

In carrying out our licensing functions we will have regard to equality and will expect an applicant to meet their statutory obligations in this area and not unlawfully discriminate refuse service on grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation or display discriminatory signs.

2. Definition of 'Sex Establishment'

A 'sex establishment' is defined under the Act as a 'sex shop', a 'sex cinema' or a 'sexual entertainment venue'.

Sexual Entertainment Venue

A Sexual entertainment venue is defined as:

'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.'

In deciding whether entertainment is "relevant entertainment" We will judge each case on its' individual merits, however we would expect that the following forms of entertainment as they are commonly understood will be "relevant entertainment":

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows
- Topless Bars
- Premises where private entertainment booths are present

This list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, should be treated as indicative only. Ultimately, decisions as to whether entertainment is "relevant entertainment" will depend on the content of the entertainment and not the name it is given.

Sex shops and sex cinemas

Sex Establishment Licences are required for "sex cinemas" and "sex shops".

A "Sex shop" is defined as any premises, vehicle, vessel or stall that is used for a business which consists to a "significant degree" of selling, hiring, exchanging, lending, displaying or demonstrating:

sex articles; or
other things intended for use in connection with, or for the purpose of
stimulating or encouraging:

- i) sexual activity
- ii) acts of force or restraint which are associated with sexual activity

The phrase "sex articles" is defined in the 1982 Act, but the phrase "a significant degree" is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:

- the ratio of sex articles to other aspects of the business
- the absolute quantity of sales
- the character of the remainder of the business
- the nature of the displays in the business
- turnover
- other factors which appear to be materially relevant

A “sex cinema” is defined as any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:

- i) sexual activity,
- ii) acts of force or restraint which are associated with sexual activity; or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions

3. Current Premises

The District currently has one licensed sex shop and no sex cinemas or sexual entertainment venues.

4. Location of Premises

The Council has a discretion to refuse to grant or renew licences for sex establishments on the grounds that the licence would be inappropriate having regard to the character of the locality or the use of premises in the vicinity. Without prejudice to other elements of the policy, and whilst treating each new application on its own merits, the Council's policy is ordinarily to refuse licences on these grounds for premises that are in close proximity to;

- (a) residential accommodation;
- (b) schools, nurseries and other premises used by children and vulnerable persons;
- (c) parks or other recreational areas used by children and other vulnerable persons;
- (d) religious centres and places of religious worship;
- (e) youth, community and leisure centres;
- (f) access routes to and from premises listed above;
- (g) historic buildings or visitor attractions;
- (h) an area designated either as an area under regeneration, or due to be regenerated.

In addition, we will consider public safety issues when determining whether an area is appropriate; for example, areas that attract a high percentage of female, elderly or young users may be considered to be inappropriate.

The Council, in considering whether the discretionary grounds for refusal apply and whether the licence should be refused on such grounds, will take into account the following, where it is relevant to do so:

- (a) the type of activity, the duration of the licence and the proposed hours of operation;
- (b) the layout and condition of the premises;
- (c) any cumulative and adverse impact of existing sexually related licensable activities in the same locality as the proposed premises;
- (d) crime and disorder issues;
- (e) any evidence relating to actual or likely noise or disturbance caused by the premises;
- (f) the character of the locality;
- (g) the use of other premises in the vicinity.

5. Fitness of the Applicant

The Council, in considering whether the applicant or applicants are fit and proper to hold a licence will take into account the following, where it is relevant to do so:

- (a) the operation of existing or previous licences held by the applicant, including their track record of compliance;
- (b) their experience and knowledge of the type of sex establishment they are applying to run;
- (c) their ability to comply with the licensing requirements and minimise the impact of the business on local residents and businesses;
- (d) any reports concerning the applicant received from the Police or any other source;
- (e) the honesty of the applicant(s);
- (f) whether the applicant(s) intend to operate the premises or employ other people to do so;
- (g) whether the management proposed will deliver compliance with operating conditions through managerial competence; presence; a credible management structure including individuals experienced in running premises of this nature; enforcement of rules internally through training, monitoring and the publication of rates for performers and customers; a viable business plan;
- (h) whether management can be relied upon to act in the best interests of the performers;
- (i) whether there is a written welfare policy for performers and how this is to be enforced;
- (j) what system is in place to ensure that performers are adults and entitled to live and work in the UK;
- (k) whether management can be relied upon to protect the public by, for example, transparent charging and freedom from solicitation.

6. Applications

An application for the grant, renewal, transfer or variation of a licence must be made in writing using the prescribed forms by the Council.

An application can be served on the Council as follows:

- By post – Licensing Team, Tendring District Council, Town Hall, Station Road, Clacton on Sea, Essex CO15 1SE;
- By Email – licensingsection@tendringdc.gov.uk

The Council encourages applicants to serve their applications and other notices electronically. In line with the Provision of Service Regulations 2009, where an application for the grant, renewal or transfer of a licence is submitted electronically, the Council will send a copy of the application to the Chief Officer of Police once received. In all other cases, it will still be the responsibility of the applicant to serve a copy to the Police.

The Council expects that any premises for which a licence is required should have either planning consent or lawful use under planning legislation for the intended use and hours of operation. The Council will not treat licensing applications as a re-run of a planning application however, and it will not seek to impose licensing conditions which duplicate conditions that have been imposed on a planning consent.

7. Fees

The licence fees for all sex establishments including sexual entertainment venues have been reviewed and set at a level that is reasonable and proportionate to the effective cost of processing the application and making compliance checks throughout the period of the licence.

The application process involves paying a non-returnable application fee. The fees will be reviewed by the Council and the current schedule of fees is available on the Tendring District Council website. No further fees will be applied by the Council in the event that objections are received to an application and a hearing is required to determine the application.

The authority must be aware of case law, of which the Court of Appeal case of R (Hemming (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2013] EWCA Civ 591; [2013] WLR (D) 203 is especially relevant.

8. Advice and Guidance

The Council will seek to liaise with applicants and, wherever possible and necessary, mediate between applicants and objectors in order to achieve a satisfactory outcome for all stakeholders. Applicants are advised to discuss their proposals with the Council and any interested parties prior to an application being made.

9. Grant, renewal, or transfer of licence

The Council may grant to any applicant and renew a licence for the use of any premises as a 'sex establishment' on such terms and conditions as specified by the Council which are shown in the Appendix of this policy document.

A licence once granted will usually remain in force for 12 months but can be issued for a shorter period if deemed appropriate. In order to continue operating as a sex establishment the licence holder must make a renewal application to the Council at least 28 days prior to the expiry of the existing licence.

An application to transfer a licence to any other person may be made.

Where an application for renewal or transfer of a licence is made at least 28 days before the expiry of the existing licence, the licence shall remain in force until such time as the application has been determined.

10. Objections

Anyone wishing to object to an application must do so in writing within 28 days of the application being made to the Council's Licensing Authority.

A person making a representation must state their full name and address and their grounds for objecting to the application and indicate whether or not they consent to have their name and address revealed to the applicant. The Council will not consider objections that are frivolous, vexatious or relate to moral grounds. Moral objections cannot be made under the terms of the Act.

Where written objections are made the Council will provide copies to the applicant.

11. Determining Applications

In determining an application relating to a Sex Establishment licence it may be necessary for the application to be heard by the Miscellaneous Licensing Sub-Committee of the Council who will assess the application on its merits having regard to the content of this policy, the relevant legislation and any relevant guidance that may be issued from time to time.

When determining applications, the Council will take account of any written objections, comments or observations made by the Chief Officer of Police and any objections made by other persons or interested parties such as statutory agencies or authorities.

When considering applications, the Council will have regard to: (a) the Local Government (Miscellaneous Provisions) Act 1982 (b) the Human Rights Act 1998 (c) the Provision of Services Regulations 2009 (d) Section 19 of the Crime and Disorder Act 1998 (e) the Equality Act 2010 (f) any supporting or accompanying regulations; (g) this Statement of Licensing Policy.

12. Conditions

No condition will be imposed by the Council that cannot be shown to be necessary, reasonable and proportionate to the application that has been submitted.

In the event that conditions are attached to the grant of a licence they will be adapted to the operating circumstances and requirements of the individual premises and may also take into account any objections, comments or observations received, particularly where they have been received from the Chief Officer of Police.

The Council will attach those conditions shown in the Appendix which are relevant to the activities granted to the sex establishment licence applied for. These conditions are not exhaustive however and further conditions may be attached on the advice of a responsible authority such as the Police for example, or may be attached by the Council's Miscellaneous Licensing Committee as they believe necessary, reasonable and proportionate at any licensing hearing that the Council has had to convene to consider relevant objections to an application submitted for a sex establishment licence.

13. Hearing Procedure

Where the Council is required to determine an application by reference to the Miscellaneous Licensing Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.

In preparation for the hearing, all parties will receive a copy of the report prior to the hearing. The report will contain a summary of the application, representations and any other relevant information.

At the hearing, parties will have the opportunity to address the Committee and, if permitted by the Chairman of the Committee, ask questions of parties that they feel are relevant to the determination process.

