LICENSING AND SAFETY COMMITTEE – 7 JULY 2015

A meeting of the Licensing and Safety Committee will be held at 5.30pm on Tuesday 7 July 2015 in the Council Chamber, Town Hall, Rugby.

Adam Norburn
Executive Director

A G E N D A

PART 1 – PUBLIC BUSINESS

1. Minutes.
   To confirm the minutes of the Special Licensing and Safety Committee meeting held on 9 June 2015.

2. Apologies.
   To receive apologies for absence from the meeting.

3. Declarations of Interest.
   To receive declarations of –
   (a) non-pecuniary interests as defined by the Council’s Code of Conduct for Councillors;
   (b) pecuniary interests as defined by the Council’s Code of Conduct for Councillors; and
   (c) notice under Section 106 Local Government Finance Act 1992 – non-payment of Community Charge or Council Tax.

Note: Members are reminded that they should declare the existence and nature of their non-pecuniary interests at the commencement of the meeting (or as soon as the interest becomes apparent). If that interest is a prejudicial interest the Member must withdraw from the room unless one of the exceptions applies.
Membership of Warwickshire County Council or any Parish Council is classed as a non-pecuniary interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.


5. Setting of fees for hackney carriages and private hire licences from October 2015.

6. Motion to Exclude the Public under Section 100(A)(4) of the Local Government Act 1972.

To consider passing the following resolution:-

That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items on the grounds that they involves the likely disclosure of information defined in paragraphs 1, 2 and 3 of Schedule 12A of the Act.

PART 2 – EXEMPT INFORMATION

1. Application to renew a Private Hire Vehicle Proprietor Licence.

Any additional papers for this meeting can be accessed here via the website. The Reports of Officers (Ref. LSC 2015/16-03) are attached.

Membership of the Committee: Councillors Miss Lawrence (Chairman), Mrs A’ Barrow, Mrs Avis, Birkett, Mrs Bragg, Cade, Dodd, Mrs Garcia, Mrs Nash, Mrs Roberts, Mrs Roodhouse, Mrs Simpson-Vince, Srivastava, Ms Watson-Merret and Dr Williams.

If you have any general queries with regard to this agenda please contact Linn Ashmore, Democratic and Scrutiny Services Officer (01788 533522 or e-mail Linn.Ashmore@rugby.gov.uk). Any specific queries concerning reports should be directed to the listed contact officer.

If you wish to attend the meeting and have any special requirements for access please contact the Democratic and Scrutiny Services Officer named above.
AGENDA MANAGEMENT SHEET

Name of Meeting          Licensing and Safety Committee
Date of Meeting          7 July 2015
Portfolio                Sustainable Environment
Ward Relevance          All Wards
Prior Consultation       All Councillors, Responsible Authorities, existing licence holders and gambling trade bodies
Contact Officer          Les Jackson, Licensing Officer, ext 3362
Report Subject to Call-in No
Report En-Bloc         No
Forward Plan            Yes
Corporate Priorities    This report relates to the following priority(ies):
                        Enable our residents, visitors and enterprises to enjoy, achieve and prosper
Statutory/Policy Background The Gambling Act 2005 places a duty on the Council to publish a Gambling Policy Statement of Principles (the policy) on which licensing decisions will be based. The policy must be reviewed every 3 years. The Council’s existing policy was reviewed in 2012 and published in January 2013. It is now due for review and must be re-published by 31 January 2016.
Summary                  To inform the Committee of the requirement to review the existing policy. The revised policy which must be submitted for approval to Full Council in time for it to come into effect on 31 January 2016 for a further 3 year period.
A formal consultation must be carried out on the revised policy but due to the timescales involved and the timing of the Committee cycle it will not be possible to present a draft to the Committee prior to the consultation.

**Risk Management Implications**  
The Council would be acting illegally if it did not have a licensing policy under the Act and it is more likely that it could face legal challenges over its decisions.

**Financial Implications**  
There are no financial implications arising from this report.

**Environmental Implications**  
There are no environmental implications arising from this report.

**Legal Implications**  
In accordance with the Gambling Act 2005 the Council must review and re-publish its policy by 31 January 2016. Failure to do so could lead to a legal challenge which would have a negative impact, both financially and to the Council’s reputation. Any decisions taken by the Council on gambling issues must be by reference to its Gambling Policy and if no such policy is in place the Council any decisions taken would be of no effect.

**Equality and Diversity**  
There are no equality and diversity implications arising from this report.

**Options**  
1. The position be noted and the Head of Environmental Services be authorised to circulate the draft Policy to members of the Licensing Committee, so they can agree with the Chair, a version for consultation purposes, with a report back to this Committee on any responses received.

2. Delay the consultation until the Committee has approved a draft policy document.

**Recommendation**  
The position be noted and the Head of Environmental Services be authorised to circulate the draft Policy to members of the Licensing Committee, so they can agree with the Chair, a version for consultation purposes, with a report back to this Committee on any responses received.

**Reasons for Recommendation**  
To comply with the Gambling Act 2005 and to ensure that a robust and reasonable policy is in place by 31st January 2016.
Recommendation:
The position be noted and the Head of Environmental Services be authorised to
circulate the draft Policy to members of the Licensing Committee, so they can agree
with the Chair, a version for consultation purposes, with a report back to this Committee
on any responses received.

1. Introduction

Section 349 of the Gambling Act 2005 places a duty on the Council to publish a
Gambling Policy Statement of Principles (the policy) on which gambling licensing
decisions will be based. The policy must be reviewed every 3 years. The Council’s
existing policy was reviewed in 2012 and published in January 2013. A copy of the
existing Gambling Policy is attached as Appendix 1.

It is now due for review and must be re-published by 31 January 2016. The revised
policy will take effect from 31 January 2016 and will be in place for 3 years, although it
may be reviewed and altered during this time if appropriate.

The responsibility for approval of the policy lies with full Council, and it would normally
be brought to Licensing and Safety Committee for consideration prior to consultation. A
further report would then be brought to the Committee following consultation and the
policy then forwarded to Full Council for approval, including any suggested
amendments made by the Committee.

Unfortunately, due to the issues raised by the timing of the Gambling Commission’s
consultation on its Guidance to Local Authorities and the issues raised, it has not been
possible to have a draft policy in place for consideration at this meeting. The next
meeting is not scheduled until 8th September 2015 and if we wait until that date it will
not allow sufficient time to carry out the consultation exercise, report back to Committee
with any comments received and have the statement available for consideration by
Council in December.

2. Updated Gambling Policy

A draft policy document is being prepared in conjunction with the other Warwickshire
District Councils and Coventry City Council, who are reviewing their Policies during the
same period.
There have been difficulties in commencing the review of the policy document given that the Gambling Commission started a consultation on a review of its Guidance to Local Authorities (to which we must have regard) only in March 2015 and which ran to 22nd June 2015. Whilst the majority of the Guidance is unlikely to change, consideration must be given to a new requirement on operators in the Commission’s Licence Conditions and Codes of Practice.

