

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 19 DECEMBER 2018 AT 10:00 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 APOLOGIES

To receive any apologies.

3 - 14

4 MINUTES

To confirm and sign the Minutes of the meeting held on 21 November 2018.

15 - 74

5 GAMBLING ACT PRINCIPLES - POST CONSULTATION REPORT 2018

Report of the Acting Director of Regulation & Enforcement

75 - 78

6 CHRISTMAS EVENTS IN BIRMINGHAM CITY CENTRE

Report of the Acting Director of Regulation & Enforcement

- 79 - 94**
- 7 **PROSECUTIONS & CAUTIONS OCTOBER 2018**
- Report of the Acting Director of Regulation & Enforcement
- 95 - 100**
- 8 **OUTCOME OF APPEALS**
- Report of the Acting Director of Regulation & Enforcement
- 101 - 104**
- 9 **ACTIONS TAKEN BY CHAIR OF THE LICENCING & PUBLIC PROTECTION COMMITTEE AUTHORITY OCT 2018**
- Report of the Acting Director of Regulation & Enforcement
- 105 - 106**
- 10 **SCHEDULE OF OUTSTANDING MINUTES**
- To consider the schedule of outstanding minutes.
- 11 **DATE AND TIME OF NEXT MEETING**
- To note the next meeting will be held at 1000 hours on Wednesday 16 January 2019.
- 12 **OTHER URGENT BUSINESS**
- To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
- 13 **AUTHORITY TO CHAIRMAN AND OFFICERS**
- Chairman to move:-
- 'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

Item 4

LICENSING AND PUBLIC PROTECTION COMMITTEE 21 NOVEMBER 2018

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 21 NOVEMBER 2018 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Olly Armstrong, Bob Beauchamp, Nicky Brennan, Neil Eustace, Adam Higgs, Nagina Kauser, Mike Leddy, Mary Locke, Simon Morrall, Hendrina Quinnen and Martin Straker-Welds.

NOTICE OF RECORDING/WEBCAST

- 1081 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

- 1082 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

There were no declarations of interest.

APOLOGIES

- 1083 Apologies were received from Councillors Bruce Lines, Mike Sharpe and Sybil Spence for non-attendance.
-

MINUTES

1084 The Minutes of the meeting held on 24 October 2018, having been previously circulated were confirmed as a correct record and signed by the Chairman.

The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.

CONTROL OF SEX ESTABLISHMENTS – SEXUAL ENTERTAINMENT VENUE, SCARLETS 34 HORSE FAIR RENEWAL REPORT

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 1)

The following people were in attendance for the hearing.

On behalf of the Licence Holder

Mrs Michelle Monaghan	-	Licence Holder
Ms Sarah Clover	-	Legal Representative

Those making Representations

Mr Oliver Drain	-	Birmingham Royal Ballet
Mr Peter Evans	-	Birmingham Hippodrome

At this juncture, the Chair welcomed everyone to the meeting and made the necessary introductions. She outlined the running order of the business and the times each party would have to make their representation and summary.

The Chair after seeking confirmation that the applicant did not wish to make any preliminary points invited the Licensing Enforcement Officer to present the report.

David Kennedy, Licensing Section, made introductory comments relating to the report.

Ms Clover and Mrs Monaghan made the comments in support of the application and in response to questions from Councillors:-

- That this was a request for the renewal of a Sexual Entertainment Venue (SEV) licence the original application having being obtained 2011 and under the scheme of law, the requirement was to renew the application every year.
- There had been various visits to the premises since the licence had been issued in 2011 but no issues had been raised by the responsible authorities following these visits nor indeed upon application for renewal of the licence.

- No objections to the renewal of the licence had been made by any of the responsible authorities or by Southside Bid. Ms Monaghan also held an SEV licence for the Cyclone premises in Broad Street.
- There has been a regular objection on behalf of Birmingham Royal Ballet and Birmingham Hippodrome they object nearly every year on the same ground.
- The premises were located in an area listed as suitable for a sexual entertainment venue by Birmingham City Council.
- Ms Monaghan confirmed that they had been trading for sufficient time from September 2017 up until April 2018. There have been some problems with the building structure, uncertainty regarding the renewal of the lease and today's application and staffing issues (relating to bar and security staff) rather than performers, which had all since been resolved and were now ready to re-open.
- Ms Monaghan also held an SEV licence for the Cyclone premises in Broad Street. She stated that the performers working at both premises were self-employed and confirmed that the licensing authority had never raised any queries with regard to any inadequacies relating to the rules and regulations for the protection of the performers.
- Ms Monaghan confirmed that the performers were provided with separate changing rooms, toilets, refreshments and discounted drinks. She confirmed that all of the door staff was Sia licensed and the performers were monitored by CCTV. When leaving the premises they were escorted by security staff to their taxis or vehicles for their safety. She added that generally the performers were happy in their work and there had only ever been relatively minor complaints received.
- Ms Monaghan referred to the issue of fines and explained the reason for their implementation was to ensure the smooth running of the business. She added that generally fines did not occur and at the last time of inspection, no fines had been taken from the venue.
- Ms Monaghan briefly explained the reason for the renewal application licence being refused in September 2016 on 'suitability.' She stated that the business rates had not been paid due to a disagreement with the landlord as the building was not fit for purpose. She confirmed that the disagreement had since been resolved and after making payments on the arrears and following an appeal at the Magistrates Court the licence had been granted. It was reported that the outstanding debt had now been completely repaid.
- It was noted that the level of impact occurring in times of when Scarlets was trading were nowhere near enough for Birmingham

Royal Ballet or Birmingham Hippodrome to be aware that it was happening.

- The premises had not changed since 2011 when representation had been received from the Birmingham Royal Ballet and the Birmingham Hippodrome and while there had been no direct complaint from the premises, Ms Monaghan had changed the premises opening hours from 9.00pm to 10.00pm (even though she had been granted a licence from 9.00pm to 6.00am) so that there would be no significant crossover of customers for the 2 venues.
- The exterior of the premises was very discreet with no large logos with a notice indicating that it was a late night venue – nothing indicating the type of entertainment offered.
- While there were various developments taking place in and around the area, it was highlighted that the city council's policy remained unchanged with the number of eight Sexual Entertainment Venues including Scarlets being appropriate in the area.
- That according to the licensing policy for SEVs there were no moral judgement to be made when looking at the licence for an SEV - this was a legitimate business with regulatory conditions.
- Ms Monaghan confirmed that there was the provision of a smoking area outside which was screened and it was a private locked garden. It was further confirmed that performers and patrons shared the area.

At 1125 there was a five minute adjournment in order that the photographic evidence of the smoking area could be circulated to the Committee and the attendees.

As the photograph was not a good judgement an up to date photograph was provided later.

At 1130 the meeting reconvened.

Mr Oliver Drain Birmingham Royal Ballet and Mr Peter Evans, Birmingham Hippodrome made the comments in support of the application and in response to questions from Councillors:-

- Mr Drain referred to the dance facilities at the Royal Ballet used by the number of children and vulnerable adults and was of the opinion that Scarlets was an inappropriate business to be located in this vicinity.
- Mr Drain highlighted that Birmingham Hippodrome and Birmingham Royal Ballet were joining together with One Dance UK to build the DanceHub and it was hoped that Birmingham would become the home of Dance, Globally. He highlighted that taking into account the new facility due to open next year and the impact that this would have it was

therefore inappropriate to have a Sexual Entertainment Venue located nearby.

- Mr Evans highlighted that they had expanded their youth environment in Birmingham Hippodrome over the past months providing an expansive educational network. He highlighted that families and children not only used Hurst Street entrance but also widely used Thorp Street entrance.
- He added that Thorp Street entrance had been refurbished 2 years ago and that all the young dancers used that entrance. He confirmed that although Scarlets was located on the opposite side of the road, the smoking area and gardens were nearly opposite the doors of the Hippodrome and it was therefore important that they were screened correctly. He gave assurance that if further action was required regarding screening, that the applicant would most probably address this as she had done in the past.
- It was noted that with the changes that were taking place in Southside and with the expansion of business relating to Birmingham Royal Ballet and Birmingham Hippodrome, the drive for more families and young people having greater exposure to the arts in various forms, and the residential developments that were taking place, they believed it was not an appropriate to have a Sexual Entertainment Venue nearby.
- It was noted that the evening performances at the Birmingham Royal Ballet and Birmingham Hippodrome finished at approximately 10 pm with dress rehearsals finishing a little later. It was highlighted that they were always encouraging more diverse groups to the arts and that their policy was 'everybody was welcome'.
- Mr Evans detailed the future events that would be taking place at Birmingham Hippodrome resulting in approximately 130,000 families and school groups attending these events in the forthcoming months. It was highlighted that children taking part in the shows were licensed to perform. It was noted that children attending the events would be under the supervision of an adult and that it would be the adult's choice whether they used the Thorp Street route.
- It was highlighted that in the past the Southside Bid had objected to Scarlets, however on this occasion they had not.
- In response to a question as to whether any issues or complaints had been raised by the parents of the children attending Birmingham Hippodrome, Mr Evans confirmed that no complaints regarding Scarlets' operation had been lodged.
- In response to a question relating to whether they had considered the SEV when Birmingham Hippodrome were looking to expand their business, Mr Evans confirmed that they were following their remit to create a bigger and better creative hub for Birmingham. Mr Drain,

Birmingham Royal Ballet confirmed that they were always looking to improve and increase their outreach.

In summing up, Mr Evans made reference to the developments that were taking place in Southside. He highlighted that with Birmingham Hippodrome and Birmingham Royal Ballet joining together with One Dance UK to build the DanceHub which will encourage more family oriented activities and as part of that given the increased use of Thorp Street was of the opinion that the licence should not be renewed.

In summing up, Ms Clover made reference to the DanceHub as put forward as the change to the area highlighting that it was part and parcel of Birmingham Hippodrome and that the use of the building would remain the same. Ms Monaghan had operated the premises successfully without giving cause for complaints and could see no specific risk arising due to increased business resulting from the new DanceHub. It was highlighted that the licence renewal was annual and if problems occurred in the future these could be addressed at that time.