APPENDIX A

Standard Conditions applicable to Licences for Sex Establishments

Notes

- (i) Except where the context demands otherwise the singular includes the plural and the masculine includes the feminine.
- (ii) Nothing in these conditions shall be construed as interfering with
 - (i) the discretion of the licensee or his representative regarding the admission of any person or
 - (ii) the need to strictly comply with all relevant statutory requirements.
 - (iii) These conditions are divided as follows:
 - Part 1 General
 - Part 2 Conditions which apply to all premises
 - Part 3 Conditions which apply to sex shops
 - Part 4 Conditions which apply to sex cinemas
 - Part 5 Conditions which apply to sexual entertainment venues
- (iv) In these rules all references to the British Standard (BS) shall be deemed to refer to the current standard.
- (v) A premises licence may also be required for the operation of a sex cinema.

Part 1 General

1. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
2. The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any enactment, by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

Part 2 Conditions which apply to all premises

Exhibition of Licence

1. The copy of the licence and these Regulations which are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and exhibited in a position that it can easily be seen by all persons using the premises. The copy of these Regulations shall be retained in a clean and legible condition.

Responsibility of Licensee

2. The licensee shall take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all areas of the premises.

3. The premises shall not be used for regulated entertainment, exhibition or display of any kind unless the Council's consent has been first obtained and any necessary licence granted.

Conduct and Management of the Premises

4. The licensee, or a responsible person over 18 years of age and nominated by him in writing for the purpose of managing the sex establishment in his absence, shall be in charge of and upon the premises during the whole time it is open to the public. Such written nomination shall be continuously available for inspection by an officer authorised in writing by the Council. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge shall be conversant with these rules, a copy of which shall be held on the premises.

5. The licensee, or the responsible person approved under Regulation 4, shall maintain a daily register to be kept on the premises in which he shall record the name and address of any person who is to be responsible for managing the sex establishment in his absence and the names and addresses of those employed in the sex establishment. The register to be completed each day of the sex establishment opening for business and is to be available for inspection by the Police and by authorised officers of the Council.

6. The Licensee shall ensure that, during the hours the sex establishment is open for business, every employee is easily identified as an employee.

7. A notice showing the name of the person responsible for the management of a sex establishment shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

8. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.

9. The licensee shall ensure that no part of the premises is used by prostitutes (male or female) for the purposes of soliciting or any other immoral purpose.

10. The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

11. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.

12. No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

External Appearance

13. No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except;

(i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence granted by the Council.

(ii) Such display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.

14. The entrances, windows and openings to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers-by.

State, Condition and layout of the premises

15. The premises shall be maintained in good repair and condition.

16. The number, size and position of the doors or openings provided for the purposes of the ingress and egress of the public shall be to the satisfaction of the Council and shall comply with the following requirements :-

(i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".

(ii) Doors and opening other than exits which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "private".

(iii) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

17. The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order. The external door shall only be opened at such times as person(s) require access and egress to the interior of the premises.

18. The licensee shall make provision in the means of access both to and within the premises for the needs of members of the public visiting the premises who are disabled.

19. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.

20. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

Maintenance of the means of Escape

21. The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable in accordance with the approved arrangements.

22. All fire resisting and smoke stop doors shall be maintained, self closing and shall not be secured open.

Fire Appliances

23.The premises shall be provided with fire appliances suitable to the fire risks on the premises, and such fire appliances shall be maintained in proper working order and shall be available for instant use.

24.The licensee shall comply with any fire precautions and safety measures that may be required of him by the Fire Authority.

25.Portable fire appliances shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an anti-freeze agent shall be examined and recharged in compliance with the manufacturer's instructions.

Lighting

26.The licensee or any other person concerned in the conduct or management of the licensed sex establishment shall, in the absence of adequate daylight, ensure that adequate lighting is maintained to the satisfaction of the Council in all parts of the premises to which the public and staff have access and is in operation continuously during the whole time the premises are open to the public.

27.The normal lighting levels and the lighting to 'EXIT' notices shall be maintained at all times and shall not in any circumstances be extinguished or dimmed while the public are on the premises provided that, so long as there is sufficient daylight in any part of the premises, artificial light need not be used in any part.

Electrical Installations

28.The electrical installation for the premises shall be maintained in a safe working condition, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers.

29.Unless the Council decides otherwise an inspection certificate, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers, for the electrical installation associated with the premises shall be submitted to the Council at least once every five years or such other time specified on the certificate. The certificate shall be signed by a qualified engineer.

Change of Use

30.No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council and the Police has been obtained.

31.The Licensing Authority and Essex Police must be informed should the licensee seek to change the use of the establishment to another form of sex establishment.

Sale of goods

32.Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.

Admission of Authorised Officers

33. Officers of the Council, Police, and other authorised agencies who are furnished with authorities which they will produce on request, shall be admitted immediately at all reasonable times and at any time the premises are open for business to all parts of the premises.

Part 3 Conditions which apply to Sex Shops

1. It is permitted to play music or words either via national or local radio stations or any pre-recorded means, but no material whatsoever of an adult theme or nature can be played or broadcast, whether by means of sound or moving picture.

Goods available in Sex Establishments

2. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show persons who are inside the sex shop the respective prices being charged.

3. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase, hire, exchange or loan and a notice to this effect is to be prominently displayed within the sex establishment.

4. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Censors, and bears a certificate to that effect, or approved by the Council and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

Part 4 Conditions which apply to Sex Cinemas

Exhibition of Films

1. 'Film exhibition' means film exhibitions as defined in the Cinemas Act 1985, i.e. any exhibition of moving pictures which is produced otherwise than by the simultaneous reception and exhibition of (a) television programmes, broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority or (b) programmes included in a cable programme service which is or does not require to be licensed under Section 4 of the Cable and Broadcasting Act 1984.

2. No film shall be exhibited at the premises unless: (a) it is a current news reel; or (b) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18, or RESTRICTED (18) film (c) it has been passed by the Council as a U, PG, 12, 15, 18, or RESTRICTED (18) film.

Restricted (18) films

3. Films in the RESTRICTED (18) category may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

"Persons under 18" Notice

4. No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at the entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.

Advertisements

5. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film Censors or the British Board of Film Classification or approved for exhibition by the licensing authority, as the case may be.

6. Where the licensing authority has given notice in writing to the licensee of the premises objecting to an advertisement on the ground that, if displayed, it would offend against good taste or decency or be likely to encourage or incite crime or lead to disorder or be offensive to public feeling, that advertisement shall not be displayed at the premises without the prior consent in writing of the licensing authority. Objection to exhibition of film

7. Where the licensing authority has given notice in writing to the licensee of the premises prohibiting the exhibition of a film on the ground that it contains material which, if exhibited, would offend against good taste or decency or would be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that film shall not be exhibited in the premises except with the prior consent in writing of the licensing authority.

Sale of Sex Article

8. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a 'sex cinema'

Part 5 Conditions which apply to Sexual Entertainment Venues Performances of Relevant Entertainment

1. The performance of relevant entertainment within the premises shall not be visible from any area outside of the premises at any time. Age Restrictions

2. A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

3. Members of staff at the premises shall seek "credible photographic proof of evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo. Club Rules

4. The premises must provide a copy of its Club Rules to the Council and to Essex Police for consideration and approval.

5. All performers and staff shall be aware of the Club Rules.

6. All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.

Management Operation Manual

7. A management operation manual detailing all aspects of procedure when the premises are operating relevant entertainment shall be produced and approved by the Council. This document shall be reviewed annually and the manual as reviewed shall be submitted for approval of the Council together with the application for renewal of the licence.

Performers

8. Performers shall be aged not less than 18 years and the "Challenge 25" scheme will be used to manage this.

9. All performers shall be aware of the management operation manual.

10. A log book shall be maintained on the premises detailing the names and start and finish times of individual performers involved in all forms of adult entertainment.

11. At all times during the performance, performers shall have direct access to a dressing room without passing through, or in close proximity to, the audience.

12. On leaving the premises performers, who wish to be, shall be escorted by staff member to their vehicle or other safe location. Performances

13. Whilst dancers are performing in any public area there shall be a minimum distance of one metre maintained between the dancer and the seated customers. Prominent, clear notices shall be displayed at each table stating this requirement.

14. There shall be no physical contact between customers and the dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance. A "touch and go" policy will operate i.e. any person/customer touching dancers will be ejected from the premises and barred from those premises.

15. No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.

16. No audience participation shall be permitted.

17. Signs displaying the rules on the performance of relevant entertainment will be displayed throughout the premises and be clearly visible to patrons. This will include any private individual booth area.

18. In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designated for private relevant entertainment. Each such area shall be capable of being continually monitored by a member of staff.

19. No performer or member of staff shall sit on, straddle, stroke, fondle or make any form of sexual contact with a customer at any time.

Door Supervisors

20. One SIA registered door supervisor per 75 customers shall be on duty on the premises whilst relevant entertainment takes place plus there shall be at least one door

supervisor on each entrance in each separate part of the premises and on the door to the dressing room.