This requirement is for licence applicants to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making those risk assessments, they must take into account relevant matters identified in the licensing authority’s statement of licensing policy.

The local risk assessments must be reviewed when there are significant changes in local circumstances (including those identified in a licensing authority’s statement of licensing policy) or at the premises, or when applying for a new licence or variation of a licence.

Whilst the requirement for risk assessments does not take effect until April 2016, it is important that we take it into account in our draft statement.

The revised guidance also makes recommendations about licensing authorities completing and mapping their own assessments of local risks and concerns by developing local area profiles. Given that this is not a legal requirement, together with the size of the Council’s area, the relatively small number of gambling premises, and the resources required it is not suggested that the Council should go along this route at this moment in time. Local Government Association advice suggests that this may be something that could be built up over time.

Another option is to include in the statement the types of information the licensing authority would expect an operator to take account of in its risk assessment and it is this area that officers are currently developing. Examples may be such things as:

- the presence of schools in the vicinity;
- the presence of churches in the vicinity;
- the presence of other buildings that may be occupied or attended by vulnerable people;
- whether the operator is a member of a local business scheme or scheme such as Betwatch;
- security issues if open late at night.

3. Consultation and feedback on the policy

Consultations on the draft policy will be carried out with the responsible authorities (which include the Police, Fire Service, Social Services and the Gambling Commission), all existing premises licence holders in Rugby, and representatives of the gambling trade (such as the Association of British Bookmakers). All Councillors will be notified of the policy consultation and the draft Policy will be published on the Council’s website to inform the wider community.
4. Conclusion

Unfortunately, due to the issues raised by the timing of the Gambling Commission’s consultation on its Guidance to Local Authorities and the issues raised, it has not been possible to have a draft policy in place for consideration at this meeting. The next meeting is not scheduled until 8th September 2015 and if we wait until that date it will not allow sufficient time to carry out the consultation exercise, report back to Committee with any comments received and have the statement available for consideration by Council in December.

It is recommended therefore that the position be noted and the Head of Environmental Services be authorised to circulate the draft Policy to members of the Licensing Committee, so that they can agree with the Chair, a version for consultation purposes, with a report back to this Committee on any responses received.
LIST OF BACKGROUND PAPERS.

Gambling Policy Statement of Policy, issued in January 2013. Officer ref. LJN.

GAMBLING ACT 2005

GAMBLING POLICY

STATEMENT OF PRINCIPLES

Approved by Full Council on 11th December 2012.

Policy effective from 31 January 2013 to 30 January 2016
Rugby Borough Council

Gambling Policy

Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Introduction</td>
<td>2</td>
</tr>
<tr>
<td>2. The Gambling Act 2005</td>
<td>2</td>
</tr>
<tr>
<td>3. The Gambling Commission</td>
<td>4</td>
</tr>
<tr>
<td>4. Authorised activities</td>
<td>5</td>
</tr>
<tr>
<td>5. General statement of principles</td>
<td>5</td>
</tr>
<tr>
<td>6. - The licensing objectives</td>
<td>6</td>
</tr>
<tr>
<td>8</td>
<td></td>
</tr>
<tr>
<td>9. Premises licences</td>
<td>8</td>
</tr>
<tr>
<td>10. Responsible authorities</td>
<td>9</td>
</tr>
<tr>
<td>11. Interested parties</td>
<td>10</td>
</tr>
<tr>
<td>12. Representations</td>
<td>11</td>
</tr>
<tr>
<td>13. Conditions of licence</td>
<td>11</td>
</tr>
<tr>
<td>14. Casino’s</td>
<td>12</td>
</tr>
<tr>
<td>15. Betting and tracks</td>
<td>12</td>
</tr>
<tr>
<td>16. Bingo</td>
<td>13</td>
</tr>
<tr>
<td>17. Gaming</td>
<td>14</td>
</tr>
<tr>
<td>18. Lotteries</td>
<td>15</td>
</tr>
<tr>
<td>19. Permits</td>
<td>15</td>
</tr>
<tr>
<td>20. Exchange of information</td>
<td>17</td>
</tr>
<tr>
<td>21. Enforcement protocols</td>
<td>18</td>
</tr>
<tr>
<td>22. Reviews</td>
<td>18</td>
</tr>
<tr>
<td>23. The licensing process</td>
<td>18</td>
</tr>
</tbody>
</table>

Appendices

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Scheme of delegation</td>
<td>20</td>
</tr>
<tr>
<td>2. Categories of gaming machines</td>
<td>21</td>
</tr>
<tr>
<td>3. Summary of gaming machine provisions by premises</td>
<td>22</td>
</tr>
<tr>
<td>4. Access to gambling areas by under 18’s</td>
<td>23</td>
</tr>
<tr>
<td>5. Responsible authorities</td>
<td>24</td>
</tr>
</tbody>
</table>
Rugby Borough Council

Gambling Act 2005 - Gambling Policy Statement of Principles

1. Introduction

1.1 Rugby Borough Council as the Licensing Authority (referred to in this Statement as the Authority) makes this Statement of Principles (the policy) in pursuance of its powers and duties under Section 349 of the Gambling Act 2005 (referred to in this Statement as the Act) and sets out the Authority’s approach in dealing with its responsibilities under the Act.

1.2 The Borough of Rugby is situated in the east of Warwickshire on the border of the East and West Midlands and covers 35,592 hectares. The town of Rugby has a population of approximately 67,000 residents and there are 41 parishes ranging in population from as little as 20 to nearly 3,000 giving a total population for the borough of approximately 100,075 people.

1.3 The Authority has consulted widely on the content of this policy including the following;

- Chief Officer of Police
- Existing licence holders
- Ward Councillors and Parish Councils
- Association of British Bookmakers
- British Amusement Catering Association
- British Casino Association
- Bingo Association
- British Horse Racing Board
- British Greyhound Racing Board
- Casino Operators Association
- Club and Institute Union
- Gamcare
- Responsibility in Gambling Trust
- Gamblers Anonymous
- Licensed Victuallers Association
- Lotteries Commission and;
- Responsible authorities as listed in 10.2

1.4 In preparing this policy the Authority has had regard to the provisions of the Act, the guidance issued by the Gambling Commission, regulations made by the Secretary of State and responses to its consultation exercise.
2. The Gambling Act 2005

2.1 There are 3 licensing objectives (which have equal importance) that are central to the regulatory regime created by the Act. These 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; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.2 In carrying out the licensing function under the Act the Authority will aim to permit the use of premises for gambling as long as it is considered to be:

- 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, and in accordance with this policy.

2.3 The Act provides for 3 categories of licence:

- operating licences;
- personal licences; and
- premises licences

2.4 The Authority will be responsible for issuing premises licences. The Gambling Commission are responsible for issuing operating and personal licences.

2.5 This policy is in force from 31 January 2013 and will have effect until 30 January 2016. However, it will be kept under review and revised or amended as required following consultation.

3. The Gambling Commission

3.1 The Gambling Commission has been established to regulate all commercial gambling in Great Britain other than spread betting and the National Lottery.