At 1225 hours the Committee adjourned and the Chair requested that all present with the exception of the Members, the Committee Lawyer, the Committee Manager and Camera Operator withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1317 hours and the decision of the Committee to grant the renewal of the Sexual Entertainment Venue licence was announced with everyone being advised that they would receive the full decision and reasons as set out below in due course:-

The Chair put the vote to the meeting and following a show of hands, by 7 in favour and 5 against it was:-

1085

RESOLVED:-

That the application by Michelle Monaghan for the renewal of a Sexual Entertainment Venue licence under the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in respect of Scarlets, 34 Horse Fair, Birmingham B1 1DA.

BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

Those matters detailed in the application and the Council approved standard conditions will form part of the licence issued subject to the **additional** conditions below:

[1] The licence holder is to ensure that the outdoor smoking area is effectively screened so that the area cannot be seen from the street.

[2] The licence holder is to provide a separate and dedicated smoking area for performers to which patrons shall not be admitted.

[3] The hours of operation are amended (with the agreement of the applicant) to 22:00 – 06:00.

Reasons

Members carefully considered the representation on behalf of the applicant and had careful regard to the representations made on behalf of the Birmingham Royal Ballet and the Hippodrome.

The Committee noted the discussion and submissions concerning the use of premises in the vicinity and also the character of the area. The Committee in particular noted that construction had begun on the Dance Hub but that the construction works had yet to be completed.

The Licensing Committee noted the representations that the character of the area is changing, the Committee expressly requested that a fuller report on the use of premises in the vicinity and the character of then locality is provided at the time of the next renewal application to enable a fuller and detailed examination of the use of premises in the vicinity and the character of the area.

The Committee heard from the representatives of the Birmingham Royal Ballet and the Hippodrome that the smoking area was visible from the street. The applicant provided photographs of the current level of screening as at the date of the hearing. It was felt that the level of screening was insufficient.

During the course of discussion with the applicant it emerged that the smoking area was used by patrons and staff. The committee were concerned that there was not a separate smoking area for performers. Members felt that a separate area, in which patrons were not allowed, should be provided for performers wishing to take a smoking break.

The Committee considers the conditions imposed to be necessary, reasonable and proportionate to address concerns raised.

In reaching this decision, the Committee has given due consideration to the City Council's Sexual Entertainment Venue Policy, the information contained in the application, the written representations received and the submission(s) made at the hearing by the applicant and their (legal) adviser and those who had made representations.

LICENSING AND PUBLIC PROTECTION BUDGET MONITORING
2018/2019 – QUARTER 2

The following report of the Acting Director of Regulation and Enforcement and Corporate Director Finance and Governance was submitted:-

(See Document No. 2)

Parmjit Phipps, Finance and Governance, provided a comprehensive breakdown of the report.

In response to the Chair's comment relating to PoCA expenditure detailed in Appendix 3 of the report, Chris Neville, Acting Director of Regulation and Enforcement while providing a more detailed financial breakdown highlighted that it all the spend had been used within the ring-fenced conditions.

Councillor Leddy congratulated officers for their excellent financial performance.

The Chair put the recommendations to the meeting and they were unanimously agreed.

1086

RESOLVED:-

- (i) That the latest Revenue budget position at the end of September 2018 (Quarter 2) and Forecast Outturn as detailed in Appendix 1 be noted;
- (ii) that the position for the Savings Programme for 2018/19 as detailed in Appendix 2 be noted;
- (iii) that the expenditure on grant funded programmes in Appendix 3 be noted;
- (iv) that the position on Capital projects, as detailed in Appendix 4 be noted;
- (v) that approval be given to the appropriation of £0.191m from PoCA reserves for PoCA expenditure; and
- (vi) that the position on reserves and balances, as detailed in Appendix 5 be noted.

PROPOSALS FOR A MEDIUM TO LONG-TERM EMISSION STANDARD AND AGE POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 3)

Chris Neville, Acting Director of Regulation and Enforcement, made introductory comments and outlined the key points of the report. It was noted that a further report would be brought to Committee on 13 February 2019 containing the final version of the policy.

At this juncture, the Chair emphasised that this was only the consultation document.

In response to the comments from elected members' and trade representatives, the following points were captured:-

Chris reported that although it was the responsibility of hackney carriage and private hire drivers to acquire the tools of the trade in order to meet all legal obligations and policy decisions, it was very much hoped that they would receive funding from the Clean Air fund that had been set up specifically to assist businesses to transition and that drivers would fall into that category. He added that they had had earlier conversations with Government regarding this particular item.

The Chair referred to the bid which was being submitted prior to 11 December 2018, and confirmed that it honoured the commitment in trying to get as much resource as possible, in order to assist drivers in making the transition.

Chris made reference to the policy that had been implemented 12 months ago whereby vehicles would have to meet the clean air emissions standards by 1 Jan 2020, adding that at present there was no approved technology agreed by Government that would convert taxi vans to meet the necessary standards. He stated that they were hoping that Government will approve some of the technology and that it was up to industry to come with solutions and obtain approval.

He highlighted that the decision taken 12 months ago where vehicles would have to meet Euro 6 standard was there for reasons of health and to improve the air for the citizens of Birmingham that lived and worked in the city.

Chris confirmed that there was recognition that the consequences of deregulation had caused difficulties for the drivers, he stated that they were trying through lobbying the Government to request changes in order to stop the deregulation act impacting on the trade.

Following a discussion relating to the number of deaths occurring as a result of poor quality air, Chris and Chair explained that the information was based on public health data and that there was no reason to doubt the information provided.

Chris provided a brief explanation on the need to implement the age policy and the fact that they would need to meet air quality standards which might not be possible to achieve if vehicles were past a certain age.

Chris provided a brief explanation on the pilot project and the reason why the newest vehicles had been selected rather than converting very old vehicles due to the structural and associated issues.

Chris stated that although there were many hackney carriage and private hire trade working in the city and they were not the only cause to contributing to the air quality, however the city council was under the obligation to influence air quality wherever it had the opportunity to do so. The licensing policy was a clear opportunity for the city council to fashion its procedures and policies to support its overall and overarching objectives to improve air quality.

Chris referred to the proposals within the report and confirmed that they were proposals for policy and that Birmingham had to have a clean air zone and has to implement in how it sees fit locally.

Chris confirmed that engine conversions would have to be CVRS approved and they would have to take place at an approved garage under the Government scheme. He added that it was a specialist conversion and did not anticipate that there would be a waiting list for drivers wishing to take this course of action.

Chris briefly explained the LPG conversion and subsequently highlighted that all vehicles were subject to a thorough structural survey. He added that vehicles converted now at an approved garage would still have to meet the 14 year age criteria from 1 January 2020 which would determine whether they could continue working.

Chris made reference to the point that some drivers had very recently purchased vehicles in order to meet Euro 6 emissions standard and stated that if there were specific hardship issues, in those circumstances, they would be considered as part of this consultation.

Following a concern from the trade relating to drivers' computer literacy, Chris agreed to take on board and confirmed that they would be writing to all individuals in due course.

Following a brief discussion relating to the trade meetings, the Chair agreed to attend the next meeting.

The Chair concluded by thanking representatives from the trade for attending the meeting and providing their comments.

The Chair put the recommendations to the meeting and following a show of hands it was (5) in favour and one abstention and was therefore carried.

1087

RESOLVED:-

That subject to the views and comments of the Committee a consultation will be launched with the taxi and private hire trade and the general public to consider the principles for future licensing policy outlined in the paragraph 6 of the report; and

That the consultation will commence on 21 November 2018 and last for 8 weeks; and

That a further report be brought to this Committee on 13 February 2019 containing the final version of the policy; and

That outstanding minutes 916(iii) and 916 (iv) of 23 October 2018 be discharged.

PROSECUTIONS AND CAUTIONS – SEPTEMBER 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

Chris Neville, Acting Director of Regulation and Enforcement, made introductory comments relating to the report highlighting some of the cases.

The Chair put the recommendation to the meeting which was unanimously agreed:-

1088 **RESOLVED:-**

That the report be noted.

FIXED PENALTY NOTICES ISSUED SEPTEMBER 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 5)

Mark Croxford, Head of Environmental Health, made introductory comments relating to the report.

The Chair put the recommendation to the meeting which was unanimously agreed:-

1089 **RESOLVED:-**

That the report be noted.

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
SEPTEMBER 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 6)

Emma Rohomon, Acting Head of Licensing, made introductory comments to the report.

The Chair put the recommendation to the meeting which was unanimously agreed:-

1090 **RESOLVED:-**

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 7)

Chris Neville, Acting Director of Regulation and Enforcement, commented on various Outstanding Minutes.

1091 **RESOLVED:-**

That Outstanding Minute Nos. 916(iii) and 916(iv) be discharged and all other Outstanding Minutes be continued.

AUTHORITY TO CHAIR AND OFFICERS

1092 **RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting ended at 1445 hours.

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CHAIRMAN

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

19 DECEMBER 2018
ALL WARDS

STATEMENT OF GAMBLING PRINCIPLES POST-CONSULTATION REPORT

1. Summary

- 1.1 The City Council as the Licensing Authority is required to determine and publish its Statement of Gambling Principles at least every three years, and keep it under review and make such revisions to it at such times, as it considers appropriate.
- 1.2 This is a requirement of the Gambling Act 2005 ('The Act').
- 1.3 The purpose of this report is both to inform the Licensing and Public Protection Committee of the outcome of the public consultation and to seek approval for the revised policy document at Appendix 2.
- 1.4 In order to take effect in February 2019 the amended policy and scheme of delegation must be approved by City Council at its meeting on 15th January 2019.

2. Recommendation

- 2.1 That the Committee endorses the Post Consultation Draft Statement of Gambling Principles and recommends the draft document at Appendix 2 to full City Council.