21. The door supervisors shall be on duty at the premises at all times when the premises provide relevant entertainment.

Closed Circuit Television (CCTV)

22. A high quality CCTV system shall be installed to cover all entrances and exits to the premises and areas where relevant entertainment will take place, with the exception of the performers' changing area. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recording shall be kept available for a minimum of 31 consecutive days with date and time stamping.

23. At the time of installation or upgrading of any CCTV system it shall comply with the current and relevant Police guidelines for Standard Minimum closed circuit television requirements. To obtain a clear head and shoulders image of every person entering the premises on the CCTV System, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.

24. A member of staff who is fully trained in the use of the system shall be on duty at all times when the premises are open until the premises are clear of customers, cleared of staff and closed. 26. Within 24 hours of a request made by Essex Police or the Licensing Authority, the premises will provide the CCTV footage requested.

Layout of premises

25. The approved activities shall take place only in the areas designated by the Licensing Authority.

26. All dance booths are to be equipped with a panic alarm for safety.

27. Arrangements shall be put in place to restrict access to the dressing room at all times when the relevant entertainment is taking place, and until such time as all performers have vacated it. The performers' dressing rooms will be off-limits to all non-employees.

28. The layout within the areas used by customers shall not undergo substantial change without the prior written consent of the Licensing Authority. Sale of goods

29. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a 'Sexual Entertainment Venue'.

Door Policy

30. No entry to be permitted to any customer who is considered by the management or door staff to be incapable of controlled or acceptable behaviour, especially those who may be showing sign of having been intoxicated through alcohol or drugs.

31. The rules for the venue will be explained to all customers before entry is permitted.

32. One member of door staff will be present at the entrance to the venue at all times during opening hours.

33. Door staff will carry two-way radios at all times.

34. Dress code will be smart at all times; no sportswear will be permitted.

Operation of the Venue

35. A copy of the house customer rules will be on display at the entrance to the venue and in the bar area.

36. Waitresses/Waiters and bar staff must remain fully clothed at all times.

Customer and Performer Conduct

There should be published rules on customer conduct and performer conduct and the rules should contain as a minimum the following requirements, and the licensee shall ensure that the rules are enforced.

37. Any customer who is offensive either by language or action towards the performer will be ejected from the venue. They will also be barred from entry on any future occasion.

38. Strictly no photographing or videoing of performances or performers before, during or after the performance will be allowed. All customers' mobile phones will be switched off whilst on the premises. Anyone found breaching this condition will be ejected from the venue and barred from entry on any future occasion.

39. Any customer found in possession of drugs, attempting to consume drugs or selling drugs will be detained by the security staff and the Police will be called. They will also be barred from entry on any future occasion.

40. Throwing of money at performers will not be permitted before, during or after the performance, nor will the giving of any other gift. Anyone breaching this condition will be ejected from the venue and barred from entry on any future occasion.

41. Customers will not be allowed to pass on personal details such as business cards or telephone numbers to performers before, during or after a performance.

42. Payment must be made to the performer only and strictly in advance of the performance taking place.

Performer Conduct

43. No performer will be allowed to carry or use any sex toy, sex aid or other paraphernalia.

44. No performer will be allowed to wear bondage or sadomasochist clothing or paraphernalia. No accessories such as sex toys or aids are to be carried or used by the performers.

45. No handing out of cards, telephone numbers or personal contact information to customers or any other persons by performers.

46. Performers must not encourage customers to touch them in any way before, during or after a performance.

47.Performers found in possession, using or attempting to sell drugs or under the influence of drugs before, during or after a performance will be immediately dismissed and the Police notified.

48.Performers will instruct all customers to keep their hands by their sides at all times during a private dance.

49.Any approach by a customer to make personal contact with a performer must be immediately reported to the management or security.

50.Performers will not be permitted to enter any part of the venue other than the private dance area and dressing room areas while fully nude.

LICENSING AND REGISTRATION COMMITTEE

2 OCTOBER 2024

REPORT OF THE ASSISTANT DIRECTOR - GOVERNANCE

A3. GAMBLING ACT 2005 POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report is submitted to the Committee to enable it to consider the revised Gambling Act 2005 Policy following a recent 5-week period of consultation on a draft revised policy. This report sets out the proposed policy to be adopted and the outcome of the consultation.

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 and Cabinet.

The Review was last undertaken 3 years ago and no significant issues have arisen through use of the current policy since that last review. The proposed changes are considered minor however, internal consultation has been undertaken with the Council's Corporate Enforcement Group through this review process.

The Government introduced a gambling white paper in April 2023. Should the new Government from July 2024 pursue those proposals it is likely that there would be changes to the Gambling Commissions guidance issued to Local Authorities, which in turn will have an impact on the Council's Gambling Policy. This, therefore, could require a further "mid-term" review of the Gambling Policy.

The Council is unable to extend the term of its existing Gambling Act policy and must review its existing policy within the Statutory period.

The Licensing and Registration at its meeting on 24 July 2024 agreed to undertake public consultation on the draft policy.

RECOMMENDATION(S)

It is recommended that the Committee receive and considers the outcome of the public consultation on a revised Gambling Act 2005 Policy and then determine whether to recommend the policy attached to this report to Cabinet and Full Council for adoption.

REASON(S) FOR THE RECOMMENDATION(S)

The Council's reviewed and revised Gambling Policy must be adopted, published and in place by the 31 January 2025. Failure to comply or meet with this deadline would mean that the Council could not lawfully accept or process Gambling Act 2005 applications after that date which would have a significant negative impact on the Council being able to recover its reasonable costs in relation to operating its licensing service for this function.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft revised policy set out at Appendix A is intended to support the following themes from the Council's Corporate Plan 2024-28:

- Pride in our area and services to residents
- Working with Partners to improve quality of life
- Promoting our Heritage offer, attracting visitors and encouraging them to stay longer

The Betting and Gaming industry in our District provides 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 and Walton on the Naze, it also provides welcome leisure attractions for visitors to our District.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

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 January 2025.

FINANCE AND OTHER RESOURCE IMPLICATIONS

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.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The policy does not, in itself, directly impact on financial sustainability.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The policy directly seeks to support consistency good decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The implementation of the policy will be reviewed to ensure it can be delivered in a way that supports economic, efficient and effective delivery of services.

MILESTONES AND DELIVERY

The adoption of the Statement of Gambling Act 2005 Policy this financial year is itself a key milestone in ensuring Licensing Policies remain up to date. Subject to the decision of the Committee and Cabinet, Full Council will then consider adoption of the proposed policy.

ASSOCIATED RISKS AND MITIGATION

The Council's reviewed and revised Gambling Policy must be adopted, published and in place by 31 January 2025 through this report steps are taken to avoid this scenario.

CONSULTATION AND ENGAGEMENT

The draft revised Gambling Act Policy submitted to the Committee at its meeting of 24 July 2024 was subject to public consultation and scrutiny for a period of 5 weeks from 30 July 2024 to 3 September 2024.

A page was created for the consultation on the Council's website and a public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton on Sea.

The below were written to inviting them to comment on the draft policy:

- All Tendring District Councillors
- All Parish Councils
- Responsible Authorities under the Gambling Act 2005 (including Essex Police)
- Institute of Licensing
- A number of licensing solicitors
- A range of licence holders of local premises licence (including pubs, off-licences, night time economy, street traders, gambling premises and taxis)

In addition to the consultation letters, the licensing team also visited a number of licence holders within the District handing out consultation postcards to bring the consultation to the attention of the trader to voice their opinions.

One licensing solicitor sent in responses to the consultation. Their comments are attached as Appendix B to this report.

EQUALITIES

In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);
- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who

do not.

SOCIAL VALUE CONSIDERATIONS

There are no direct social value considerations arising in respect of this policy.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT 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	The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Section 349 of the Gambling Act 2005 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 set out in the Gambling Act 2005, 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.**

This proposed draft of the policy will be the sixth 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 Officer's 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 has also enabled the development of a robust and practical policy through partnership for how the Gambling Act 2005 will be administered and compliance is managed for applicants and licence and permit holders alike.

The policy framework has then been augmented by local requirements and local strategy since 2006 to reflect the Authority's own area as influenced by public consultation and Tendring District Council's Licensing and Registration Committee Members.

The Licensing and Registration Committee at its meeting on 24 July 2024 agreed to undertake public consultation on the draft revised policy.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Licensing and Registration Committee of 24 July 2024 (minute 10 refers)

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Draft Gambling Policy
Appendix B – Consultation Response

REPORT CONTACT OFFICER(S)

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Tendring District Council



GAMBLING LICENSING POLICY STATEMENT

2025–2028

Adopted XXXX

Tendring District Council: www.tendringdc.gov.uk

FOREWORD

Welcome to the latest review of the Council's Licensing Policy for Gambling. The policy sets out how the Council will regulate gambling activities within the District.

Whilst for the majority of the general public gambling is an enjoyable and often social experience, it is for some individuals a largely hidden addiction which taken to excess has an adverse impact on their finances, health, wellbeing and relationships.