3.2 The Commission has an overriding obligation to pursue and have regard to the licensing objectives set out below and to permit gambling so far as it thinks is reasonably consistent with them.

3.3 The Commission has issued guidance under section 25 of the Act regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.
3.4 The Commission also issue various codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities. The Authority will have regard to such guidance as appropriate.

3.5 The Gambling Commission can be contacted at: www.gamblingcommission.gov.uk

4. **Authorised activities**

4.1 Gambling is defined in the Act as either gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize;
- betting means making or accepting a bet on the outcome of a race, competition, or any other event, the likelihood of anything occurring or not occurring; or whether anything is true or not;
- a lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

4.2 The main functions of the Authority are to:

- licence premises for gambling activities;
- grant permits for gambling and gaming machines in clubs;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider notices given for the temporary use of premises for gaming;
- consider occasional use notices for betting at tracks; and
- register small societies lotteries.

4.3 Spread betting is regulated by the Financial Services Authority. Remote gambling is dealt with by the Gambling Commission. The National Lottery is regulated by the National Lottery Commission.

5. **General statement of principles**

5.1 The Authority recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs, amusement arcades and racing tracks.

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

5.3 The Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation. This statement of principles shall avoid duplication with other regulatory regimes wherever possible. In considering applications and taking enforcement action under the Act the Authority will have regard to the provisions of the Human Rights Act and, in particular;
• Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest;

• Article 6 – right to a fair hearing;

• Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person’s private life; and

• Article 10 – right to freedom of expression.

5.4 To ensure the licensing objectives are met the Authority will establish a close working relationship with the Police, the Gambling Commission and other responsible authorities as appropriate.

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

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

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

5.8 The overriding principle is that each application and the circumstances prevailing at each premise will be considered on their own individual merits. The Authority is aware that other considerations such as moral or ethical objections to gambling, are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives.

The licensing objectives

6. Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime

6.1 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

6.2 Rugby Borough Council has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the borough.
6.3 Anyone applying to the Authority for a premises licence must hold an operating licence (with the exception of tracks - see section 15 below) from the Gambling Commission so the Authority will be assured of the suitability of the applicant as this will already have been confirmed by the Gambling Commission. Where concerns about a person’s suitability arise the Authority will bring those concerns to the attention of the Commission.

6.4 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Authority will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for a sufficient number of door supervisors registered with the Security Industry Authority.

6.5 As far as disorder is concerned, there are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can be dealt with using alternative powers.

6.6 The Authority will only seek to address issues of disorder under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance was required to deal with it. Another factor the Authority is likely to take into account is how threatening the behaviour was to those who could see or hear it, whether those people live sufficiently close to be affected or have business interests that might be affected.

6.7 When making decisions in this regard the Authority will give due weight to any comments made by the Police.

7. **Ensuring gambling is conducted in a fair and open way**

7.1 The Authority notes that the Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.

7.2 As betting track operators do not need an operating licence from the Commission, the Authority may, in certain circumstances, require conditions of licence at tracks to ensure that the environment in which betting takes place is suitable. Such conditions may include requirements for licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised. Please refer to section 15 for further information on tracks.
8. **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

8.1 With one or two limited exceptions, the intention of the Act is that children and young persons will not be allowed to gamble and will therefore be prevented from entering gambling premises which are ‘adult-only’ environments.

8.2 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. The Authority will have regard to codes of practice issued by the Commission in respect of this licensing objective.

8.3 When considering whether to grant a premises licence or permit the Authority will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

8.4 As the term ‘vulnerable persons’ has not been defined, in seeking to protect vulnerable people the Authority will normally class as ‘vulnerable’ those people who gamble more than they want to, people who gamble 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.

8.5 The Authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

9. **Premises licences**

9.1 Section 150 of the Act permits the issue of premises licences authorising the provision of facilities at the following:

- casino premises;
- bingo premises;
- betting premises, including tracks and premises used by betting intermediaries.
- adult gaming centres;
- family entertainment centres;

9.2 Premises can be ‘any place’ but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being different ‘premises’. The Authority will pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.
9.3 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to ‘drift’ accidentally into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit. Premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

9.4 Where the Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.

9.5 Other than an application for a betting premises licence in respect of a track, the Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

9.6 When considering applications for premises licences the Authority will not take into consideration either the expected ‘demand’ for facilities or the likelihood of planning permission being granted. The Authority will however have regard to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families and children.

9.7 The Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

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

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

10. **Responsible authorities**

10.1 These are generally public bodies that must be notified of all premises licence applications and who are entitled to make representations to the Authority if they are relevant to the licensing objectives.

10.2 Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. In Rugby these are:

- The Licensing Authority itself;
- The Gambling Commission;
- Warwickshire Police;
- Warwickshire Fire and Rescue Service;
• The Planning Authority;
• Environmental Health;
• Warwickshire County Council Social Services (see 10.3 and 10.4 below)
• HM Revenue and Customs; and
• Any other person prescribed in regulations by the Secretary of State.

Section 211(4) of the Act provides that in relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is to be used for licensable activities. This would include the Environment Agency, the British Waterways Board and the Secretary of State.

10.3 The Authority is required to set out the principles to be applied in exercising its powers to designate, in writing, a body which is competent to advise about the protection of children from harm. The principles to be applied in designating such a body are;

• that the designated body must be responsible for covering the whole of Rugby Borough’s area; and
• that the designated body should be answerable to democratically elected persons.

10.4 Warwickshire County Council Social Services are the designated body in Rugby to advise about the protection of children from harm. A list of all responsible authorities in Rugby is attached at Appendix 5.

11. Interested parties

11.1 Section 158 of the Act defines interested parties. To accept a representation from an interested party, the Authority must be satisfied that the person:

• lives sufficiently close to the premises to be likely to be affected by the authorised activities or;
• has business interests that might be affected by the authorised activities or;
• represents persons in either of the two groups above.

11.2 In determining whether someone lives sufficiently close to a particular premise so as to be affected the Authority will take into account, amongst other things;

• the size of the premises;
• the nature of the premises;
• the distance of the premises from the person making the representation;
• the nature of the complainant; and
• the potential impact of the premises.

11.3 In determining whether a person has a business interest which could be affected the Authority will consider, amongst other things;
• the size of the premises;
• the catchment area of the premises;
• whether the person making the representation has business interests in
  the catchment area that might be affected and;
• the guidance from the Gambling Commission that the phrase ‘business
  interests’ should be given the widest possible interpretation and should
  include partnerships, charities and faith groups.

11.4 In determining whether a person represents those in the above categories,
the Authority will consider representations from trade associations, trade
unions, residents and tenants associations and other similar bodies.

11.5 Interested parties can be persons who are democratically elected such as
Councillors and Members of Parliament (MP). If individuals wish to approach
Councillors to ask them to represent their views, then care should be taken
that the Councillor(s) are not part of the Licensing Committee dealing with the
licence application. If there are any doubts then please contact the Authority.
If an individual is represented by another person or body, then the Authority
requires a letter confirming the representation.