Contact Officer: Shawn Woodcock, Licensing Operations Manager
Telephone: 0121 303 9922
E-mail: shawn.woodcock@birmingham.gov.uk

3. Background

- 3.1 The Gambling Act 2005 requires the City Council as the Licensing Authority to determine and publish its Statement of Gambling Principles at least every three years, to keep it under review and make such revisions to it, as it considers appropriate. The current Statement of Gambling Principles has been in effect since May 2016 and must, therefore, be reviewed, determined and published before January 2019.
- 3.2 Officers are working on a local area profile for the City however; it would not have been possible to complete this work in time to meet the Committee process deadlines. The Local Area Profile will be produced as detailed in Part C 1(xi) of the Statement of Principles.
- 3.3 A draft Policy was circulated to stakeholders, including (but not limited to) the list of statutory Consultees, being:
- The Chief Officer of Police.
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area.
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 3.4 The public consultation was for five weeks, from 16th October- 25th November with seven submissions received. These submissions are attached at Appendix 1(a)-(g).
- 3.5 Whilst a longer consultation period would have been preferable, the time constraints imposed by the requirement to bring the results back to December Committee, and January City Council preclude any extension of this deadline.
- 3.6 As no unexpected changes are proposed within this draft, a shorter consultation was considered to be acceptable.

4. Matters for Consideration

- 4.1 Amendments to the Policy have been proposed, in particular introducing the need for local risk assessments to be completed; a local area profile for the City to be produced and the introduction of the Betwatch scheme as well as updating contact details for Responsible Authorities. Alterations to the document are highlighted within the text.
- 4.2 **Local Risk Assessment** - Since 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to 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.

- 4.3 The local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.
- 4.4 **Local Area Profile** - Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Council will publish a local area profile in due course.

5. Consultation

- 5.1 Consultation was carried out by a variety of means, including through direct mail, the Birmingham City Council website, Be Heard, and email.
- 5.2 In total seven responses were received, four via direct email and 3 via the BeHeard consultation hub.
- 5.2 Detailed responses to the consultation and the action we have taken as a result of that consultation are attached at appendix 1.

6. Implications for Resources

- 6.1 The cost of devising and maintaining a Statement of Gambling Principles is included within the existing Licence fee structure.

7. Implications for Policy Priorities

- 7.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

8. Public Sector Equality Duty

- 8.1 The Government carried out an equality impact assessment of the legislation which found that no unintended or disproportionate impact is likely. It is not anticipated any amendments to be made as a result of this review would require an Equality Impact Assessment.
- 8.2 Section 349 of the Gambling Act 2005 requires the Licensing Authority to publish a Statement of Gambling Principles. The Act specifies also those who must be consulted on the Policy and subsequent Policy reviews. These are listed at 3.3 above.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

APPENDIX 1 – Consultation responses and what we have done

Respondent	Response	Our response
Gambling Commission	<p>Hi Shawn</p> <p>Thanks for letting us have sight of this, looks good and pleased to see a good piece on local risk assessments.</p> <p>Just one suggested amendment if I may around Betwatch, it's a tweak to reflect that the industry uses the term problem gamblers to define people with gambling addictions rather than those committing crime / ASB and also maybe remove "encourages" to make it an expectation that where there is a scheme in place they will participate? Bearing in mind the schemes only operate where there are problems I'd think that's reasonable.</p> <p>Suggested wording for consideration below:</p> <p>"Betwatch - There are a number of established Bet-Watch schemes across the City and the licensing Authority expects encourages operators to attend and support their local scheme where one has been created to share information and discuss issues around individuals committing criminal / antisocial behaviour within and around gambling premises."</p> <p>Thanks</p>	<p>The suggested amendment made by the Gambling Commission has been incorporated into the post consultation draft Statement of Principles</p>
GamCare	<p>Thank you for your email, we appreciate your interest in our work.</p> <p>While we do not have the resources available to allow us</p>	

APPENDIX 1 – Consultation responses and what we have done

	<p>to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the Gambling Commission.</p> <p>The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.</p> <ul style="list-style-type: none"> • A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/ • Consider that proposals for new gambling premises which are near hostels or other 	<p>A local authority area profile is to be produced and this and published as soon as possible.</p>
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APPENDIX 1 – Consultation responses and what we have done

	<p>accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.</p> <ul style="list-style-type: none"> • A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place. • Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately? • Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or 	<p>The principle of local risk assessments has been included in the new draft Statement of Principles</p>
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APPENDIX 1 – Consultation responses and what we have done

	<p>pubs, bars and clubs.</p> <ul style="list-style-type: none">• Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.• Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so. <p>We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact mike.kenward@gamcare.org.uk</p> <p>For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.</p> <p>If there is anything else we can assist with please do let us know.</p>	
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APPENDIX 1 – Consultation responses and what we have done

HM Revenue and Customs	<p>As one of the responsible authorities quoted in your appendices can I ask you to amend our postal contact address to:-</p> <p>HM Revenue and Customs Excise Processing Teams BX9 1GL United Kingdom</p> <p>Our contact telephone number is now 0300 322 7072 Option 7.</p> <p>Our email address remain the same, NRUBetting&Gaming@hmrc.gsi.gov.uk</p>	The contact address has been amended
Local Councillor	<p>In reference to location I would prefer the inclusion of areas of high social and economic deprivation as a factor which may mean that an application may not be reasonably consistent with the principles of the licensing objectives. I am concerned at the impact such institutions have on poorer communities. It is evident that the net result of gambling venues is to further exacerbate deprivation.</p> <p>I would also welcome restrictions on licences being granted unless the applicant can provide evidence of a substantial contribution towards supporting individuals with gambling problems but also wider education efforts.</p> <p>Finally I would wish to see some restriction on both the volume and value of bets being able to conducted on</p>	<p>This will be covered by the Local Risk Assessment each premises will be required to supply in future.</p> <p>There is within the Act a statutory aim to permit licensing however each premises must comply with the Gambling Commissions Social responsibility Code.</p> <p>National restrictions on the value of bets on Fixed Odds betting</p>

APPENDIX 1 – Consultation responses and what we have done

	machines.	Terminals are due to come into effect in April 2019
member of the public	<p>At Part A of the guidelines at paragraph 2 "Introduction" it states that the Licensing Authority recognises that properly regulated gambling contributes to the growth of the City's local economy." There is no evidence provided to substantiate this assertion. Please would the Local Authority publish in the public domain the evidence to substantiate this assertion and confirm its source.</p> <p>On page 4 of the guidelines it states that the Safe Guarding Children's Board and Members of Birmingham's Licensing and Gambling Forum were not consulted. What were the reasons that they weren't consulted?</p> <p>On page 6 entitled "Interested Parties" they are described as those who "live sufficiently close to the premises to be likely affected by the activities being applied for". Why does there need to be a physical proximity regulation for someone to be classed as an interested person? Gambling and the introduction of a gambling establishment into an area affects the whole community. For instance, relationship breakdowns due to problem gambling and crime related to gambling habits.</p> <p>When the description of an "interested person" above is</p>	<p>This has been removed.</p> <p>The safe Guarding Children's Board removed themselves as a responsible authority in 2016; they have been replaced by the Child Protection, Performance and Partnership, who were consulted. The Licensing and Gambling Forum no longer exists.</p> <p>The requirement to live sufficiently close to a premises is written into the Act so cannot be removed. We do not give the interests of local businesses higher priority over local residents and residents can make objections without going through their local councillor.</p>

APPENDIX 1 – Consultation responses and what we have done

	<p>contrasted with those who "have business interests" where the description will "have the widest possible interpretation", there is an inequality in relation to those who the licensing authority with consider evidence from.</p> <p>From the above descriptions of "interested parties" and those who "have business interests" it is quite clear that an individual resident of an area will not have the same rights as those who have business interests. Individual residents should not need to put their submissions through councillors and the description of an "interested party" should have the "widest possible interpretation" too.</p> <p>Further, the requirement for an "interested party" to "live sufficiently close to the premises to be likely affected by the activities being applied for" should be deleted from the guidelines</p>	
Frankley Neighbourhood forum	<p>As a caring society we make it difficult for people to self harm, tobacco, alcohol, drugs, seat belts etc. Logically the same principle should apply to gambling. Like all self harming the damage is not confined to the self harmer. Logically and perhaps socially this is the justification for restricting self harming hence I support restricting gambling.</p>	<p>We cannot restrict Gambling as there is within the Act a statutory aim to permit licensing however each premises must comply with the Gambling Commissions Social responsibility Code.</p>
Novomatic UK	<p>Thank you for the opportunity to make comments on the above consultation. On behalf of Talarius Limited and Luxury Leisure, I make the following points in relation to the consultation draft (the "Draft"):-</p>	

APPENDIX 1 – Consultation responses and what we have done

	<ol style="list-style-type: none"> 1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the “Act”) it is subject to the Regulators’ Code. The code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow. Additionally under the Code, when designing and reviewing policies, the Authority must among other things understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. We suggest that reference is made in the Draft to the Code’s application to the Authority’s activities under the Act. 2. Para 5 page 6: As is confirmed at part C 1(i), moral objections to gambling are not valid reasons to reject an application for a premises licence. We are unsure how this sits with para 5 for the Draft and in particular, which “business interests” of faith groups might be affected by the activities – putting aside any moral objections to what is a legal activity. We would therefore suggest the removal of such bodies from the example of those with business interests that might be affected and therefore qualify as an Interested Party. 3. Part B page 11- third licensing objective: As the Authority appreciates, children are legally permitted to take part in limited types of gambling (Category D 	<p>The Regulators’ Code has to be considered in all of our regulatory activities and so there is no need to specifically mention it in the Statement of Principles.</p> <p>There is no reason that a faith group cannot have a business interest. That might be because of schemes run by the group in the area, such as play groups, or charity work relating to gambling. The City Council fully understands the difference between a moral objection and a business interest.</p> <p>Amended to include limited exemptions.</p>
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APPENDIX 1 – Consultation responses and what we have done