The wellbeing of our residents is a key priority for the Council and the Gambling Policy has a role to play in supporting this priority through its control of gambling premises.

We hope that the new revised policy is clear and easily understood and will be of significant use to the Council, its partners and operators when considering gambling matters.

Chairman, Licensing and Registration Committee

**TENDRING DISTRICT COUNCIL
GAMBLING LICENSING POLICY STATEMENT**

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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.



4.0 **RESPONSIBILITIES UNDER THE ACT**

4.1 When the Gambling Act 2005 (the Act) came into force in late 2007, it brought in a new, comprehensive system for gambling regulation in Great Britain. For the first time, the vast majority of commercial gambling was brought together in a single regulatory framework. The Act established a dedicated regulator, at a national level, in the form of the Gambling Commission (the Commission). But it also recognised the potential local impact and importance of regulating gambling as a result of which it created many local regulators, whose job it is to manage gambling locally, and in line with local circumstances. Those local regulators are the 368 licensing authorities of England, Wales and Scotland and in doing this the Act established a strong element of local decision-making and accountability in gambling regulation.

4.2 The Act gives local regulators discretion to manage local gambling provision, including discretion as to the level of fees set to cover the cost of administering the local system of regulation within limits set by The Department for Digital Culture Media and Sport (DCMS) in England and Wales. It also sets out some boundaries to that discretion, consistent with the recognition of gambling as a mainstream leisure activity.

4.3 The Act also provides scope for the Commission to act to set an overall direction at national level, while leaving licensing authorities in the lead locally, with appropriate support from the Commission. This Guidance, to which licensing authorities must have regard, is an important part of those arrangements

4.4 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.

4.5 The Licensing Authority is responsible for licensing premises in which gambling takes place and covers. All types of gambling, 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.

4.6 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 **XXXX 2025** 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.

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 have gambling addictions, 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 **XXXX 2024 and XXXX 2024**.

7.0 APPROVAL OF POLICY

7.1 This Policy was approved at a meeting of the full Council on **XXXX 2024** and was published via its website on **XXXX 2024**. 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 'A'. 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 and Regulations 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 and the General Data Protection Regulations 2016 will not be contravened;
 - the guidance issued by the Gambling Commission;
 - Relevant Legislation and Regulations

- 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
 - The Secretary of State
 - 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 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

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 'D'.

PART B PREMISES LICENCES

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

In the Act 'premises' is defined as including 'any place'. It is for the Licensing Authority (having due regard to the gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

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 expects the licence holder to carry out a risk assessment that should be reviewed if there is a significant change in local circumstances. 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 licensees 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, licences must take into account relevant matters identified in this policy.
- 15.10** The LCCP also states that licences 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 licensee'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 provision of signage and documents relating to games rules, gambling care providers and other relevant information being provided in both English and the other prominent first language for that locality.

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.

16.0 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.

17.0 Betting Machines [See Annex B 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*).

17.1 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.

17.2 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.

18.0 PROVISIONAL STATEMENTS

18.1 It is noted that the guidance from the Gambling Commission states that 'It is a question of fact and degree whether the premises are finished to an extent that they can be considered for a Premises Licence rather than a Provision Statement. The Licensing Authority will consider such applications on this basis but will not take into account other permissions that may be required such as Planning Consent'.

19.0 REPRESENTATIONS AND REVIEWS

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

19.2 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.

19.3 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.

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

20.0 ADULT GAMING CENTRES [See Annex B for definition]

20.1 *An Adult Gaming Centre is defined in Annex 'B'. Entry to these premises is age restricted.*

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

21.0 (LICENSED) FAMILY ENTERTAINMENT CENTRES [See Annex B for definition]

21.1 A Licensed Family Entertainment Centre is defined in Annex 'B'. 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.

22.0 CASINOS [See Annex B for definition]

22.1 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.

22.2 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.

23.0 BINGO PREMISES [See Annex B for definition]

23.1 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.

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

24.0 BETTING PREMISES [See Annex B for definition]

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

24.2 B2 & B3 Machines

In respect to nationally expressed concerns that exist in relation to the potentially adverse impact of B2 (often called Fixed Odds Betting Terminals or FOBT's) and B3 machines 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; 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).

243 The Licensing Authority expects B2 & B3 machines to be positioned in such a way that they can be appropriately monitored 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. Where an existing licensee adds 'privacy screens' a variation application will be required.

25.0 TRACKS [See Annex B for definition]

25.1 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.

26.0 TRAVELLING FAIRS

26.1 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.

PART C
PERMITS/TEMPORARY OR OCCASIONAL USE NOTICES/REGISTRATIONS

27.0 GENERAL

27.1 The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine Permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

**28.0 UNLICENSED FAMILY ENTERTAINMENT CENTRE
GAMING MACHINE PERMITS**

28.1 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.

28.2 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.

28.3 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 DBS Criminal Records 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
 - safeguarding training
 - proof of age scheme

29.0 (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

29.1 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.

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

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

29.4 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to protect children and vulnerable persons

from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only 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.
- Relevant codes of practice issued by the Gambling Commission

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.

30.0 PRIZE GAMING PERMITS

30.1 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 DBS Criminal Records 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
 - ❑ safeguarding training
 - ❑ proof of age scheme

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.

31.0 CLUB GAMING AND CLUB MACHINE PERMITS

31.1 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.

31.2 Commercial clubs may apply for a club machine permit, subject to restrictions.

31.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions:

- a. in respect of gaming machines
 - no child or young person may use a category B or C machine on the premises
 - that the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines
- b. the public, children and young persons must be excluded from any area of the premises where the gaming is taking place.

31.4 Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

32.0 TEMPORARY USE NOTICES (TUN) [See Annex B for definition]

32.1 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.

32.2 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.

32.3 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.

32.4 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.

33.0 OCCASIONAL USE NOTICES [See Annex B for definition]

33.1 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.

33.2 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.

33.3 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.

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

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

34.0 SMALL SOCIETY LOTTERIES [See Annex B for definition]

34.1 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.

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

34.2 External Lottery Managers require Operators' Licences issued by the Gambling Commission. For more information, see the Gambling Commission's website.

35.0 **FEES**

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 the current fees can be obtained by viewing the Council's website. www.tendringdc.gov.uk

36.0 **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'

RESPONSIBLE AUTHORITIES

ORGANISATION	CONTACT AND ADDRESS
Tendring District Council [Licensing Section]	The Licensing Team Town Hall Station Road Clacton on Sea Essex CO15 1SE Email: licensingsection@tendringdc.gov.uk
Essex Police	The Licensing Department [Alcohol] Essex Police Braintree CM7 3DJ
Essex County Fire and Rescue Service	Fire Station Colchester Cowdrey Avenue Colchester Essex CO1 1XT
Essex County Council Children's Safeguarding Service	Local Authority Designated Officer FAO. Licensing Quality Assurance and Safeguarding Service Family Operations Essex County Council 70 Duke Street Chelmsford Essex CM1 1JP
Trading Standards [Essex]	The Business Support Team Essex Trading Standards Essex County Council CG 32 County Hall Chelmsford Essex CM1 1QH
Tendring District Council - [Planning]	Planning Support Team Leader Planning Services Town Hall Station Road Clacton on Sea Essex CO15 1SE

Tendring District Council – [Environmental Health]	Environmental Health 88-90 Pier Avenue Clacton on Sea Essex CO15 1TN
The Gambling Commission	The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP
HM Revenue & Customs	Excise Processing Teams BX9 1GL Email: nrubetting&gaming@hmrc.gsi.gov.uk