12. Representations

12.1 A representation is a statement of opinion possibly including suggestions as to
how any concerns may be addressed. The Authority is obliged to consider
representations from responsible authorities and interested parties and must
determine whether or not the representations are admissible. A representation
is inadmissible if not made by a responsible authority or an interested party.

12.2 The Authority must determine the relevance of any representations received.
The only representations likely to be relevant, are those that relate to the
licensing objectives, that raise issues under this policy, or issues in respect of
the Gambling Commissions guidance and/or codes of practice.

12.3 Any concerns that responsible authorities have in relation to their own
functions, cannot be taken into account if they are not relevant to the
application for a premises licence and the licensing objectives.

12.4 The Authority may, in certain circumstances, consider a representation to be
either frivolous or vexatious. This will generally be a matter of fact given the
circumstances of each individual case, but before coming to a decision the
Authority may consider the following:

• who is making the representation and whether there is a history of making
  representations that are not relevant;
• whether it raises a ‘relevant’ issue or not and;
• whether it raises issues specifically to do with the premises which are the
  subject of the application.
13. **Conditions of licence**

13.1 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 relating to the licensing objectives.

13.2 The Authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission’s guidance, any codes of practice issued by the Commission, this policy or in a way that is reasonably consistent with the licensing objectives.

13.3 Any conditions imposed by the Authority will be proportionate to the circumstances they are intended to address. In particular, the Authority will ensure that any conditions are:

- relevant to the need to make the 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; and
- decided on a case-by-case basis.

13.4 The Authority cannot impose conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;
- relating to gaming machine categories, numbers or method of operation;
- which specify that membership of a club or other body is required; and
- in relation to stakes, fees, winnings or prizes.

14. **Casino’s**

14.1 The Authority has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005 but is aware that it has power to do so. Should the Authority decide to pass such a resolution, it will update this policy with details of the resolution.

15. **Betting and tracks**

15.1 Anyone wishing to operate a betting office will require a betting premises licence from the Authority. Children and young persons cannot enter licensed betting premises.

15.2 Betting premises can provide a limited number of gaming machines and some betting machines.
15.3 The Authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

15.4 Only one premises licence can be issued for any particular premises at any time unless the premise is a ‘track’. A track is a site where races or other sporting events take place. Tracks are different from other premises in that they may be subject to one or more premises licences, provided that each licence relates to a specified area of the track.

15.5 In respect of tracks the Authority will have particular regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

15.6 The Authority expects applicants in respect of tracks to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children are not allowed by law to place bets. Children are permitted to enter track areas on days when racing takes place including areas where facilities for betting are provided. However, they must be prevented from entering areas where gaming machines (other than category D machines) are provided. Further information on children’s access and participation in gambling is shown at Appendix 4.

15.7 Track operators are not required to hold an operators licence granted by the Gambling Commission. Therefore, premises licences for tracks issued by the Authority are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

15.8 Although there will, primarily, be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

15.9 When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

16. Bingo

16.1 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
16.2 Commercial bingo halls require a bingo premises licence from the Authority.

16.3 Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres and unlicensed family entertainment centres may offer equal chance gaming under their gaming machine permit without the need for a prize gaming permit.

16.4 Whilst children and young people are allowed into bingo premises, they are not permitted to participate in the bingo. Also, if category B or C machines are made available for use, these must be separated from areas where children and young people are allowed. When considering applications of this type the Authority will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

16.5 A limited number of gaming machines may be made available at bingo licensed premises.

16.6 Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a threshold of £2000 (either in money taken or prizes awarded) during any seven day period otherwise it will be subject to a bingo operating licence obtained from the Gambling Commission.

17. Gaming

17.1 A gaming machine can cover all types of gambling activity which can take place on a machine, including betting on ‘virtual’ events.

17.2 The Act prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

17.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises including:

- casinos
- bingo premises
- betting premises (including tracks)
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

17.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player’s skill. However, any element of ‘chance’ imparted by the action of the machine would cause it to be a gaming machine.
17.5 The Authority will, where appropriate, seek to encourage permit and premises licence holders to adopt any codes of practice which may be introduced by the amusement industry from time to time.

17.6 When considering applications for licences in respect of adult gaming centres the Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to demonstrate that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

17.7 When considering applications for licences in respect of family entertainment centres the Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to demonstrate that there will be sufficient measures, for example, to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

18. Lotteries

18.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission or it is an ‘exempt’ lottery as defined by the Act.

18.2 One of those exemptions is in respect of what are termed “small societies lotteries” and the Authority is responsible for registering these 'small' lotteries.

18.3 A society will be allowed to register with the Authority if it is a ‘non-commercial’ lottery, in other words, it is established and conducted:

- for charitable purposes ;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity ; or
- for any other non-commercial purpose other than for private gain.

18.4 The Authority will maintain a register of registered small society’s lotteries.

19. Permits

19.1 Permits are required when premises provide a gambling facility but either the stakes and/or prizes are low, or gambling is not the main function of the premises. The permits (issued by the Authority) regulate gambling and the use of gaming machines in specific premises and the types of permits are;

- Family entertainment centre gaming machine permit

19.2 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
When considering applications the Authority will have regard to the licensing objectives and any relevant guidance issued by the Commission. The applicant should demonstrate that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The efficiency of such policies and procedures will each be considered on their merits. They may include matters such as CRB checks for staff, appropriate measures and/or staff training as regards suspected truant school children on the premises, dealing with unsupervised young children on the premises, and children causing perceived problems on or around the premises.

In addition, in accordance with the Commission’s guidance, the Authority will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes permissible in such premises, and that staff receive training on the maximum stakes and prizes. Further, the applicant should have no relevant convictions (as set out in the Act).

**Licensed premises gaming machine permit**

The Act allows premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the Authority.

The Authority can remove the automatic authorisation in respect of any particular premises if:-

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;

- gaming has taken place on the premises that breaches a condition of section 282 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);

- the premises are mainly used for gaming or;

- an offence under the Act has been committed on the premises.

Should premises wish to have more than two machines, then it will need to apply for a licensed premises gaming machine permit. The Authority will consider such applications based upon the licensing objectives, any guidance issued by the Commission, and any other matters that are considered relevant to the application. Matters that may be considered will be regard to the need to protect children and vulnerable persons from harm and the Authority will expect the applicant to demonstrate that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which may satisfy the Authority include that the adult only gaming machines will be within site of the bar, or within the sight of staff who will
monitor that the machines are not being used by those under 18. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets and/or helpline numbers for organisations such as GamCare. Permit holders must comply with any code of practice issued by the Gambling Commission about the location and operation of machines.

Prize Gaming Permits

19.10 A prize gaming permit is issued by the Authority authorising the provision of facilities for gaming with prizes on specified premises. The Authority requires applicants to set out the types of gaming that they are intending to offer and such gaming must be offered within the law. An applicant must demonstrate an understanding of the limits to stakes and prizes that are set out in the regulations. When determining an application the Authority will have regard to any guidance issued by the Gambling Commission.