	<p>machines) and plainly therefore, the reference to preventing children from taking part in gambling entirely, is not quite correct and we suggest it is amended.</p> <p>4. Part C page 13: the concept of “primary gambling activity” as set on in the LCCP has been removed. Instead the relevant provisions are at SR Code provision 9.</p> <p>5. Part C (iii) page 15, page 17 and page 29: We refer to the 2008 case of R (on the application of Betting Shop Services Limited) –V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement) even though the premises were not fully constructed – the applicant is not restricted to making an application for a provisional statement if the premises are “not yet complete” or that applications can only considered for “finished buildings” as suggested in the Draft. It was held by the court that the then current Guidance issued by the Commission was wrong. The Guidance was subsequently amended. We suggest that this is reflected in the Draft.</p> <p>6. Part C page 21: The Local Risk Assessment (LRA) is a creature of the LCCP as is acknowledged in the opening paragraph of this section on page 19. It is not a requirement of the LCCP that the LRA <u>must</u> be kept on the individual premises. While that may be sensible and best practice, it is not what the LCCP states or</p>	<p>Primary Gambling Activity removed and referral to the specific codes made instead.</p> <p>Page 15 suggests that applicants <i>should</i> not apply for a provisional statement rather than they <i>must</i> and this remains the case. Page 17 has been amended; page 29 remains as the 5th edition of the GLA still contains advice on provisional statements.</p> <p>We recognise that this is sensible and best practice and so require a copy to be kept on site.</p>
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APPENDIX 1 – Consultation responses and what we have done

	<p>requires.</p> <p>7. Part C 2 page 22: We do not understand the reference to the “physical separation of areas” in the context of AGCs.</p> <p>8. Part C 6 page 25: We do not understand why the bullet points re internal signage and appropriate staff training set out for AGCs are not considered relevant for Betting premises, or that for staff training is not relevant for Casinos or Bingo premises.</p> <p>9. Part D 1 paragraph 2 page 32: We suggest that it would be helpful to note in the first paragraph that only Category D gaming machines are permitted in UFECs</p> <p>We hope that the above proves useful. If you have any questions, please to not hesitate to contact us.</p>	<p>We would expect something physical to prevent children gaining access to those areas that contain adult only gaming machines.</p> <p>The lists are not exhaustive, merely an indication of measures we would expect. Staff training would be appropriate for all venues and has been added to the lists, but internal signage is not always necessary.</p> <p>Agreed and amended accordingly</p>
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BIRMINGHAM CITY COUNCIL

STATEMENT OF PRINCIPLES

GAMBLING ACT 2005



This Statement of Licensing Principles was approved by Birmingham City Council on 15th January 2019 and is to be Effective from 14th February 2019.

BIRMINGHAM CITY COUNCIL STATEMENT OF PRINCIPLES Gambling Act 2005

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*This Statement of Licensing Principles was approved by **Birmingham City Council** on ~~5th April 2016~~ and is to be Effective ~~from 1st May 2016~~.*

PART A

1. The Licensing Objectives

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

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

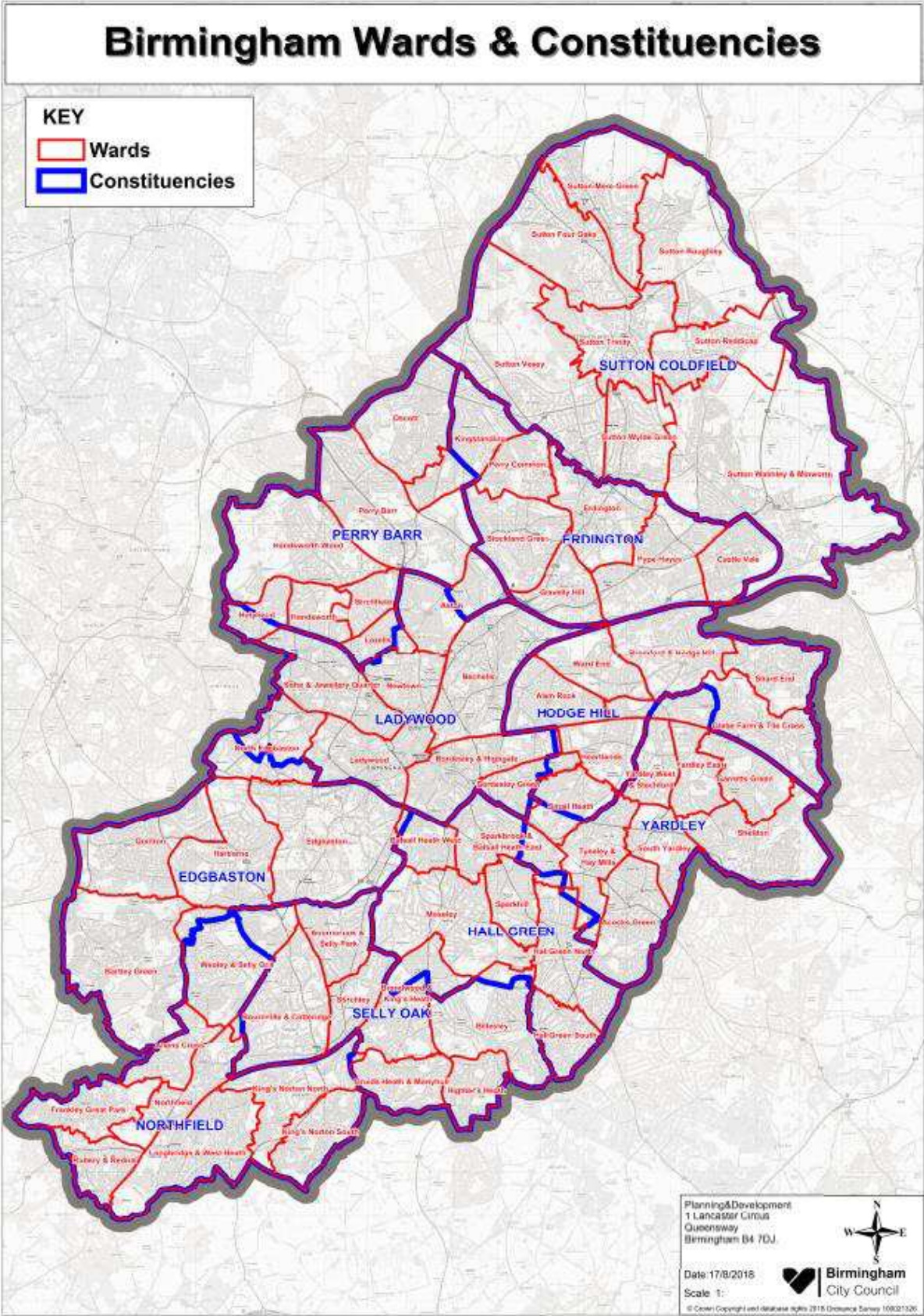
It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

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

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

2. Introduction

Birmingham is the largest city in the United Kingdom after London, with a multi-cultural population of 1,073, 045 (2011 Census) ~~1,036,900 (2010 estimate)~~. ~~The Licensing Authority recognises that properly regulated gambling contributes to the growth of the City’s local economy.~~ The area covered by the Council is shown in the map below.



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

Birmingham City Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below.

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

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

List of persons this authority consulted:

Gambling Commission.
West Midlands Police.
~~Safe Guarding Children Board.~~
Child Protection, Performance and Partnership, Birmingham Children’s Trust
HM Revenue and Customs.
Premises Licence Holders.
Bodies representing holders of Premises Licences and Permits.
Trade Associations.
Licensing Solicitors.
~~Members of Birmingham’s Licensing and Gambling Forum.~~
Birmingham Safe Bet Alliance
Elected Members.
Gam Care.
Responsible Authorities.
Public notification on City Council Website.
Director of Public Health

Our consultation took place between ~~18th September and 23rd October 2015~~**15th October and 25th November 2018.**

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

The policy was approved at a meeting of the Full City Council on 5th April 2016 and was published via our website on ~~8th April 2016.~~¹ Copies were placed in the public libraries of the City. This Policy is effective from ~~4th May 2016.~~

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

1 – dates to be finalised

The Head of Licensing, Licensing Service, E-mail: Licensing@birmingham.gov.uk

Any amendments to the Policy will be subject to further consultation.

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

3. Declaration

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

4. Responsible Authorities

Any responsible authority may make representations.

'Responsible Authority' is defined as:

- a licensing authority in whose area the premises is wholly or partly situated;
- the Gambling Commission;
- the Chief of Police within which the premises are situated;
- the Fire Authority within which the premises are situated;
- the local authority Planning Authority within which the premises are situated;
- the local authority for which statutory functions are exercisable in relation to minimising or reducing the risk of pollution to the environment or harm to human health in which the premises are situated;
- a body which represents those who, in relation to any such area, are responsible for, or interested in, the protection of children from harm and is recognised by the licensing authority for that area for the purpose of this section as being competent to advise it on such matters;
- HM Revenue & Customs;
- any other person prescribed in regulations by the Secretary of State.
- In relation to a vessel:
 - (i) a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any water where it is or is proposed to be navigated at a time when it is used for licensable activities;
 - (ii) the Environment Agency;
 - (iii) the Canal and River Trust;
 - (iv) the Secretary of State; or
 - (v) any other person prescribed in regulations by the Secretary of State.

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

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

The contact details of Responsible Authorities under the Gambling Act 2005 are attached at Appendix 2 and are also available via the Council's website at www.birmingham.gov.uk

5. Interested parties

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

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

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

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

The Licensing Authority will decide each case on its own individual merits and will not apply a rigid rule to its decision making.

The Gambling Commission has recommended that the licensing authority state that interested parties could include trade associations and trade unions, and residents' and tenants' associations. The Licensing Authority will not, however, generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Act i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

The Licensing Authority will also consider persons that 'have business interests' as being the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

In implementing this Policy the Licensing Authority will have regard to the provisions

of the Human Rights Act 1998.

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

If individuals wish to approach a Councillor to ask them to represent their views then care will be taken to ensure that the Councillor is not a member of the committee dealing with that application.

The Licensing Authority must determine whether or not representations are admissible. A representation is inadmissible if it is not made by a Responsible Authority, or an Interested Party. After that, the authority must then determine its relevance.

The only representations that are likely to be relevant are those that relate to the licensing objectives, or that raise issues under the licensing policy statement, or the Commission's guidance or codes of practice.

Connected to this is the question of what is a 'frivolous' or 'vexatious' representation. In interpreting these phrases, matters the Licensing Authority is likely to want to look at are likely to include:

- 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
- whether it raises issues specifically to do with the premises that are the subject of the application.

6. Exchange of Information

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

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 2018 will not be contravened. The licensing authority will also have regard to any Guidance issued

by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

The Licensing Authority will share any information it receives through the application process with the Gambling Commission and other enforcement agencies.