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 'B'
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	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs).
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines [3 machines of Categories B,C or D.
Code of Practice	Any relevant code of practice under Section 24 of the Act
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"> <input type="checkbox"/> Small Society Lottery [required to register with Licensing Authorities. <input type="checkbox"/> Incidental Non Commercial Lotteries. <input type="checkbox"/> Private Lotteries. <input type="checkbox"/> 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="635 996 1449 2085"> <thead> <tr> <th>Category</th> <th>Maximum Stake</th> <th>Maximum Prize</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>Unlimited</td> <td>Unlimited</td> </tr> <tr> <td>B1</td> <td>£5</td> <td>£10,000*</td> </tr> <tr> <td>B2</td> <td>£2</td> <td>£500</td> </tr> <tr> <td>B3A</td> <td>£2</td> <td>£500</td> </tr> <tr> <td>B3</td> <td>£2</td> <td>£500</td> </tr> <tr> <td>B4</td> <td>£2</td> <td>£400</td> </tr> <tr> <td>C</td> <td>£1</td> <td>£100</td> </tr> <tr> <td>D Non Money Prizes</td> <td>30p</td> <td>£8</td> </tr> <tr> <td>D Prize (Crane/Grab machine only)</td> <td>£1</td> <td>£50</td> </tr> <tr> <td>D Money Prize</td> <td>10p</td> <td>£5</td> </tr> <tr> <td>D Combined Money and Non Money Prize</td> <td>10p</td> <td>£8 (of which no more than £5 may be money prize)</td> </tr> <tr> <td>D Combined Money and Non Money Prize (Coin Pusher/Penny Fall machines only)</td> <td>20p</td> <td>£20 (of which no more than £10 may be money prize)</td> </tr> </tbody> </table>	Category	Maximum Stake	Maximum Prize	A	Unlimited	Unlimited	B1	£5	£10,000*	B2	£2	£500	B3A	£2	£500	B3	£2	£500	B4	£2	£400	C	£1	£100	D Non Money Prizes	30p	£8	D Prize (Crane/Grab machine only)	£1	£50	D Money Prize	10p	£5	D Combined Money and Non Money Prize	10p	£8 (of which no more than £5 may be money prize)	D Combined Money and Non Money Prize (Coin Pusher/Penny Fall machines only)	20p	£20 (of which no more than £10 may be money prize)
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	*With option of maximum £20,000 linked progressive Jackpot on premises basis only
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission.
Human Rights Act 1998 Articles: 1,6,8 and 10	Article 1: Protocol 1 The right to peaceful enjoyment of possessions. Article 6: The right to a fair hearing. Article 8: The right of respect for private and family life. Article 10: The right to freedom of expression.
Incidental Non Commercial Lottery	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]
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.
Licensed Family Entertainment Centre	Premises offering Category C gaming machines that are restricted to adults and offering Category D machines to children and young persons in segregated areas.
Licensed Lottery	A large Society Lottery or a Local Authority Lottery. They require registration with the Gambling Commission.
Licensing Authority	Tending District Council acting under Section 2 of the Act.
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

	<ul style="list-style-type: none"> ❑ State the date of the draw, or enable the date of the draw to be determined.
Mandatory Conditions	Specified conditions provided by regulations under Section 176 of the Act to be attached to Premises Licences.
Members' Club	<p>A club that must:-</p> <ul style="list-style-type: none"> ❑ Have at least 25 members; ❑ Be established and conducted 'wholly or mainly' for purposes other than gaming; ❑ Be permanent in nature; ❑ Not be established to make commercial profit; ❑ 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	<p>There are three types of Private Lotteries:</p> <ul style="list-style-type: none"> ❑ Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society; ❑ Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises;

	<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	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:-</p> <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.
Regulations	Regulations made by the Secretary of State under the Gambling Act 2005.
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"> <input type="checkbox"/> The Licensing Authority in whose area the premises is partly or wholly situated <input type="checkbox"/> The Gambling Commission <input type="checkbox"/> The Chief Officer of Police <input type="checkbox"/> Fire and Rescue Service <input type="checkbox"/> The Planning Authority for the local authority area <input type="checkbox"/> Environmental Health Service for the local authority area <input type="checkbox"/> The Body competent to advise on the protection of children from harm <input type="checkbox"/> HM Revenue and Customs <input type="checkbox"/> Authority in relation to vulnerable adults <input type="checkbox"/> 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.
The Act	The Gambling Act 2005

The Council	Tendring District Council
The Commission	The Gambling Commission
The Policy	The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act.
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.
Unlicensed Family Entertainment Centre	Premises offering Category D machines only with unrestricted entry.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- <ul style="list-style-type: none"> <input type="checkbox"/> gamble more than they want to <input type="checkbox"/> gamble beyond their means <input type="checkbox"/> 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 'C'

SUMMARY OF MACHINE PROVISIONS BY PREMISES

Machine category							
Premises type	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)				Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)			
Small casino (machine/table ratio of 2-1 up to maximum)				Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)			
Pre-2005 Act casino (no machine/table ratio)				Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead			
Betting premises and tracks occupied by pool betting				Maximum of 4 machines categories B2 to D (except B3A machines)			
Bingo premises¹				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
Adult gaming centre²				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
Licensed family entertainment centre³				No limit on category C or D machines			
Family entertainment center (with permit) ³				No limit on category D machines			
Clubs or miners' welfare institute (with permits) ⁴				Maximum of 3 machines in categories B3A or B4 to D			
Qualifying alcohol-licensed premises				1 or 2 machines of category C or D automatic upon notification			
Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)				Number of category C-D machines as specified on permit			
Travelling fair				No limit on category D machines			

ANNEX 'D'

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	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

By Email Only
Licensing Section
Tending Council

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / ADS / 123267.00004
#GS5910482
Your ref:
Date: 29th August 2024

Dear Tending Council,

Re: Gambling Act 2005 Statement of Principles for Gambling

We act for the Betting and Gaming Council (BGC) and are instructed to respond on behalf of the BGC to your consultation on the review of your Gambling Act 2005 Statement of Principles.

The Betting and Gaming Council

The Betting and Gaming Council (BGC) was created in 2019 as the standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers.

The BGC has four objectives. These are to:

1. create a culture of safer gambling throughout the betting and gaming sector, with a particular focus on young people and those who are vulnerable.
2. ensure future changes to the regulatory regime are considered, proportionate and balanced.
3. become respected as valuable, responsible, and engaged members of the communities in which its members operate.
4. safeguard and empower the customer as the key to a thriving UK betting and gaming industry.

BGC members support 110,000 jobs, generate £4.2 billion in taxes and contribute £7.1 billion to the economy in GVA (Gross Value Added), according to a report by EY in 2022.

Betting shops alone also support 42,000 jobs on the UK's hard-pressed high streets, contributing £800 million a year in tax to the Treasury and another £60m in business rates to local councils. Further, according to ESA Retail report 89% of betting shop customers go on to spend money in other high street establishments, further cementing the important role of betting shops in the local economy.

BGC members also support the UK's hospitality, tourism and leisure industry through our casinos – there are currently 116 across the UK. Overall, we are a major component of world leading British technology, where our members have founded tech powerhouses in many cities throughout the UK.

Betting is a hugely popular British leisure activity. Each month, around 22.5 million adults in the UK have a bet - whether it's buying a lottery ticket, having a game of bingo, visiting a casino, playing online or having a wager on football, horseracing and other sports - and the overwhelming majority do so perfectly safely and responsibly.

BGC members are proud to support UK sport, from the grassroots to the elite level. The industry contributes around £350 million to racing in levy, media, and sponsorship rights each year, £40 million to the EFL (English Football League), and £12.5 million to snooker, darts, and rugby league.

Before we comment on your draft policy document, it is important that the backdrop against which the comments are made is established.

Betting and Gaming in the UK

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

The raft of measures recently put in place by the industry (in terms of protecting players from gambling-related harm), the Gambling Commission, and the Government (a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures, and voluntary restrictions on advertising) have contributed to problem gambling rates now being lower than they were at the passage of the 2005 Gambling Act (see further details on problem gambling rates below).

In addition, a range of further measures will be implemented imminently following the Government's White Paper, published in April 2023. These include: financial risk checks for those at risk of gambling harm, changes to the way operators market to their customers, changes to online game design which will remove certain features, the introduction of a mandatory levy for research, prevention and treatment (RPT) activities, an Ombudsman to adjudicate on customer redress and the introduction of mandatory stake limits on online slots, bringing the maximum stakes online in line with land based casinos.

It should also be noted that:

- The overall number of betting shops is in decline. Industry statistics set out that the number of betting shops (as of June 2024) is 5870. This is reducing yearly and has fallen by 29% since March 2019 – equating to 2408 betting shop closures in five years.
- 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.
- In April 2019, a maximum stake of £2 was applied to the operation of fixed odds betting terminals.

- Successive prevalence surveys and health surveys show that problem gambling rates in the UK are stable.

Problem Gambling

A point often lost in the debate about the future of gambling regulation is that problem gambling rates in the UK are low by international comparison.

The most recent “Gold standard” NHS (National Health Service) Health Survey found that problem gambling rates among adults are 0.4 per cent – the rate was 0.5 per cent in 2018. In comparison to other European countries, problem gambling rates in the UK are low. The problem gambling rate is 2.4 per cent in Italy, 1.4 per cent in Norway, and 1.3 per cent in France.

Both the Gambling Commission and the Government have acknowledged that problem gambling levels have not increased. However, one problem gambler is one too many, and we are working hard to improve standards further across the regulated betting and gaming industry.

In June 2020, the BGC’s largest members committed to increasing the amount they spend on RPT (Research, Prevention and Treatment) services from 0.1 per cent to 1 per cent in 2023. This was expected to raise £100 million but they have gone further and will have donated £110 million by 2024.

In the White Paper, the Government committed to introducing a statutory RPT (Research, Prevention and Treatment) levy, which would apply to all gambling licensees (excluding the national lottery). This levy is expected to raise £100m annually by 2026/2027.

The BGC also funds the £10 million Young People’s Gambling Harm Prevention Programme, delivered by leading charities YGAM and GamCare. As of March last year (2023), it has educated over 3 million children.

Advertising and Sponsorship

All betting advertising and sponsorship must comply with strict guidelines, and safer gambling messaging must be regularly and prominently displayed.