Club Gaming and Club Machines Permits

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

19.12 Members Clubs and Miner’s welfare institutes, and also commercial clubs, may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

19.13 The Authority may only refuse an application on the grounds that:

(a) the applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;

(b) the premises are used wholly or mainly by children and/or young persons;

(c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;

(d) a permit held by the applicant has been cancelled in the previous ten years; or

(e) an objection has been lodged by the Commission or the Police.

20. Exchange of information

20.1 Subject to the provisions of the Data Protection Act 1998 the Authority will share any information it receives, through the application process with the Gambling Commission and any of the bodies referred to in Schedule 6 of the Act. In doing so the Authority will have regard to the Act itself, any guidance
issued by the Commission from time to time and any regulations issued by the Secretary of State.

21. **Enforcement protocols**

21.1 In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.

21.2 The Authority will work with the Commission, the Police and other enforcing authorities to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.

21.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against problem premises through the review process.

21.4 In cases where more formal action is considered to be appropriate, the key principles of consistency, transparency and proportionality will be observed.

22. **Reviews**

22.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. Requests for reviews must be relevant and the Authority will determine each request on its merits as to whether a review should be carried out. The Authority can also initiate a review of a particular premises licence if appropriate.

22.2 Once a valid application for a review has been received by the Authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the Authority. The review will be carried out as soon as possible after the 28 day period for making representations has passed.

22.3 The purpose of the review will be to determine whether the Authority should take any action in relation to the licence including adding, removing or amending licence conditions, suspending the premises licence for a period not exceeding three months, or revoking the premises licence. In determining what action, if any, should be taken, the Authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

23. **The licensing process**

23.1 The Authority’s licensing functions under the Act will be carried out by the Licensing and Safety Committee, supported by a number of Licensing Sub Committees and by officers acting under the delegated authority of the Committee. A copy of the scheme of delegation is attached at Appendix 1.

23.2 Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will be carried out by officers.
23.3 Where there are relevant representations in respect of an application the matter will be determined by the Licensing and Safety Committee or one of its Sub Committees as will any application for the review of a licence.

23.4 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, the statement is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.
## Appendix 1 - scheme of delegation

<table>
<thead>
<tr>
<th>Matter to be dealt with</th>
<th>Full Council</th>
<th>Sub-Committee</th>
<th>Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensing Policy</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policy not to permit casino’s</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Establishment of fee’s (as appropriate)</td>
<td></td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Applications for premises licences</td>
<td>Where representations have been received and not withdrawn.</td>
<td>Where no representations have been received or representations have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Application for a variation to a premises licence</td>
<td>Where representations have been received and not withdrawn.</td>
<td>Where no representations have been received or representations have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Application for a transfer of a premises licence</td>
<td>Where representations have been received from the Gambling Commission.</td>
<td>Where no representations have been received from the Gambling Commission.</td>
<td></td>
</tr>
<tr>
<td>Application for a provisional statement.</td>
<td>Where representations have been received and not withdrawn.</td>
<td>Where no representations have been received or representations have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Review of a premises licence</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Application for a club gaming/club machine permit</td>
<td>Where representations have been received and not withdrawn.</td>
<td>Where no representations have been received or representations have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Cancellation of a club gaming/club machine permit</td>
<td>Where representations have been received and not withdrawn.</td>
<td>Where no representations have been received or representations have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Application for other permits</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cancellation of a licensed premises gaming machine permit</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consideration of temporary use notice</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decision to give a counter notice to a temporary use notice</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Appendix 2 - category of gaming machines

Under the Gambling Act 2005, gaming machines are divided into categories. These categories are defined by the maximum stake amount and the maximum prize. ‘A’ is the highest category, ‘D’ the lowest. Lower category gaming machines offer lower winnings, but also lower, more affordable and therefore more accessible stakes.

The category of machines offered by premises will determine the type of premises and therefore what sort of licence, permit or permission those premises will need.

<table>
<thead>
<tr>
<th>Category of machine</th>
<th>Maximum stake</th>
<th>Maximum prize</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Unlimited</td>
<td>Unlimited</td>
</tr>
<tr>
<td>B1</td>
<td>£2</td>
<td>£4,000</td>
</tr>
<tr>
<td>B2</td>
<td>£100 (in multiples of £10)</td>
<td>£500</td>
</tr>
<tr>
<td>B3</td>
<td>£2</td>
<td>£500</td>
</tr>
<tr>
<td>B3A</td>
<td>£1</td>
<td>£500</td>
</tr>
<tr>
<td>B4</td>
<td>£1</td>
<td>£250</td>
</tr>
<tr>
<td>C</td>
<td>£1</td>
<td>£70</td>
</tr>
<tr>
<td>D - non money prize (other than a crane grab machine)</td>
<td>30p</td>
<td>£8</td>
</tr>
<tr>
<td>D - non money prize (other than a crane grab machine)</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 (other than a coin pusher or penny falls machine)</td>
<td>10p</td>
<td>£8 (of which no more than £5 may be a money prize)</td>
</tr>
<tr>
<td>D - combined money and non money prize (coin pusher or penny falls machine)</td>
<td>10p</td>
<td>£15 (of which no more than £8 may be a money prize)</td>
</tr>
</tbody>
</table>
## Appendix 3 – summary of machine provisions by premises

<table>
<thead>
<tr>
<th>Premises Type</th>
<th>A</th>
<th>B1</th>
<th>B2</th>
<th>B3</th>
<th>B4</th>
<th>C</th>
<th>D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large casino (machine/table ratio of 5-1 up to maximum)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum of 150 machines. Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to table ratio)</td>
</tr>
<tr>
<td>Small casino (machine/table ratio of 2-1 up to maximum)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum of 80 machines. Any combination of machines in categories B to D (except B3A), within the total limit of 80 (subject to table ratio)</td>
</tr>
<tr>
<td>Pre-2005 Act casinos (no machine/table ratio)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum of 20 machines categories B to D (except B3A) or any number of C or D machines instead</td>
</tr>
<tr>
<td>Betting premises and tracks occupied by pool betting</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum of 4 machines categories B2 to D</td>
</tr>
<tr>
<td>Bingo premises</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*</td>
</tr>
<tr>
<td>Adult gaming centre</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*</td>
</tr>
<tr>
<td>Family entertainment centre (with premises licence)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No limit on category C or D machines</td>
</tr>
<tr>
<td>Family entertainment centre (with permit)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No limit on category C or D machines</td>
</tr>
<tr>
<td>Clubs or miners welfare institutes (with permits)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum of 3 machines in categories B3A or B4 to D</td>
</tr>
<tr>
<td>Qualifying alcohol licensed premises without gaming machine permit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 or 2 machines of category C or D, automatic upon notification</td>
</tr>
<tr>
<td>Qualifying alcohol licensed premises with gaming machine permit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Number of category C – D machines as per permit</td>
</tr>
<tr>
<td>Travelling fair</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No limit</td>
</tr>
</tbody>
</table>