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

The information held will be in accordance with the regulations set by the Secretary of State.

7. Enforcement

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

This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

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

The Legislation and Regulatory Reform Act 2006 (LRRRA) Part 2 requires us also to have regard to the Principles of Good Regulation. We have had regard to the Regulators' Code in the preparation of this policy.

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

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

Birmingham City Council has developed a protocol for enforcement and will continue partnership working with the Gambling Commission and other enforcement organisations to promote a consistent approach between them. The protocol will encompass a strategy of targeting high-risk premises and will ensure intelligence led policing and regulation.

The protocol will actively promote regular inspections of licensed premises which, following risk assessments, have been found to be problematic or high risk.

The Licensing Authority already has developed working protocols such as:

- sharing information and good working practices with other enforcement agencies,
- encouraging close co-operation between licensed premises and enforcement agencies to promote the licensing objectives,
- encouraging good working practices and codes of practice by licensed premises to tackle crime and disorder issues,
- establishing a monitoring system in order to identify premises that are disregarding their responsibilities, and to share this information with the Gambling Commission, Police and other enforcement agencies,
- adopting announced and unannounced inspections and visits to premises.

The Licensing Authority will actively seek to advise the licence holders and managers of those premises who wish to comply with legislation and conditions. However, the Licensing Authority will take a firm stand against irresponsible premises licence holders that do not comply.

The Licensing Authority will continue to investigate complaints and conduct proactive enforcement activities to ensure that conditions attached to licences are complied with, and that unlicensed activity is dealt with as appropriate.

The Licensing Authority will exercise its powers under the Act to instigate criminal proceedings where circumstances require.

8. Licensing Authority Functions

Licensing authorities are required under the Act to:

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

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

Information on gaming machines permitted at each premises type, gaming machine entitlements and gaming entitlements for clubs and pubs is available on the Gambling Commission website.

<http://www.gamblingcommission.gov.uk/Gambling-sectors/Gambling-sectors>

PART B

PROMOTION OF THE LICENSING OBJECTIVES UNDER THE GAMBLING ACT 2005²

Licensing objectives

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

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

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

Ensuring that gambling is conducted in a fair and open way

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

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

This licensing authority has noted the Gambling Commission's Guidance that with limited exemptions, this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

As regards the term "vulnerable persons" it is noted that the Gambling Commission

does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who 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.” This licensing authority will consider this licensing objective on a case by case basis.

PART C

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

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

In accordance with s153 of the Act, when considering any application (save for Casino premises as per s166), the Licensing Authority will ‘aim to permit’ licence applications (subject to the mandatory and default conditions) unless there is evidence of a particular risk to the licensing objectives thereby either requiring the imposition of additional conditions, or that the application be refused.

(i) Decision-making:

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

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

The Licensing Authority’s powers and duties will, where appropriate, be delegated by the Licensing Authority to its Licensing and Public Protection Committee, Licensing Sub Committee and Officers.

The Licensing Authority intends to approach these delegations in accordance with Appendix 1 to the policy.

The Licensing and Public Protection Committee will receive regular reports on decisions made by officers under the scheme of delegation so that it maintains an overview of the general situation.

2 – this new Part B has been relocated from below

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

Applicants should also be aware that the Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The Council will also have regard to these Codes of Practice.

~~In making this determination, this licensing authority will have regard to the six indicators of betting as a primary gambling activity.~~

- ~~— The offer of established core products (including live event pictures and bet range)~~
- ~~— The provision of information on products and events~~
- ~~— The promotion of gambling opportunities and products~~
- ~~— The actual use made of betting facilities~~
- ~~— The size of premises.~~
- ~~— The delivery of betting facilities~~

(ii) Definition of “premises”:

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

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

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

In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

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

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

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

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

Casinos

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

Adult Gaming Centre

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

Betting Shops

- Access must be from a street or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a

betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

The Gambling Commission provides further guidance on this issue, which this authority will also take into account in its decision-making.

(iii) Premises “ready for gambling”:

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

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

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

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

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

(iv) Location:

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing

objectives are relevant to its decision-making. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

The Licensing Authority may take into account the impact that the existence of premises may have on an area in so far as it is relevant to the licensing objectives.

For example, the proposed operation of a new premises licence may not be reasonably consistent with the principles of the licensing objectives due to its proximity to:

- a school or other educational facility;
- a residential area with high concentration of families with children;
- a centre for children;
- a centre for vulnerable adults.

The Licensing Authority will therefore consider representations from any responsible authority or interested party based on the impact on the licensing objectives if a particular application were to be granted.

The onus will be on the person making the representation to provide evidence to support their assertions that the addition of the premises would have the suggested impact on the licensing objectives.

Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning:

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

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

(vi) Duplication with other regulatory regimes:

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

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

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

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

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

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

~~segregation of areas etc.~~

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

~~As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who 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.” This licensing authority will consider this licensing objective on a case by case basis.~~

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

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

In accordance with s153 of the Act, when considering any application (save for Casino premises as per s166), the Licensing Authority will ‘aim to permit’ licence applications (subject to the mandatory and default conditions) unless there is evidence of a particular risk to the licensing objectives thereby requiring the imposition of additional conditions.

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

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

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;

- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. This licensing authority will consider the impact upon the third licensing objective 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.

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

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

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

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

(ix) Betwatch - There are a number of established Bet-Watch schemes across the City and the licensing Authority expects operators to attend and support their local scheme **where one has been created to share information and discuss issues around individuals committing criminal / antisocial behaviour within and around gambling premises.**

(x) Local Risk Assessment - Since 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to 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, licensees must take into account relevant matters identified in this policy.

The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

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

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

- whether the premises is in an area of deprivation;
- whether the premises is in an area subject to high levels of crime and/or disorder;
- the 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;
- significant presence of young children, both residents and visitors;
- high unemployment area;
- nearby homeless hostels;
- nearby gambling, alcohol, drug or mental health support facility;
- the area has a high number of rough sleepers/homeless people;
- the area has a specific ethnic population;
- pawn broker/pay day loan businesses in the vicinity;
- other gambling premises in the vicinity.

Information around these groups will be available in the Local Area Profile (LAP)

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

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and

vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by, etc.

- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

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

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

Local Risk Assessments must be kept on the individual premises and made available for inspection when requested by an authorised officer.

(xi) Local Area Profile - Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Council will publish a local area profile.

Once available the local area profile should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the profiles, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations.

The Council recognises that it cannot insist on applicants using the local area profile when completing their risk assessments. However, an applicant who decides to disregard the profile may face additional representations and the expense of a hearing as a result.

2. Adult Gaming Centres

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

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- proof of age scheme;
- CCTV;
- supervision of entrances/machine areas;
- location of entrance;
- physical security measures on the premises;
- physical separation of areas;
- self-exclusion schemes;
- notices and signage displayed externally stating access to the premises is restricted to persons 18 years of age and over;
- notices displayed internally stating use of gaming machines is restricted to persons 18 years of age and over;
- notice specifying opening hours;
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

3. (Licensed) Family Entertainment Centres:

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

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- proof of age scheme;
- CCTV;
- supervision of entrances/machine areas;
- location of entrance;
- physical security measures on the premises;
- physical separation of areas;
- self-exclusion schemes;
- clear notices and signage around the premises regarding age restricted areas;
- notice specifying opening hours;
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare.

- Measures/training for staff on how to deal with suspected school truant children on the premises.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

4. Casinos

No Casinos resolution - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

The Licensing Authority is aware that where a licensing authority is able to grant a casino premises licence (regional, large or small), there may be a number of operators who wish to apply for that licence. Should the Licensing Authority be in such a position it will comply with Schedule 9 of the Act and any relevant regulation / codes of practice.

Licence considerations/conditions – This licensing authority will attach conditions to casino premises licences bearing in mind the mandatory conditions and the Licence Conditions and Codes of Practice published by the Gambling Commission.

An applicant for a premises licence must comply with the Act regarding the permitted access or exclusion of children and young persons. With the exception of non-gambling areas of regional casinos no children or young persons must be permitted access into the casino or the close observation of, or the invitation to participate in any gambling activities.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machine areas;
- physical separation of gambling areas;
- self-exclusion schemes;
- clear notices and signage externally and internally regarding age restrictions and age restricted areas (where applicable);
- participation in the Council's 'pupil watch scheme' (where children are permitted entry);
- members of staff appropriately trained;
- notice specifying opening hours;
- reporting of any suspicious activity on the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues

such as GamCare.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

The Licensing Authority may also consider it appropriate to require members of the public entering casino premises to continue to produce proof of ID on entry in order to effectively support self-exclusion schemes, and to act as a deterrent for persons who may be considering targeting the premises for illegal/criminal activities.

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

5. Bingo premises

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

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

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machines;
- physical separation of gambling areas where category C or above gaming machines are made available for use;
- supervision of age restricted areas of the premises;
- self-exclusion schemes;
- clear notices and signage externally and internally regarding age restrictions and restricted areas;
- members of staff appropriately trained;
- a notice specifying opening hours;
- reporting of any suspicious activity on the premises;

- policy and procedures regarding the employment of young persons (aged 16 and 17 where applicable);
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

It is important that if children and young persons are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines.

Where category C or above machines are made available in premises to which children and young persons are admitted the premises licence holder must ensure that:

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

The Licensing Authority will take into account any further guidance issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

6. Betting premises

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

An applicant for a premises licence must comply with the Act regarding the exclusion of children and young persons.

No children or young persons (under 18 years old) will be able to enter premises with a betting premises licence, although special rules apply to tracks.

The Licensing Authority has the power to 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).