The Government has previously stated that there is “no causal link” between exposure to advertising and the development of problem gambling, as stated in a response by then Minister of State at DCMS in June 2021. The Gambling Review White Paper, in relation to advertising, restated that there was “little evidence” of a causal link with gambling harms or the development of gambling disorder.

The Seventh Industry Code for Socially Responsible Advertising, adopted by all BGC members, adds a number of further protections in particular for young people. New measures include ensuring that all social media ads must target consumers aged 25 and over unless the website proves they can be precisely targeted at over-18s. In addition to raising advertising standards for young people, this

code, which came into force on 1 December 2023, extended the previous commitment that 20% of TV and radio advertising is devoted to safer gambling messaging to digital media advertising.

Under the ‘whistle-to-whistle’ ban, ads cannot be shown from five minutes before a live sporting event until five minutes after it ends, before the 9 p.m. watershed. Research by Enders Analysis found that in its first 12 months in operation, the ban reduced the number of TV betting adverts seen by children by 97% at that time. Overall, the number of gambling adverts viewed by young people also fell by 70% over the entire duration of live sports programmes. At the same time, the ban also reduced the number of views of betting ads by 1.7 billion during its first five months in operation.

BGC members also continue to abide by the stringent measures established by advertising standards watchdogs. These measures are in stark contrast to the unsafe, unregulated black market online, which has none of the safer gambling measures offered by BGC members, including strict age-verification checks. Any withdrawal of advertising would simply level the playing field with illegal operators thus providing opportunities for those operators to peel off customers from the regulated markets.

Misleading/ambiguous premises signage

There are increasing numbers of premises (usually Adult Gaming Centres) which describe themselves on their shopfronts and external signage as casinos despite these premises not being permitted to operate as a casino.

Section 150 Gambling Act 2005 creates five separate classes of premises licences – the operation of a casino (a casino premises licence), the provision of facilities for the playing of bingo (a bingo premises licence) , making category B gaming machines available for use (an adult gaming centre premises licence), making category C gaming machines available for use (a family entertainment centre premises licence) and the provision of facilities for betting (a betting premises licence). Whilst casinos are permitted under a casino premises licence to provide bingo and betting facilities, the holder of an adult gaming centre premises licence may not offer casino facilities.

In order to avoid any ambiguity, the draft statement of principles should be clear that premises must not display signage which may suggest that the premises have a different premises licence to the one held.

Differentiation between Licensing Act 2003 and Gambling Act 2005 applications

When considering applications for premises licences, it is important to clearly distinguish between the regimes, processes, and procedures established by the Gambling Act 2005 and its regulations and those that are usually more familiar to licensing authorities—the regimes, processes, and procedures relating to the Licensing Act 2003.

Whilst Licensing Act 2003 applications require applicants to specify steps to be taken to promote the licensing objectives, which are then converted into premises licence conditions, there is no such

requirement in Gambling Act 2005 applications, where the LCCP provides a comprehensive package of conditions for all types of premises licence.

It should continue to be the case that additional conditions in the Gambling Act 2005 premises licence applications are only imposed in exceptional circumstances with 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 most cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry employs a policy called "Think 21". This policy is successful in preventing underage gambling. Independent test purchasing carried out by operators and submitted to the Gambling Commission shows that ID challenge rates are consistently around 85%. Following the publication of the Gambling Commission's response to their consultation on age verification on premises, all gambling venues will be moving to a "Think 25" policy from 30th August 2024.

Since Serve Legal began working with the gambling sector in 2009, the industry has now become the highest performing sector across all age verification testing. Across thousands of audits, there was an average pass rate of 91.4 per cent (2024 data). For casinos, there is a near perfect pass rate in the last period of 98%. When comparing Serve Legal audit data between members of the BGC and comparative age verification audit data in the Alcohol and Lottery sector we see how the gambling sector is performing between 10-15 per cent higher every year.

It should be noted that the Executive Summary of the Gambling White Paper stated that when parliamentary time allows, the Government will align the gambling licensing system with that for alcohol by introducing new powers to conduct cumulative impact assessments.

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

Working in partnership with local authorities

The BGC is fully committed to ensuring constructive working relationships between betting and gaming operators and licensing authorities and that problems 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.

Considerations Specific to the Gambling Act 2005 Statement of Licensing Principles

Paragraph 15.11 contains a bullet point list of factors that the council expects to be considered when conducting a local risk assessment. The bullet point list should be redrafted as in its existing terms it refers to matters that cannot be relevant to an assessment as to whether a proposal is reasonably consistent with the licensing objectives. The reference to whether the premises is in an area of deprivation should be deleted. The relevant affluence of an area cannot be relevant as to whether

an operation is/will be consistent with the licensing objectives unless the authority has predetermined that the local residents in deprived areas are more likely to commit crime associated with gambling than in more affluent areas or are to be considered automatically vulnerable. Similarly, the ethnic profile of residents is not relevant unless the authority has determined that certain ethnicities are either more predisposed to crime at than others or automatically to be considered as vulnerable.

Paragraph 24.2 (B2 & B3 Machines in Betting Premises) refers to “nationally expressed concerns” relating to FOBTs and states that “the Licensing Authority will give due consideration to the need to apply conditions to betting shop premises including, but not limited to, setting out minimum staffing levels” This paragraph should be redrafted and the reference to the potential for conditions relating to staffing levels should be deleted.

Whilst it is accepted that prior to the reduction in maximum stakes for FOBTs to £2 in April 2019 there were indeed “nationally expressed concerns” there is now no evidence of any particular concerns relating specifically to these machines.

With regard to conditions prescribing staffing levels, the local risk assessment will identify any risks and indicate the mitigation measures proposed. It is not for the Licensing Authority to prescribe determine levels. That is an issue for an operator following its risk assessment. If operator staffing levels are not sufficient to meet their regulatory requirements then this is a matter for the Gambling Commission to raise with the licensee.

Conclusion

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope these comments above are helpful. The BGC will work with you to ensure that its members’ operation of its premises will operate in accordance with the licensing objectives.

Yours faithfully,



GOSSCHALKS LLP

LICENSING AND REGISTRATION COMMITTEE

2 OCTOBER 2024

REPORT OF THE ASSISTANT DIRECTOR - GOVERNANCE

A4. PAVEMENT LICENSING POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report is submitted to the Committee to enable it to consider the Pavement Licensing Policy following a 5-week period of consultation on a draft revised policy. This report sets out the proposed revised policy to be adopted and the outcome of the consultation.

EXECUTIVE SUMMARY

Under the Business and Planning Act 2020, pavement licensing became a function of the Council (as the Licensing Authority) on a temporary basis as part of the recovery provisions following the Covid pandemic. The Levelling Up and Regeneration Act 2023 has now become legislation which supersedes the Business and Planning Act 2020 and includes amended provisions for pavement licences.

The temporary legislation position in the 2020 Act and was due to expire at the end of September 2024, however, the last Government made the scheme permanent, with some amendments, through the Levelling Up & Regeneration Act which received royal assent last year and came into force on Sunday 31 March 2024.

The Licensing and Registration Committee at its meeting on 24 July 2024 agreed to undertake public consultation on the draft policy.

RECOMMENDATION(S)

- (1) It is recommended that the Committee receive and considers the outcome of the public consultation on a draft Pavement Licensing Policy and then determine whether to recommend the policy attached to this report to Cabinet for adoption; and**
- (2) That, on the basis (1) above is approved, Officers be authorised to make minor amendments to the policy to ensure that it reflects operational positions of the Council and legislative / case law relevant to the policy.**

REASON(S) FOR THE RECOMMENDATION(S)

New legislation has come into force on 31 March 2024 to make changes to the temporary pavement licensing regime introduced under the Business & Planning Act 2020 and has introduced changes including a new capped level fee structure for new and renewal applications.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft revised Policy set out at Appendix A is intended to support the following themes from the Council’s Corporate Plan 2024-28:

- Pride in our area and services to residents
- Working with Partners to improve quality of life
- Promoting our Heritage offer, attracting visitors and encouraging them to stay longer

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Legislation for Pavement Licensing is set out within the background part of the report.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are resource implication in administering the pavement licensing regime which include advice, administration, compliance and enforcement. There are staff costs associated to this. These elements were taken into account when the Committee determined the fees to be charged earlier in the year.

The Act stipulates that an application must be sent to the Licensing Authority using electronic communications in such a manner as the authority may specify, and be accompanied by such fee not exceeding £500 as the authority may require. An online portal has been developed for this purpose, to enable applicants to complete all of the application questions, upload the relevant documents and make payment in a streamlined manner. This will ensure that staff are managing applications in the most efficient way without the need for constant follow-up queries.

The new provisions within the Levelling Up and Regeneration Act 2023 introduced a power for the Council to remove, store and ultimately dispose of furniture in prescribed circumstances. This will be a cost to the Council but the Act allows for full recovery of those costs from the licence holder.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The policy does not, in itself, directly impact on financial sustainability.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The policy directly seeks to support consistency in good decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The implementation of the policy will be reviewed to ensure it can be delivered in a way that supports economic, efficient and effective delivery of services.