* Adult gaming centres and bingo premises are entitled to make available a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available 4 (adult gaming centres) or 8 (bingo premises) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centres and bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of 4 or 8 category B gaming machines or 20% of the total number of gaming machines, whichever is the greater. From 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.
## Appendix 4 - access to gambling area’s by under 18’s

<table>
<thead>
<tr>
<th>Premises type or sector</th>
<th>Access to gambling areas</th>
<th>Participation in gambling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult gaming centres</td>
<td>Adults only</td>
<td>Adults only</td>
</tr>
<tr>
<td>Family entertainment centre with premises licence</td>
<td>Adults only in areas category C gaming machines are available.</td>
<td>Unrestricted participation in category D gaming machines (if in a separate part of the premises to category C machines)</td>
</tr>
<tr>
<td>Tracks: off-course betting</td>
<td>Adults only</td>
<td>Adults only</td>
</tr>
<tr>
<td>Tracks: on-course betting</td>
<td>Adults only in areas with category C gaming machines or above.</td>
<td>Adults only</td>
</tr>
<tr>
<td></td>
<td>Under 18s may access areas with category D gaming machines</td>
<td>Under 18s may play category D gaming machines if separate from category B or C gaming machines</td>
</tr>
<tr>
<td></td>
<td>Adults only in betting areas except on days dog / horse racing taking place</td>
<td>Adults only</td>
</tr>
<tr>
<td>Casinos (except regional)</td>
<td>Adults only</td>
<td>Adults only</td>
</tr>
<tr>
<td>Casinos (regional)</td>
<td>Adults only in gambling areas. Unrestricted access to non-gambling areas</td>
<td>Adults only</td>
</tr>
<tr>
<td>Bingo</td>
<td>Adults only in areas with category C gaming machines or above.</td>
<td>Adults only except for category D gaming machines which are open to all</td>
</tr>
<tr>
<td>Travelling fairs</td>
<td>Unrestricted access</td>
<td>Unrestricted participation in equal chance gaming and playing of category D gaming machines</td>
</tr>
<tr>
<td>Betting premises (other than tracks)</td>
<td>Adults only</td>
<td>Adults only</td>
</tr>
<tr>
<td>Family entertainment centre with permit</td>
<td>Unrestricted access</td>
<td>Unrestricted participation in equal chance prize gaming</td>
</tr>
<tr>
<td></td>
<td>Unrestricted access to category D gaming machines and prize gaming</td>
<td>Unrestricted participation in category D gaming machines and prize gaming</td>
</tr>
<tr>
<td>Premises with consumption of alcohol on the premises</td>
<td>Access dependent on the conditions of the licence issued under the Licensing Act 2003</td>
<td>Adults only to participate in limited equal chance gaming and category C gaming machines. Under 18s may play category D gaming machines</td>
</tr>
<tr>
<td>Prize gaming</td>
<td>Access depends on premises type</td>
<td>Under 18s may play equal chance prize-gaming only</td>
</tr>
<tr>
<td>Club gaming</td>
<td>Access dependent on club rules</td>
<td>Participation limited to members and their guests (which may include under 18s). Under 18s may participate in prize gaming, equal chance gaming or category D gaming machines only.</td>
</tr>
<tr>
<td>Lottery and football pools</td>
<td>Access to those aged 16 or over (subject to the type of premises on which the activities are provided)</td>
<td>Participation limited to those aged 16 or over</td>
</tr>
<tr>
<td>Remote gambling</td>
<td>Not applicable</td>
<td>Adults only except in the case of remote lottery where those aged 16 or over may participate</td>
</tr>
<tr>
<td>Fast food restaurants and other unlicensed premises</td>
<td>N/A</td>
<td>Gaming machines no longer permitted in these locations</td>
</tr>
<tr>
<td>Temporary Use Notice</td>
<td>Access depends on premises type</td>
<td>Participation dependent on activity type</td>
</tr>
</tbody>
</table>
### Appendix 5 - Responsible Authorities

#### The Licensing Authority
Sean Lawson,  
Head of Environmental Services,  
Town Hall, Evreux Way,  
Rugby, CV21 2RR  
Tel: 01788 533884  
e-mail: licensing@rugby.gov.uk

#### The Gambling Commission
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
Tel: 0121 230 6666  
Web: www.gamblingcommission.gov.uk

#### Chief Officer of Police
C/O Sarah Harratt, Licensing Officer  
Warwickshire Justice Centre  
Newbold Terrace  
Leamington Spa  
Warwickshire CV32 4EL  
Tel: 01926 684293  
e-mail: firesafety@warwickshire.gov.uk

#### Warwickshire Fire & Rescue Service
W Brown, County Fire Officer,  
Fire Safety Head Quarters,  
Old Budbrook Road,  
Warwick,  
CV35 7DP  
Tel: 01926 410800  
e-mail: firesafety@warwickshire.gov.uk

#### Planning - Rugby Borough Council
Mrs Anna Rose,  
Head of Planning & Culture,  
Technical Services Department,  
Town Hall, Evreux Way,  
Rugby, CV21 2RR  
Tel: 01788 533750  
e-mail: anna.rose@rugby.gov.uk

#### Environmental Health - Rugby Borough Council
Mrs Lorna Hudson,  
Environmental Protection Team Leader,  
Environmental Services,  
Town Hall, Evreux Way,  
Rugby, CV21 2RR  
Tel: 01788 533859  
e-mail: lorna.hudson@rugby.gov.uk

#### Warwickshire County Council Social Services (Protection of Children)
Paul Jacques,  
Assistant Head of Service,  
Planning & Performance,  
Children, Young People & Families  
Directorate, Building 1, Saltisford Office Park, Ansell Way, Warwick CV34 4LU

#### HM Revenue and Customs
National Registration Unit (Betting and Gaming)  
Portcullis House  
21 India Street, Glasgow  
G2 4PZ  
Tel: 0141 555 3633
Name of Meeting: Licensing and Safety Committee

Date of Meeting: 7 July 2015

Report Title: Setting of fees for hackney carriages and private hire licences from October 2015

Portfolio: Sustainable Environment

Ward Relevance: All

Prior Consultation: N/A

Contact Officer: Joe Collins, Team Leader, Public Health and Licensing. Ext 3667.

Report Subject to Call-in: N/A

Report En-Bloc: N/A

Forward Plan: N/A

Corporate Priorities: Enable our residents, visitors and enterprises to enjoy, achieve and prosper.

Deregulation Act 2015.
Taxi Licensing Policy 2009.

Summary: Taxi Licence fees have been set at the current level for a number of years and need to be reviewed. The Deregulation Act 2015 has changed the period of dual driver licences and also private hire operator licences.
These changes come into force from 1st October 2015 and the Council has to decide on new fees for these licences. Officers have not been able to complete a full cost accounting exercise, but have estimated what the level of the new fees will be for these licences.