If gaming machines are to be utilised, there must also be sufficient facilities for betting on the premises.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machines;
- self-exclusion schemes;
- clear notices and signage externally regarding age restriction;
- notice specifying opening hours;
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

7. Tracks

Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. The Licensing Authority recognises that betting is a major gambling activity on tracks, both in the form of pool betting (often known as the “totalisator” or “tote”), and also general betting, often known as “fixed-odds” betting.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

This licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

The Licensing Authority will expect applicants to offer their own measures to meet

the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- proof of age scheme;
- CCTV;
- supervision of entrances/machines;
- physical security measures on the premises;
- physical separation of areas for category C and above gaming machines;
- self-exclusion schemes;
- clear notices and signage around the premises regarding age restricted areas;
- notice specifying opening hours;
- ~~participation in the Council's 'pupil watch scheme' (where children are permitted entry);³~~
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

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

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

Applications and plans

The Gambling Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

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

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

This authority appreciates that it is sometimes difficult to define the precise location

3 – Not sure if this still exists

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

8. Vessels and Vehicles

The Licensing Authority is aware that a premises licence may be granted in respect of a passenger vessel. The definition of a vessel is:

- anything (other than a seaplane or amphibious vehicle), designed or adapted for use on water;
- a hovercraft; or
- anything, or part of any place, situated on or in water (structures which are an extension of the land are not vessels, even if they arch over water).

Vehicles (trains, road vehicles, aircraft, seaplanes and amphibious vehicles other than a hovercraft) may not be the subject of a premises licence and, therefore, all forms of commercial betting and gaming will be unlawful in a vehicle in Great Britain.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machines;
- self-exclusion schemes;
- clear notices and signage externally regarding age restriction;
- members of staff appropriately trained;
- notice specifying opening hours;
- reporting of any suspicious activity on the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues

such as GamCare.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

9. Travelling Fairs

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

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

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

10. Provisional Statements

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

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

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

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

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

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

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

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

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

11. Reviews:

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

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

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

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

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

licensing authority, who will publish notice of the application within 7 days of receipt.

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

A review hearing will be held before the Council's Licensing and Public Protection Committee or Sub-Committee (as appropriate) and the review will be determined once the representations have been considered and the licence holder has been given the opportunity to respond.

The onus will be on the responsible authority/interested party initiating the review to provide evidence in support of the matters for concern.

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

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

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

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

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

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

PART C

PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

1. Permits

The Policy of the Licensing Authority in respect of permits for unlicensed family entertainment centres, club gaming, club machine and gaming machine on alcohol licensed premises is to:

- promote the licensing objectives;
- treat each application individually on its own merits;
- comply with the statutory requirements;
- ensure compliance with the guidance issued by the Gambling Commission;
- promote and ensure high standards at all venues.

The Licensing Authority when considering an application for a permit will consult closely with the Chief of Police and ~~Safe Guarding Children Board~~ Child Protection, Performance And Partnership, Birmingham Children's Trust.

~~Appendices 4 & 5 illustrate the categorisation of gaming machine entitlements and the gaming entitlements for clubs and pubs.⁴~~

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

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use; it should also be noted that only Category D gaming machines are allowed in UFEC's.

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

Guidance is also that an application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application

4 – Appendices 4 & 5 were removed in 2016

Licensing authorities might wish to consider asking applicants to demonstrate:

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

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

The Licensing Authority, when considering a permit application for an unlicensed family entertainment centre, may request further information from an applicant regarding any matters of concern, which may include:

- the suitability of the applicant;
- the suitability of members of staff;
- the location of the premises;
- evidence that a premises will only operate as an unlicensed family entertainment centre;
- the applicant will be required to demonstrate they have a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre;
- confirmation of intended opening hours;
- ensuring a premises maintains acceptable levels of management supervision at all times during opening hours;
- ensuring a premises maintains acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises and surveillance of the premises;
- evidence that members of staff are appropriately trained and a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre;
- participation in the Council's 'pupil watch scheme' in connection with suspected truant school children on the premises;
- evidence of policy and procedures in respect of unsupervised very young children on the premises, or children causing perceived problems on/or around the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare;
- any other factors that are within the control of the permit holder or designated management.

The Licensing Authority will give significant weight to all issues relating to the protection of children and young persons. If no relevant representations are received then the permit will be issued automatically

The Licensing Authority will not refuse an application for a permit unless it has notified the applicant of its intentions to refuse the application and of its reasons and given the applicant an opportunity to make representations.

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

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

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

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

To take advantage of this entitlement the person who holds the on-premises licence must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed level of fee.

Permit: For 3 or more machines

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

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

It is recognised that some alcohol licensed premises may apply for a premises

licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

This licensing authority has delegated authority to officers to grant a permit for up to four gaming machines (category C or D) to be made available for use in alcohol-licensed premises under this Act.

A person who holds the “on-premises” alcohol licence may apply to the Licensing Authority for a permit specifying any number of category C or D machines but when considering the application the Licensing Authority will have regard to the licensing objectives, and may also take into account any matters that are considered relevant to the application. These may include:

- the appropriate siting of gaming machines in areas where children are not normally permitted;
- the size of the premises;
- the supervision of gaming machines at all times when the premises is open;
- notices by each gaming machine specifying no person under 18 years old are permitted to use the gaming machine;
- age verification checks;
- ensuring members of staff are appropriately trained;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

The Licensing Authority can grant or refuse an application. In granting the application the Licensing Authority can also vary the number and category of gaming machines authorised by the permit.

If the Licensing Authority intends to refuse or vary an application the applicant will be notified prior to the refusal or variation in writing of their intention to do so, the applicant will then be given the opportunity to make representations regarding these matters.

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

4. Prize Gaming Permits

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

The Licensing Authority will specify the form and manner in which an application must be made, and will specify the information and supporting documents required, these may include:

- plans of the proposed building;
- insurance certificates; and

- any other documents deemed necessary or appropriate.

The Licensing Authority will comply with any guidance produced by the Gambling Commission, and when considering a permit application may request further information from an applicant regarding any matters of concern, which may include:

- the suitability of the applicant;
- the location of the premises;
- confirmation of intended opening hours;
- confirmation of the types of gaming to be offered;
- the applicant will be required to demonstrate they have a full understanding of the limits to stakes and prizes that are set out in Regulations;
- the applicant will be required to demonstrate the gaming offered is within the law;
- ensuring a premises maintains acceptable levels of management supervision at all times during opening hours;
- ensuring a premises maintains acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises and surveillance of the premises;
- evidence that members of staff are appropriately trained;
- a willingness to participate in the Council's 'pupil watch scheme' in connection with suspected truant school children on the premises;
- any other factors that are within the control of the permit holder or designated management.

The Licensing Authority will give significant weight to all issues relating to the protection of children and young persons.

The Licensing Authority may grant a permit only if they have consulted the Chief of Police about the application.

Where relevant representations are received from the Chief of Police and the Licensing Authority intends to refuse an application based on the objections the applicant will be notified prior to the refusal in writing of their intention to do so, the applicant will then be given the opportunity to make representations regarding these matters.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played

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

5. Club Gaming and Club Machines Permits

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

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

Gambling Commission Guidance is that Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

The Licensing Authority, when considering a club gaming and club machine permit application, may require the applicant to provide evidence that the club fulfils the requirements for a members' club, or miners' welfare institute or commercial club (Commercial clubs cannot provide gaming and games of chance).

Licensing authorities may only refuse an application on the grounds that:

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph

10). Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit under the process are:

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

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

6. Temporary Use Notices

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

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

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

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

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

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

In referring to a set of premises, the Act provides that a set of premises is the subject

of a Temporary Use Notice if ‘any part’ of the premises is the subject of a Notice. This prevents one large premises from having a Temporary Use Notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock.

A Temporary Use Notice must be submitted to the Licensing Authority not less than 3 months and one day before the first day on which the gambling event will begin.

In addition a copy of the notice must also be served on:

- the Gambling Commission,
- the Chief Officer of Police,
- the Commissioners of Customs and Excise,
- any other licensing authority in whose area the premises are situated.

(See appendix 2 for relevant addresses.)

The same premises may not be the subject of a temporary use notice for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.

Should the Licensing Authority or the other bodies served with copies of the temporary use notice consider that the gambling should not take place, or only with modifications, they will issue a notice of objection within 14 days of the date of the temporary use notice.

Where relevant representations are made, a hearing will be held before the Council’s Licensing and Public Protection Committee or Sub-Committee to consider representations.

The Licensing Authority will determine the notice after considering supporting evidence from the server of the notice and any objectors who have made representations.

If the Licensing Authority considers that a temporary use notice should not have effect a counter-notice will be issued which may:

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activity to take place subject to a specified condition

7. Occasional Use Notices

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

In considering an occasional use notice the Licensing Authority will consider the definition of a ‘track’ and whether the server of the notice is permitted to avail

themselves of the notice.

Betting on a track will be permitted by an occasional use notice providing it is for 8 days or less in a calendar year. The calendar year will commence on the 1st January.

The notice must be served by a person who is responsible for the administration of events on the track, or by an occupier of the track.

A notice must be served on the Licensing Authority and copied to the Chief of Police.

The notice must specify the day on which it has effect, and may be given in relation to consecutive days providing the overall limit of 8 days is not exceeded in a calendar year.

The Licensing Authority will maintain a record of the number of notices served in a calendar year to ensure the limit of 8 days is not exceeded.

Providing that a notice will not result in betting facilities being available for more than 8 days in a calendar year, no counter notices or objection can be submitted.

No gaming machines may be provided by virtue of an occasional use notice.

8. Registration of Small Society Lotteries

All applications for registration must be made in the form specified by the Secretary of State, and accompanied by any supporting documents specified by the Secretary of State or required by the Licensing Authority.

The Licensing Authority, when considering an application for registration, may request any additional information it deems appropriate. This may include a declaration from the governing body of the society stating:

- the application is on behalf of a bona fide non-commercial society;
- that all persons to be connected with the promotion of the lottery have no relevant convictions or cautions recorded against them;
- the purpose of the Society and; the purpose of the fund raising;
- confirmation of the appointment of two members of the society who have the authority to sign and complete the required financial returns.
- where a society intends to employ an external lottery manager evidence that person holds an operators licence issued by the Gambling Commission.

If the Licensing Authority is intending to refuse an application to join the register the applicant will be notified in writing of the reasons why it is considering refusal, and the evidence on which it has based that preliminary conclusion. The applicant will then be given the opportunity to provide further evidence in support of the application or to make representations regarding these matters.