MILESTONES AND DELIVERY

Subject to the decision of the Committee, Cabinet will then consider adoption of the proposed policy.

The adoption of the Pavement Licensing Policy this financial year is itself a key milestone in keeping licensing policies up to date.

ASSOCIATED RISKS AND MITIGATION

The principal risks this policy seeks to address are those around supporting good decision making.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The draft Pavement Licensing Policy submitted to the Committee at its meeting of 24 July 2024 was subject to public consultation and scrutiny for a period of 5 weeks from 30 July 2024 to 3 September 2024.

A page was created for the consultation on the Council's website and a public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton on Sea.

The below were written to inviting them to comment on the draft policy:

- All Tendring District Councillors
- All Parish Councils
- Responsible Authorities under the Licensing Act 2003 (including Essex Police)
- Institute of Licensing
- A number of licensing solicitors
- A range of licence holders of local premises licence (including pubs, off-licences, night time economy, street traders, gambling premises and taxis)

In addition to the consultation letters the licensing team also visited a number of licence holders within the District handing out consultation postcards to bring the consultation to the attention of the trader and invite them to voice their opinions.

5 members of the public, 2 businesses, 1 Town Council and 1 Responsible Authority sent in responses to the consultation. Their comments are set out in Appendix B to this report.

EQUALITIES

In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);

- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who do not.

SOCIAL VALUE CONSIDERATIONS

There are no direct social value considerations arising in respect of this policy.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT 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	The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Business and Planning Act 2020 (“BPA20”) received royal assent on 22nd July 2020 and made significant changes designed to help premises (including public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours) to survive and bounce-back from the covid pandemic lockdowns.

The BPA20 included a new “Pavement Licence” regime, to be administered by local authorities, designed to make it easier for premises serving food and drink (such as bars, restaurants and pubs) to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The pavement licence provisions were originally due to expire in September 2021 but due to the continuation of the covid pandemic associated restrictions and the success of the pavement licensing scheme it was extended multiple times.

As part of the Levelling Up and Regeneration Act 2023 (“LURA23”) the pavement licensing scheme has been made permanent, albeit with some amendments from the temporary provisions which are summarised in Table 1.

Changes	Business Planning Act 2020	Levelling Up and Regeneration Act 2023
Licence length	Max 1 year	Max 2 years
Fees	£0-£100	£0-£500 (new applications) £0-£350 (renewals)
Renewals	No renewal process	Renewal requirements introduced
Consultation time frame	7 days	14 days
Determination time frame	7 days	14 days
Public Space Protection Order (PSPO)	Not included as an exemption	Included as an exemption
Enforcement	Permits for revocation and serving of notices	Permits for revocation and serving of notices and also permits the removal of furniture, storage of it, recovery of costs incurred and disposal of it. Also that instead of revocation the licence can be amended in prescribed circumstances.

The Licensing and Registration Committee at its meeting on 24 July 2024 agreed to undertake public consultation on the draft revised policy.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Licensing and Registration Committee of 24 July 2024 (minute 11 refers)

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

[Levelling-up and Regeneration Act 2023 \(legislation.gov.uk\)](https://legislation.gov.uk)

[Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

APPENDICES

Appendix A – Draft Pavement Licensing Policy
Appendix B – Consultation Responses

REPORT CONTACT OFFICER(S)

Name	Michael Cook Keith Simmons
Job Title	Licensing Manager Head of Democratic Services and Elections
Email/Telephone	licensingsection@tendringdc.gov.uk 01255 686565

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Tendring District Council



PAVEMENT LICENSING POLICY

Adopted as Policy on **XXXX**

Introduction

The Business and Planning Act 2020 (as amended) was introduced as temporary legislation to assist businesses and remove existing bureaucracy around what were known as Tables and Chairs Licences under the Highways Act. The Business and Planning Act 2020 has now been amended by the Levelling Up and Regeneration Act 2023 which makes the Pavement Licence regime permanent.

The Act allows Tendring District Council to permit specified furniture to be placed on the highway (mostly footpaths and pedestrianised areas) although where applicable, businesses may still need the activity to be licensed, for example, sale of alcohol.

Definition of 'pavement licence'

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, and for certain purposes.

Eligible Businesses

A person (which includes a body corporate) which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, ice cream parlours or similar.

A licence permits the business to use furniture placed on the highway in order to serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

A pavement licence does not licence the activity, only the placing of the furnishings. The pavement licence is issued to a person or incorporated body. Where there is a change to that person or incorporated body then the licence will lapse, and a further application will need to be made by any new person.

Eligible Locations

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

Tables and chairs can only be placed in front of **and immediately adjacent to** the façade the licence holder is responsible for.

Tables and Chairs **with any barriers, posts and bases** will not be permitted where they would restrict any pedestrianised public highway to less than 1.5 metres unobstructed pavement in width or impede any designated cycle route.

Type of furniture permitted

Seating, tables and, if required, umbrellas and heaters (together with a secure base) as well as any proposed barriers to enclose the seating area are permitted.

The furniture must be fit for purpose and designed specifically for commercial outdoor use (and comply with all relevant BS standards). It must be kept in good order; damaged or faded items must be replaced.

This furniture is required to be removable, meaning that it is not a permanent fixed structure, and is able to be moved easily, and should be stored away when the premises are closed for activity.

There is an expectation that the type and style of furniture would be 'in keeping' with the local area.

Picnic benches and plastic tables and chairs designed for domestic use (e.g. white plastic furniture) are not permitted.

Any form of gazebo or enclosed shelter with one or more sides is not permitted.

Barriers

When tables and chairs are in place a standard barrier consisting of a fabric banner and associated post/rail system shall be used. The function of the barriers is to demarcate and contain the tables and chairs but also to give a clear warning particularly to people with visual impairments.

The barriers shall be secured by a purpose designed post and rail system with weighted post bases to prevent being knocked or blown over and be of a height range of 800mm to 1000mm so to not visually obstruct views down the street or be an obstructing hazard.

Street café barriers should be of a design to complement the character of the surrounding area. Banners should be of one design, in a plain style and can incorporate the business name or brand logo. Posts and rails should be stainless steel, chrome plated or powder coated.

Times of Operation

The tables and chairs can be placed on the highway only when the premises are open for business and in any event not before 6.00 am and normally until 30 minutes of the terminal hour of the licence.

Where nuisance is likely to be caused to residents e.g. late at night, businesses may be required to remove the tables and chairs before the close of business.

Planning Permission

Once a licence is granted the applicant will also benefit from deemed planning permission to use the land for anything done only pursuant to the licence while the licence is valid, but not for any other purpose.

Consultation

Applications are consulted upon for 14 days, starting with the day after that on which the application is made to the Council (an application will not be considered to have been properly made unless each requirement has been met).

The applicant is required to fix a notice to the premises, so it is easily visible and legible to the public on the day they submit the application to the local authority. They must ensure that the notice remains in place for the duration of the public consultation period.

The Council is required by law to consult with the Essex County Council Highways Authority. In addition, to ensure that there are no detrimental effects in granting such a licence the Council will also consult with:

- Environmental Health Service
- Planning Department
- Essex Police

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider in their determination of the application.

Appeals

There is no statutory appeal process against the decision of the Council.

Cost

There is an application fee and a renewal fee payable every two years. Details can be found on the application form and Tendring District Council website.

Insurance

Operators must indemnify both Tendring District Council and Essex County Council in respect of injury, damage or loss arising out of the grant of permission (unless such claims arise out of the Councils' negligence). All operators must have public liability insurance in the sum of £10,000,000 in respect of any one event. A copy of this insurance must be produced to the Council before a licence will be issued.

The Licence holder shall make no claim or charge against the Council in the event of the furniture or other objects being lost, stolen or damaged in any way.

Litter

Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected at not less than hourly intervals (or more frequent intervals if required under the Environmental Protection Act 1990).

Litter is not to be placed in the litter bins situated on the highway for use by the general public, but in the trade refuse bins.

All tables must be cleared as soon as practicable after being vacated by customers to avoid litter being deposited unnecessarily on the highway.

Miscellaneous Conditions

The Licence holder must remove any furniture if required to do so to permit works in or the use of the highway by the Council, the County Council, the emergency services any statutory undertaker or telecommunications code operator or where the Licence holder has been notified of a special event taking place.

No charge can be made by the Licence holder for the use of the furniture.

All licences are renewable every two years.