**Risk Management Implications**

It is important that fees charged cover the costs incurred by the Council in administering and issuing these licences. If the fees are set too low, the Council general fund would have to be used to subsidise the service. The fees can be challenged and it is necessary to have a robust accounting system.

**Financial Implications**

With the licences being set for longer periods, there could be a reduction in income from taxi licensing income. Any increase in fees can be challenged and must be able to be subject to audit. Full cost impacts will need to be reviewed once the fees accounting review is complete.

**Environmental Implications**

N/A

**Legal Implications**

Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 stipulate what can be charged for in respect of fees. Section 70 outlines the legal process that has to be followed when increasing fees for vehicle and operator licences. The Taxi Trade can ask for a Judicial Review of the Council decision if it does not follow the set legal process for raising fees set out in the legislation, or they can request the district auditor to investigate.

**Equality and Diversity**

N/A

**Options**

1. Committee agree the proposed fees proposed by officers to come into force later this year.

**Advantages.** The fees cover the costs involved with processing the licence, administration and issue of the licence.

**Disadvantages.** The Trade may challenge the proposed fees, and even refer the Council to the district auditor, if they cannot be justified.
2. Committee disagree with the proposed fees and decide to allow the fees to continue at their present level.

**Advantages.** None.

**Disadvantages.** The current fees are not set up for the new longer periods and costs may not be covered. The trade have already said that the Council should not just multiply the current annual fee by the longer period.

**Recommendation**

That:

(a) the charges as shown at Appendix 1 are approved for consultation;
(b) the necessary advertisement be placed; and
(c) In the event that no representations are received in response to the consultation, the new charges be implemented from 1st October 2015

**Reasons for Recommendation**

The Deregulation Act 2015 has now introduced longer periods for Dual Driver and Private Hire Operator licences and the Council has to decide what level of fee should be charged for these licences. Taxi Licensing fees have been set at the current levels for a number of years, and aspects of licence processing have changed. These have changed the costs incurred by Councils, so the fees have to be changed.
Setting of fees for hackney carriages and private hire licences from October 2015

Report of the Head of Environmental Services

Recommendation:

That:

(a) the charges as shown at Appendix 1 are approved for consultation;
(b) the necessary advertisement be placed; and
(c) In the event that no representations are received in response to the consultation, the new charges be implemented from 1st October 2015

1. Background

Rugby Borough Council is a Licensing Authority for Taxi Licensing, and issues licences for Dual Driver, Private Hire Operator and Proprietor licences.

The principles that should be applied to the setting of fees and charges are contained in legislation, impacted by European Directive and influenced by case law.

The relevant legislation is contained in the Local Government (Miscellaneous Provisions) Act 1976 (the Act)

Section 53 of the Act states: “a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.”

Section 70 of the Act states:

“a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—
(a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
(b) the reasonable cost of providing hackney carriage stands; and
(c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.”

In addition the EU Services Directive 2006 /123 which became effective in 2009 lays down a further principle to be applied in setting fees and charges for regulated services as follows:

“any charges which the applicant may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures and shall not exceed the cost of the procedures”

Recent case law arising out of actions brought against Manchester City Council and Guildford Borough Council has led the Chartered Institute of Public Finance and Accounting to provide guidance on best practice which includes:

- A licensing authority cannot use licence fees to raise revenue generally
- A licensing authority must carry forward surplus or deficit
- It is reasonable to account for licensing fees and charges over a 3 year cycle – this will take account on fluctuations in demand for licences and avoid the need to review and amend the charging structure annually
- Licensing authorities cannot “lump” all licence fees together which means each charging regime e.g. street trading or premises licences must be separately accounted for from, say taxi licences.

Another significant piece of case law is Hemming v Westminster. This relates to fees being charged against licence holders for enforcement against unlicensed sex establishments. On 29th April 2015 the Supreme Court ruled that the EU Services Directive does not prevent licensing authorities from charging those who receive licences fees that are proportionate to the cost of administering and enforcing the licensing framework for that activity. However, it referred to the European Court of Justice the issue of how the charges were levied.

The licensing authority must be able to justify the fee levied.

The licence fees have not been increased for a number of years. Following recent challenges of fees in other authorities officers have started a full and improved costs accounting system. This is still being developed and not fully implemented. However, the council is required to revise its fees by the 1st October 2015 as a result of the Deregulation Act 2015 and so it has been necessary to revise the proposed fees without full information.

2. Deregulation Act 2015

The Government introduced the Deregulation Bill just before the recent 2015 General Election and it received Royal Assent.

The Deregulation Act 2015 introduced revised legislation regarding taxi licensing, and two of them relate to the period of driver licences and Private Hire Operator licences.
The Council previously issued annual licences for both Driver and Private Hire Operators.

This new Act has stipulated that driver licences should normally be for a 3 year period and operator licences for a 5 year period.

The Council can issue these licences for shorter periods, but only in exceptional circumstances, and would have to justify the decision.

3. Costing exercise

Following a number of challenges by the taxi trade in the UK of the fees charged for licences a number of authorities have been working with finance officers and auditors to improve the transparency and accuracy of licensing fees. Officers have been developing a local scheme based on examples of best practice for determining fees. However, this is a long and complicated process and is still being piloted. Therefore, the information is of limited value for this review.

A number of changes in processes and legislation have occurred recently which means that the way officers operate will change, and this introduced further doubt regarding fees as any measurement at present will only cover current processes.

These changes include:

- Improved guidance and case law regarding how fees are determined.
- The DVLA abolishing the paper counterpart of the driver licence which will require new processes involving access to DVLA records though a secure web site (compared to the current paper system) and will also require consultation on the licences that will need to be held by EU drivers
- The Deregulation Act 2015 requiring driver licences to be issued for 3 years, instead of 1 year, and private hire operators licences to be issued for 5 years, instead of 1 year.
- The Deregulation Act 2015 allowing Private Hire Operators to sub-contract bookings to other operators, which may be based in other Council areas.

The aim is to transform the current system from a system which is very paperwork based, to one where officers have less paperwork to process, and use that freed resource to increase compliance monitoring.

Officers have had a look at costs incurred and have made estimates of how much they would be for driver licences for a three year period and for a private hire operator licence for five years.

This took into account present costs, but also incorporated more compliance checks over the length of the licence. For example, more checks of Private Hire Operator records, now that they will be allowed to sub-contract bookings to other operators, which may be based in other Council areas.

It is difficult to be exact with these figures because of the significant changes being made in process and they will be looked at again, once we have started the new longer period licences and further developed the costs accounting spreadsheets. We
will then be able to cost how much the service costs with more accuracy for the new length licences. We will also have further details on all the taxi licences which will then need to be revised. Therefore, these fees should be considered interim.

The proposed revised fees are limited in this report to dual licence fees and private hire operator licence fees.

In accordance with the legislation, deficits and surpluses can be carried forward and incorporated in any further revision of the fees. Only the costs of the service permitted by the legislation will be recovered.

Works services have also looked at the costs for taxi vehicle inspections, as they have been the same for some years. They have calculated that the fee should now be increased to £40 per inspection to cover costs.