Further guidance about the processes and procedures under the Gambling Act 2005

can be obtained from the Licensing Service

Tel No: 0121 303 9896.

e-mail: licensing@birmingham.gov.uk

website: www.birmingham.gov.uk/licensing

APPENDIX 1

DELEGATION OF FUNCTIONS REGARDING THE GAMBLING ACT 2005

Subject	Full Council	Licensing & Public Protection Committee	Licensing Sub-Committees	Officers
Three year licensing policy	X			
Policy to permit casino	X			
Fee setting (when appropriate)		X		
Application for premises licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Gambling Commission	Where no representations received or representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Review of a premises licence			X	
Application for a club/gaming club machine permits			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits			X	
Application for other permits			Where an application is received to operate more than 4 gaming machines on an alcohol licensed premises	Where an application is received to operate 4 or less gaming machines on an alcohol licensed premises
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	

Draft Statement of Gambling Principles – to be effective from 31st January 2019

Decision to attach/exclude a premises licence condition			X	
To administer and carry out all other functions not specifically mentioned in the delegation to the Licensing & Public Protection Committee, which are capable of being delegated to an officer as provided in the Gambling Act 2005 and any regulations made under that Act, together with any related functions				X

RESPONSIBLE AUTHORITIES – CONTACT ADDRESSES
ALL TO BE VERIFIED AND UPDATED WHERE NECESSARY

Birmingham City Council Licensing Section 1-3 Ashted Lock Way BIRMINGHAM B7 4AZ licensing@birmingham.gov.uk	Gambling Commission Victoria Square House Victoria Square BIRMINGHAM B2 4BP Tel: 0121 230 6500 licensing@gamblingcommission.gov.uk
Birmingham City Council Environmental Health Licensing Application Place Directorate Performance & Support Services 2 nd Floor Council House Ext. 6 Margaret Street BIRMINGHAM B3 3BG pollution.team@birmingham.gov.uk	HM Revenue and Customs Excise Processing Teams BX9 1GL United Kingdom Tel: 0300 322 7072 Option 7 nrubetting&gaming@hmrc.gsi.gov.uk
Birmingham Licensing Department West Midlands Police Lloyd House 2 Colmore Circus Queensway BIRMINGHAM B4 6AT bw_licensing@west-midlands.pnn.police.uk	West Midlands Fire Service Headquarters 99 Vauxhall Road BIRMINGHAM B7 4HW firesafety.admin@wmfs.net
Birmingham City Council Planning Control Division Po Box 28 1 Lancaster Circus Queensway BIRMINGHAM B1 1TU PlanningandRegenerationEnquiries@birmingham.gov.uk	Safeguarding Practice Learning Manager Child Protection, Performance And Partnership Birmingham Children's Trust 1 Lancaster Circus Ground Floor, Zone 02 PO Box 16895 BIRMINGHAM B2 2LD safeguardingchildrenlicensing@birminghamchildrenstrust.co.uk
In respect of a vessel	
Environment Agency Midlands Regional Office 550 Streetsbrook Road SOLIHULL B91 1QU Tel: 0870 850 6506	Canal & River Trust Peel's Wharf Lichfield Street Fazeley TAMWORTH B78 3QZ Tel: 01827 252000

BIRMINGHAM CITY COUNCIL

Item 6

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

19 DECEMBER 2018
ALL WARDS

CHRISTMAS EVENTS IN BIRMINGHAM CITY CENTRE

1. Summary
 - 1.1 To advise the Committee of the involvement by Environmental Health Officers at the Frankfurt Christmas Market, City Social, and Cathedral Craft Fair which were inspected during November 2018.
2. Recommendation
 - 2.1 That the report be noted.

Originating Officer: Mark Croxford, Head of Environmental Health

Contact Officer: Nick Lowe, Operations Manager Food Team

Telephone: 0121 303 2491

E-mail: nick.lowe@birmingham.gov.uk

3. Background

- 3.1 As in previous years, the food market stalls offered various traditional German cuisine including frankfurters, schnitzel, hamburgers as well as a range of German breads and pastries many of which are baked on site each day. The food of other nationalities is also catered for from other non-German stalls, but which in more recent years have also tended to support the Christmas event. In addition to the Frankfurt Market, further events were held by the Mailbox (City Social) and in St. Phillips Square (Cathedral Christmas Market).
- 3.2 In order to promote safe food hygiene practices and to enforce relevant food legislation at this years event, Environmental Health Officers attended pre-event planning meetings with the organisers and Environmental Health visited and inspected a total of 73 'high risk' food stalls (stalls selling cooked or open food).
- 3.3 Prior to the event opening an information pack, which included a section on the principles of how to ensure food safety, was provided to the event organisers. This was then available for all stall holders making an application to trade at the various events to receive a copy well in advance of it opening.
- 3.4 Officers from Environmental Health also attended and presented information at the stallholders and their staff briefing meeting on the evening of Wednesday 14th November 2018 at the Council House.

4. Inspections by Environmental Health

- 4.1 Environmental Health Officers visited and inspected all 'high risk' food stalls and where necessary provided advice and recommendations to Food Business Operators in order to ensure their stall operations and practices complied with food safety requirements. Whilst this was carried out on the first day of operation, a pre-opening structural inspection was carried out in advance to ensure that any problems identified during the build could be rectified in advance.
- 4.2 Any areas of non compliance that were identified during the process of inspection were dealt with at the time and with strict regard to the risk to health of the attending public.
- 4.3 On the Frankfurt Christmas Market traders were issued with pass, improve or fail cards respectively coloured green, yellow and red. Those that received the fail cards are not allowed to trade until they have rectified the problems which led to a fail card being issued.
- 4.4 Due to differing organisational arrangements, we were not able to implement the pass/improve/fail system at City Social or Cathedral Christmas Market. Any issues were therefore raised with organisers and timescales agreed.

5. Specific Issues

- 5.1 Of the 50 food inspections carried out on 15th November at the Frankfurt Market, 43 traders were immediately awarded a green pass card and 6 required minor improvements. Much of this related to improvements to hand washing facilities, temperature control, pest proofing and a number failed to display any information relating to allergen advice for food on sale. Two traders were issued fail notices. This required them to cease trading; in both cases this was due to a lack of allergen information being available.
- 5.2 All of the stalls issued with a fail rectified the issues shortly afterwards to allow them to trade. All stalls that received an 'improve' were subject to revisits and as of 20th November all traders are up to standard.
- 5.3 The outcome of inspections at City Social revealed that of the nine trading stalls only two would have received a green pass cards for food hygiene matters, however these businesses did not comply with pre-event checks as laid down in the Birmingham City Council's Outdoor Events Organisers' Guide. Of the remaining stalls three required improvement and four stalls failed and were issued with schedules of work. These matters were dealt with and checked off by officers. Again, a number of these traders failed pre-event checks.
- 5.4 At the Cathedral Christmas Market two businesses failed in relation to hand washing and cleaning, these matters were rectified shortly after. A further 9 stalls were rated as improve, issues included pest proofing, allergen information and cleaning. Four stalls received a pass with no further action required. Additionally there were significant concerns about the availability and condition of the communal wash area that was also being used as a preparation area. These matters are still being monitored on a regular basis. Finally, there were problems with unauthorised stalls appearing without any prior notification.

6. Outcome

- 6.1 The Food Team will use this data to help ensure mobile traders who attend outdoor events staged in Birmingham continue to comply with the requirements of Food Hygiene and Safety legislation. The officers have strongly recommended to the organisers of the City Social and Cathedral Christmas Market that they attain higher standards by following the Council's outdoor events organisers' guide.

7. Consultation

- 7.1 Consultation was not undertaken directly with stall holders, although significant efforts were made with the event organisers and at the SAG meetings to ensure all relevant information was available prior to the stall holders coming on site.

8. Implications for Resources

- 8.1 There were no additional costs incurred from the Committees approved budget.

9. Implications for Policy Priorities

- 9.1 The contents of this report are consistent with the Regulation and Enforcement Mission Statement - locally accountable and responsive fair regulation for all – achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors.

10. Public Sector Equality Duty

- 10.1 The Frankfurt Christmas Market and other city centre events are enormously popular annual events that have huge seasonal appeal. They continue to attract large numbers of people from all sections of the community and have acquired both national and international acclaim.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Birmingham City Council's Outdoor events organisers' guide

https://www.birmingham.gov.uk/downloads/file/267/outdoor_event_organisers_guide

**REPORT OF THE ACTING SERVICE DIRECTOR REGULATION AND
ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

19 DECEMBER 2018
ALL WARDS

PROSECUTIONS AND CAUTIONS – OCTOBER 2018

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of October 2018.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Chris Neville, Acting Service Director Regulation and Enforcement
Telephone: 0121 303 6111
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3. Results

3.1 During the month of October 2018 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Three Licensing cases were finalised resulting in fines of £2,955 and prosecution costs of £4,517. 18 penalty points were issued. 15 simple cautions were administered as set out in Appendix 1.
- 65 Environmental Health cases resulted in fines of £15,619 and prosecution costs of £19,173 were awarded. Three conditional discharges together with a Community Order with curfew and 230 hours of unpaid work were also imposed. No simple cautions were administered as set out in Appendix 2.
- Two Trading Standards cases were finalised resulting in three Community Orders and a total of 400 hours unpaid work. Prosecution costs of £5,516 were awarded. Two simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in October 2018 and cases finalised by district April – October 2018.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - September 2018.

4. Consultation

4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

5. Implications for Resources

5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

5.2 For the year April 2018 to October 2018 the following costs have been requested and awarded:

Licensing

£18,601 has been requested with £15,302 being awarded (82%).

Environmental Health

£224,268 has been requested with £172,816 being awarded (77%).

Trading Standards

£39,793 has been requested with £15,791 being awarded (40%).

- 5.3 For the month of October 2018 the following costs have been requested and awarded:

Licensing

£5,673 has been requested with £4,517 being awarded (80%).

Environmental Health

£26,158 has been requested with £19,173 being awarded (73%).

Trading Standards

£6,793 has been requested with £5,516 being awarded (81%).