ANNEX 1 – CONDITIONS

LICENCE FOR THE PLACEMENT AND USE OF TABLES, CHAIRS AND ASSOCIATED FURNITURE (THE FACILITY)

National Conditions Made by the Secretary of State

1. Clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths (1.5 metres) and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility.
2. There must be clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smokefree (Signs) Regulations 2012.
3. No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
4. The licence requires a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Standard Licence Local Conditions

1. To use the highway permitted within the licence for the purpose of The Facility and for no other purpose whatsoever listed outside of the licence.
2. The boundary of the licensed area must be adhered to and ideally marked with a rigger barrier system that is stable so as not to be easily blown or knocked over, or as agreed otherwise in writing with the Licensing Authority.
3. Parasols must not overhang the area of The Facility and must not be erected in high winds.
4. The licence does not permit any fixtures or excavations of any kind to the surface of the highway.
5. The Facility must be removed for the purpose of allowing:
 - a. Works in, under or over the highway or in connection with works in, under or over land adjacent to the premises as may be required by Tendring District Council, Highway Authority or any statutory undertaker
 - b. Use and access by emergency services
 - c. Any other reasonable cause
6. To remove The Facility within 30 minutes of the terminal hour of the licence or upon any suspension or revocation of the licence.
7. The Facility within the marked boundary and any reasonable area outside of the boundary, caused by The Facility, must be kept free of litter, debris and food and drink spillages. The licensed area is to be washed at the close of each day using a method and materials sufficient to remove food debris, grease and spillages.
8. Plastic or toughened glasses and bottles are only permitted for the consumption of alcohol within The Facility as required by Tendring District Council or Essex police.
9. The Facility is to be used for seated customers only.
10. The licence holder must ensure The Facility is covered by valid and up to date public liability insurance cover of ten million pounds which is valid for the duration of the licence period.

11. A copy of the licence must be prominently displayed at the licensed area and must be made available for inspection by any Authorised Officer of the council or Police.
12. Waste from the Licensee's operations shall not be disposed of in the permanent litterbins situated on the highway for use by the general public provided by the Council.
13. The Licensee shall make no claim or charge against the District or County Council in the event of the street furniture being lost, stolen or damaged in any way whatever cause.
14. Without prejudice to the ability of the County Council to remove the tables and chairs by reason of Statute, common law, and/or for breach of any of the terms and conditions of this consent, this consent shall remain in force until such time as the applicant seeks to amend its proposal, including, but not limited to, the location and/or number of the tables and chairs to be placed in the highway and/or such time as the Council refuse to issue the related permission.
15. The Licensee shall make good, to the County Council's satisfaction, any damage caused to the highway caused by the exercise of this consent and indemnify and keep indemnified the County Council from and against any claims, demands or proceedings in any way arising in regard thereto.
16. Despite this consent, the authorised area shall always remain part of the public highway and users of the highway are still entitled to exercise their right of passage over them.
17. The Tendring District Council 'A' Board Protocol must continue to be adhered to by businesses with a pavement licence and positioning of 'A' Boards must be in relation to the original business premises and not beyond equipment covered by the pavement licence.

Dear Tendering District Council

RE: Pavement Licence Policy - Consultation - Tendring District Council

Thank you for your email and details in respect of the Council's draft policy.

Essex County Council do not have any objections to the Policy, for consultations please send applications to highway.licences@essexhighways.org.

Please find attached copy of Essex County Council Highways Terms and Conditions for consideration and note that ECC Highways will request these to be added to any pavement licence granted by Tendering District Council.

Kind Regards

Rachel Crouch | Senior Traffic Regulation & Licencing Officer

Network Assurance

Essex County Council Terms and Conditions

1. The permitted times for the tables/chairs/barriers/posts/bin/heater/planters/umbrella to be on the highway are between the hours agreed by your Council and at all other times all the furniture must be removed.
2. The table/chairs/barriers/posts/bin/heater/planters/umbrella to be placed in the permitted area of highway should not exceed what has been given consent for. All other furniture associated with the premises such as bins and A boards must be placed within the permitted area and not outside.
3. The Licensee to provide removable barriers to separate the tables and chairs from the users of the highway. Barriers must have a minimum overall height of 800mm and a gap of no more than 150mm between the base or tapping rail and the ground. Barriers must be manoeuvrable enough to allow them to be removed from the highway into the main premises at the close of business. It is recommended that the barriers are in a contrasting colour to the highway surface to provide maximum impact for the visually impaired
4. The authorised area of public highway to be used will not exceed what has been given consent for.
5. The Licensee shall attach no fixtures to or make excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
6. The authorised area shall be used solely for the purpose of consuming refreshments by persons seated at the tables and chairs provided within the authorised area.
7. No charge shall be made by the Licensee for the use of the tables and chairs.
8. Waste from the Licensee's operations shall not be disposed of in the permanent litterbins situated on the highway for use by the general public provided by the Council.
9. Refuse and litter deposited on the highway in the vicinity of the tables and chairs must be collected and removed each day by the Licensee at the Licensee's expense and not less than hourly intervals, at close of business or at more frequent intervals as may be required by or under the Environmental Protection Act 1990 and the Licensee shall comply with all requirements of any public health legislation for the time being in force.

10. The Licensee shall not permit or suffer the removal of any glassware used for the supply of the refreshment provided by the public from the authorised area. Glasses supplied for the consumption of drinks on the authorized area shall be made of toughened glass or plastic only.
11. The Licensee shall not place furniture on the highway outside the authorised area of use.
12. The authorised area shall be supervised by competent staff or the Licensee at all times during the exercise of this consent who shall take all reasonable steps to ensure compliance with these terms and conditions.
13. The Licensee shall remove from the highway tables and chairs to permit works in or the use of the highway by the County Council, the police, fire and ambulance services, any statutory undertaker or telecommunications code operator and shall make no claim against the County Council for any loss of revenue.
14. The Licensee is responsible for ensuring that no statutory undertakers' apparatus is affected by the exercise of this consent.
15. The Licensee shall at its own expense obtain any necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the highway and comply with the provisions of all such consents and approvals and all statutes and other obligations imposed by law with regards to the provision, maintenance and operation of the refreshment facility.
16. The Licensee shall make no claim or charge against the County Council in the event of the street furniture being lost, stolen or damaged in any way whatever cause.
17. The Licensee shall not place any tables and chairs or other furniture in the authorized areas before the given and agreed times. For further clarification, no furniture is to be placed or kept on the authorized area when the premises are not open or trading, nor placed on the highway other than what has been stated in this licence.
18. Without prejudice to the ability of the County Council to remove the tables and chairs by reason of Statute, common law, and/or for breach of any of the terms and conditions of this consent, this consent shall remain in force until such time as the applicant seeks to amend its proposal, including, but not limited to, the location and/or number of the tables and chairs to be placed in the highway and/or such time as the Council refuse to issue the related permission.
19. The Licensee shall accept responsibility for, and indemnify and keep the County Council indemnified against, all actions proceedings, claims for incidental damage, loss or injury caused and other reasons, demands, costs and expenses whatsoever which may be brought or sustained or incurred by the County Council by reason of this consent.

20. If nothing changes within this consent (owners/furniture/layout etc.), these terms and conditions do not require renewing each year.
21. The Licensee shall make good, to the County Council's satisfaction, any damage caused to the highway caused by the exercise of this consent and indemnify and keep indemnified the County Council from and against any claims, demands or proceedings in any way arising in regard thereto.
22. The Licensee shall effect a public liability insurance policy for an amount of not less than £10,000,000 (Ten Million Pounds) and it shall maintain this policy in full force and effect for the total period of this consent.
23. Despite this consent, the authorised area shall always remain part of the public highway and users of the highway are still entitled to exercise their right of passage over them.

The Town Council of Frinton and Walton would like to see this Policy extended to include A Boards and Goods for sale on the pavement.”

The policy is fine, but something similar has been in place for years but not enforced. TDC have been advised numerous times that only a couple of retailers on Connaught Avenue Frinton have a licence for pavement table and chairs, leading to a potentially dangerous situation with pedestrians sometimes forced into the road due to tables being placed both directly outside some premises and also close to the kerb, creating a funnel effect. Despite being warned of this, TDC have taken no action, and even tried to claim that ECC was responsible for such enforcement! Unless you get your enforcement act together, the policy is meaningless.

Answers most questions from members of public and shop owners.

I would suggest that you stipulate that shop owners are required to ensure their section of the pavement is clean and especially free of Pigeon droppings .

Businesses should be responsible for the rubbish created outside their premises

Perfect

The usage of outdoor seating for premises must be encouraged given the unsuitability of our commercial premises to provide appropriate air condition for many reasons. By encouraging responsible outdoor seating in coordination with other policies will encourage greater footfall for our commercial premises and will benefit the community as a whole.

As a Residents Association, we represent many hundreds of Frinton residents and welcome this much needed Policy. We suggest the following small changes might help to tighten up it's application, and help take account of such things as car doors and street trees and their surrounds.

Section - Eligible Locations

Para. 3.

Tables and chairs can only be placed in front of, and immediately adjacent to, the façade the licence holder is responsible for.

Para. 4.

Tables and chairs, together with any barriers, posts and bases, will not be permitted where they would restrict any pedestrianised public highway to not having at least one single 1.5 metre width strip of unobstructed pavement or impede any designated cycle route.

Section - Miscellaneous Conditions

Add this Paragraph.

The TDC 'A' Board Protocol must continue to be adhered to by businesses with a pavement licence and positioning of 'A' Boards must be in relation to the original business premises and not beyond equipment covered by the pavement licence.

No thank you

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