4. Legal process

The legislation stipulates that the Council must consider any proposed revision of the licence fees.

Once revisions have been agreed local authorities must advertise any proposed increase in Taxi Licensing fees for vehicles and operators by a notice in a local newspaper with a consultation period of at least 28 days.

We would also advertise all other taxi licensing fees at the same time.

A copy of the Notice advertising the increased fees shall be deposited at the Council offices and be available for inspection by the public at all reasonable times, without payment.

Once the Consultation period has ended, a report will be brought back to the Licensing and Safety Committee to consider any responses and whether the increases should be agreed.

There is a provision in section 70 (4) of the Local Government (Miscellaneous Provisions) Act 1976 that if there is no objection to a variation of fees, they come into force on the date on the notice for expiry of the consultation period.

If objections are received to the variation of fees, the Council shall set a further date, not later than 2 months after the first specified date stated in the Notice, on which the variation shall come into force, after considering the objections.

Committee would then make recommendation regarding the fees.

A draft timetable of the Consultation regarding the proposed fees and Implementation of them is attached as Appendix 2.

The setting of fees is delegated to Heads of Services, under the Council’s Constitution. The Head of Environmental Services is accountable to full Council and will have regards to the recommendation of the Licensing and Safety Committee.
5. Proposed fees for Driver Licences (3 years) and private hire operator licences (5 years) and other hackney carriage and private hire licences from 1st October 2015.

These proposed fees are set out in the attached Appendix 1.
Name of Meeting: Licensing and Safety Committee

Date of Meeting: 7 July 2015

Subject Matter: Setting of fees for hackney carriages and private hire licences from October 2015

Originating Department: Environmental Services.

LIST OF BACKGROUND PAPERS

<table>
<thead>
<tr>
<th>Document No.</th>
<th>Date</th>
<th>Description of Document</th>
<th>Officer’s Reference</th>
<th>File Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td></td>
<td>Deregulation Act 2015.</td>
<td>JCS</td>
<td></td>
</tr>
</tbody>
</table>

* The background papers relating to reports on planning applications and which are open to public inspection under Section 100D of the Local Government Act 1972, consist of the planning applications, referred to in the reports, and all written responses to consultations made by the Local Planning Authority, in connection with those applications.

* Exempt information is contained in the following documents:

<table>
<thead>
<tr>
<th>Document No.</th>
<th>Relevant Paragraph of Schedule 12A</th>
</tr>
</thead>
</table>

* There are no background papers relating to this item.

(*Delete if not applicable)
Report to Licensing and Safety Committee-7 July 2015

Review of Taxi Licence fees

Dual Driver and Private Hire Operator Licences

Table showing proposed licence fee changes.

<table>
<thead>
<tr>
<th>Type of licence</th>
<th>Existing fee (£)</th>
<th>Proposed fee (£)</th>
<th>comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual driver. new application</td>
<td>80.00</td>
<td>480.00</td>
<td>The fee includes the driver badge. The existing licence fee is only for one year. The proposed fee is for a 3 year licence. N.B. the fees for DBS, DVLA mandate, Knowledge test and English Comprehension test are not included. The applicant will also have to pay for a medical and to take the DVSA taxi driver test.</td>
</tr>
<tr>
<td>Dual driver. renewal</td>
<td>80.00</td>
<td>225.00</td>
<td>As above apart from knowledge test, English comprehension test and DVSA taxi driver test.</td>
</tr>
<tr>
<td>Private Hire Operator. New</td>
<td>60.00</td>
<td>380.00</td>
<td>The existing licence fee is only for one year. The existing Operator fee depends on how many vehicles, they will be using. The proposed fee will be for a 5 year licence, and will also depend on how many vehicles they will be using.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>680.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>974.00</td>
<td></td>
</tr>
<tr>
<td>Private Hire Operator. Renewal.</td>
<td>60.00</td>
<td>360.00</td>
<td>As above.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>655.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>950.00</td>
<td></td>
</tr>
<tr>
<td>Service</td>
<td>Price 1</td>
<td>Price 2</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>---------</td>
<td>---------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Vehicle Proprietor licence (Hackney Carriage or Private Hire Vehicle)</td>
<td>145.00</td>
<td>145.00</td>
<td>For both hackney carriages and private hire vehicles. This is an annual fee, as the licence is only for one year</td>
</tr>
<tr>
<td>Transfer of vehicle licence</td>
<td>12.50</td>
<td>12.50</td>
<td>For all licensed vehicles.</td>
</tr>
<tr>
<td>Replacement plates</td>
<td>34.00</td>
<td>34.00</td>
<td>As above</td>
</tr>
<tr>
<td>DVLA check</td>
<td>10.00</td>
<td>10.00</td>
<td>For drivers</td>
</tr>
<tr>
<td>DBS check</td>
<td>44.00</td>
<td>44.00</td>
<td>For drivers</td>
</tr>
<tr>
<td>Chequered stripes</td>
<td>20.00</td>
<td>20.00</td>
<td>Per set for hackney carriage.</td>
</tr>
<tr>
<td>Vehicle plates. Refundable deposit.</td>
<td>120.00</td>
<td>120.00</td>
<td>For private hire vehicles only. This is refunded to the vehicle proprietor, when they surrender the licence and plate to the Council</td>
</tr>
<tr>
<td>Comprehension Test</td>
<td>5.00</td>
<td>5.00</td>
<td>Test is for new driver licence applicants. It is run by the adult and community learning team (ACL) who take the fee</td>
</tr>
<tr>
<td>Local Knowledge Test</td>
<td>30.00</td>
<td>30.00</td>
<td>For new driver licence applicants</td>
</tr>
<tr>
<td>Vehicle Safety Check (Council’s Work Services Unit)</td>
<td>35.00</td>
<td>40.00</td>
<td>For all licensed vehicles. Works services have done a costing exercise, as the fee has been the same for some years. They consider it should be increased to cover costs</td>
</tr>
</tbody>
</table>
Licensing and Safety Committee-7th July 2015.

Setting of fees for hackney carriages and private hire licences from October 2015.

Appendix 2.

Draft Consultation and Legal timetable on New Fees and Implementation.

1. Committee agree consultation on proposed taxi licence fees from Head of Environmental Services, that an advert be placed in a local paper and that the fees will come into force on the 1st October 2015, if no representations are received in response to them

2. Officers draft Notice of Consultation for local paper, which stipulates a minimum consultation period of 28 days, when responses have to be received by and the provisional date when the new fees come into force.

3. Advert and Notice of proposed fees placed in paper.

4. Letters sent to trade and RHODA, to advise of proposed fees. RHODA are the local hackney carriage operators and drivers association.

5. Notification of proposed fees placed on Council Website.

6. Consultation period of minimum of 28 days.

7. Responses received from Taxi Trade, and collated.


9. Committee consider responses and decide what fees should be.

10. Committee agree that fees come into force at a set date. This should be less than 2 months after the date set in the Notice of Consultation.

11. New fees come into force on 1st October 2015.