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

LICENSING CASES**APPENDIX 1**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	25/10/18	Jayed Ahmed Choudhury Saltley Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in John Bright Street, Birmingham and one of consequently having invalid insurance.	£140 – no insurance + 6 penalty points No separate penalty for plying £513 costs (£513 requested)	Alum Rock	Ladywood
2	25/10/18	Farrukh Naveed Witton Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Bristol Road, Selly Oak, Birmingham and one of consequently having invalid insurance.	£515 – no insurance + 6 penalty points No separate penalty for plying £504 costs (£504 requested)	Aston	Bournbrook & Selly Park

3	29/10/18	<p>Mohammed Amin Balsall Heath Birmingham</p> <p>Wasim Hussain Yardley Birmingham</p> <p>Mustasam Abbasi Edgbaston Birmingham</p> <p>Muniba Khan Edgbaston Birmingham</p>	<p>Town Police Clauses Act 1847 & Road Traffic Act 1988 Local Government (Miscellaneous Provisions) Act 1976</p> <p>All defendants pleaded <u>not guilty</u>; two offences against Amin: one of plying for hire at Turtle Bay Restaurant on John Bright Street and one of consequently having invalid insurance; two against Hussain one of willfully obstructing an officer by providing journey records that were adulterated and one of accepting a booking for a journey from a driver which is prohibited, one offence against Abbasi of providing adulterated journey records and one against Khan of being the licensed operator and accepting a booking from a driver</p> <p>All defendants found guilty after trial</p>	<p>Amin Fine £350 – Plying £250 – No Insurance + 6 penalty points Costs £500</p> <p>Hussain Fine £600 (£300 x 2) Costs £500</p> <p>Abbasi Fine £500 Costs £500</p> <p>Khan Fine £600 Costs £2,000</p> <p>Total costs requested £4,656</p>	Balsall Heath West	Ladywood
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LICENSING SIMPLE CAUTIONS

During the period of October 2018, 15 simple cautions have been administered

Local Government (Miscellaneous Provisions) Act 1976

Section 48(6) Eight cautions were issued for failing to display a private hire vehicle licence plate

Section 54(2) One caution was issued for failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

Section 48(6) & 54(2) One caution was issued for failing to display a private hire vehicle licence plate and failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

Section 64(3) Three cautions were issued for waiting on a Hackney Carriage stand when not a Hackney Carriage

Licensing Act 2003

Section 136(1) One caution was issued for carrying on a licensable activity, namely selling alcohol when not licensed to do so

Section 141(1) One caution was issued for allowing the sale of alcohol to a person who was drunk

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	9/10/18	Vasile Farcas Sparkbrook Birmingham	Environmental Protections Act 1990 Pleaded guilty to two offences; one offence of depositing controlled waste, namely papers, black bags and cardboard on land on Lilac Avenue, Sparkbrook and one offence of failing to comply with a notice requiring he provide the written details of the person in charge of the vehicle on the date offence.	80 hours unpaid work £1,148 costs (£1,148 requested)	Sparkhill	Sparkbrook & Balsall Heath East
2	11/10/18	Mohamad Idris Handsworth Birmingham	Environmental Protections Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely plastic pots and cardboard, onto land at the junction of Whateley Road and Dawson Road, Handsworth, Birmingham.	6 month conditional discharge £250 costs (£594 requested)	Birchfield	Handsworth
3	11/10/18	Mohammed Sohail Zaffar Smethwick	Environmental Protections Act 1990 Pleaded guilty to one offence of knowingly causing or permitting controlled waste, namely one black bag of cushions, one black bag of rubble and an empty suitcase, to be deposited from a Ford Fiesta motor vehicle on Abberley Street, Birmingham.	6 month conditional discharge £1,032 costs (£1,032 requested)	Out of area	Soho & Jewellery Quarter

4	11/10/18	Jane Graham- Whitehouse Hollywood	Environmental Protections Act 1990 Pleaded guilty to one offence of failing to take all reasonable measures as a producer of controlled waste that waste from Woody's Treats, 341 Stockfield Road was transferred to an authorised person in that waste from the business was found on Mansfield Road at the junction with Stockfield Road, Yardley, Birmingham.	6 month conditional discharge £250 costs (£838 requested)	Out of area	South Yardley
5	11/10/18	Castle Vale Fish Bar Ltd 492 Bearwood Road Smethwick B66 4HB	Environmental Protections Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Castle Vale Fish Bar, 30 High Street, Birmingham was disposed of within 7 days.	£300 £300 costs (£368 requested)	Out of area	Castle Vale
6	11/10/18	Raad Asmael Oxford	Environmental Protections Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely household furniture, on land on Dugdale Street, Winson Green, Birmingham.	£200 £500 costs (£1,442 requested)	Out of area	Soho & Jewellery Quarter
7	19/10/18	Ilie Farcas Birmingham	Environmental Protections Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely a fridge and other items, on Warstock Lane, Birmingham.	£1,200 £952 costs (£952 requested)	Moseley	Billesley

8	19/10/18	George Anderson Great Bridge Dudley	Environmental Protections Act 1990 Pleaded guilty to two offences; one offence of knowingly causing or permitting controlled waste, namely a metal cabinet, to be deposited from a vehicle on Scribes Lane, Hall Green Birmingham and one offence of refusing to provide the keys to the vehicle which was being seized.	£180 fine + 150 hours unpaid work £3,440 costs (£3,440 requested)	Out of area	Hall Green South
9	25/10/18	Amir Kaser Baz Hall Green Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely approximately 15 tonnes of soil, onto Selly Hill Road, Selly Oak, Birmingham.	£615 £737 costs (£737 requested)	Hall Green North	Bournbrook & Selly Park
10	25/10/18	Kayleigh D'Caccia Northfield Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely a sofa, mattress and fridge, on grass adjacent to the pavement in Trippleton Avenue, Birmingham.	£320 No officer/legal costs awarded (£603 requested) £100 towards clean-up costs (£160.50 requested)	Longbridge & West Heath	Bartley Green
11	25/10/18	Nemat Ghahremani Erdington Birmingham	Environmental Protection Act 1990 Pleaded <u>not guilty</u> to one offence of failing to comply with a demand issued requiring written information of how waste from H&N Tailors, 217 High Street, Erdington, Birmingham was disposed of within 7 days. Found guilty after trial.	£60 £220 costs (£1,201 requested)	Erdington	Erdington

ANTI-SOCIAL BEHAVIOUR OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	25/10/18	Shirley Smith Birmingham	Anti-Social Behaviour, Crime & Policing Act 2014 Found guilty in her absence of one offence of failing to comply with a Community Protection Notice requiring her to cease scattering and placing food to feed the birds in the front and rear gardens in an area of Birmingham.	£660 £1,424 costs (£1,424 requested)	Glebe Farm & Tile Cross	Glebe Farm & Tile Cross

ANIMAL WELFARE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	22/10/18	Anna Marie Evans Birmingham	Animal Welfare Act 2006 Found guilty in her absence of two offences; one offence of causing a Staffordshire Bull Terrier unnecessary suffering at a property in Birmingham, by failing to obtain veterinary treatment in relation to a skin infection and one offence of failing to ensure that the needs of the animal were met.	£400 fine 3 month community order with a curfew between 7am & 7pm. £315 costs (£1,074 requested)	Rubery & Rednal	Rubery & Rednal

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	25/10/18	Zahir Mohammed Birmingham	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to two offences relating to conditions at Gino's Pizza Parlour, 757 Alum Rock Road, Birmingham. There were no adequate procedures in place to control pests, mouse droppings were found on shelves used to store food and takeaway containers and inside the pizza oven. Food takeaway containers were found gnawed by mice and there were a number of gaps along wall/floor junctions through which mice could gain access. The premises was not kept clean, there was an accumulation of mouse droppings, dirt and food debris.	£692 – offence 1 No separate penalty - offence 2. £2,380 costs (£2,380 requested)	Ward End	Glebe Farm & Tile Cross

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
12/10/18	30	£6,372	£2,550	£5,250
26/10/18	21	£4,620	£3,675	£3,675

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during October 2018.

TRADING STANDARDS CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	15/10/18 at Birmingham Crown Court	Najibullah Asakzai Dudley	Trade Marks Act 1994 Pleaded guilty to four offences relating to the possession of 26 pouches of hand rolling tobacco and 184 packets of cigarettes at International Supermarket, 117 Villa Road, Birmingham which bore registered trademarks, namely golden Virginia, Amber Leaf, Mayfair and Richmond, without the consent of the trade mark holders	12 month Community Order with 150 hours unpaid work £1,000 costs (£2,277 requested)	Out of area	Lozells & East Handsworth
2	22/10/18	Nawzad Khidr Howla Birmingham Sywash Mashkhaty Birmingham	Trade Marks Act 1994 Tobacco and Related Products Regs 2016 Both pleaded guilty to five offences; four relating to the possession of 26 pouches of hand rolling tobacco and 184 packets of cigarettes at International Supermarket, 117 Villa Road, Birmingham which bore registered trademarks, namely Golden Virginia, Amber Leaf, Mayfair and Richmond, without the consent of the trade mark holders and one offence of supplying 1308 packets of cigarettes of various brands which did not carry the required health warnings. Originally listed for trial	Howla 12 month Community Order with 100 hours unpaid work Mashkhaty 12 month Community Order with 150 hours unpaid work Each ordered to pay £2,258 costs (£4,516 requested)	Perry Barr	Lozells & East Handsworth

TRADING STANDARDS SIMPLE CAUTIONS

Two simple cautions were administered during October 2018

Trade Marks Act 1994 Section 92(1)(c) & Section 12 of the Consumer Protection Act 1987

Two cautions were issued for having in possession “Apple” USB cables, “Apple” ear pods and “Samsung” Adaptors which bore signs identical to or likely to be mistaken for a registered trademark and having in possession for supply “Nokia” phones that were unsafe.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – OCTOBER 2018

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	2	0	0	1	0	0	0	3
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	51	0	0	0	0	0	0	51
Environmental Health (non FPNs)	1	2	2	2	2	1	1	2	0	1	0	14
Trading Standards	0	0	0	0	0	0	2	0	0	0	0	2

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – OCTOBER 2018

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	1	1	0	0	1	0	0	0	0	3
Environmental Health (FPNs) Not paid and prosecuted	2	2	2	4	7	1	1	3	0	1	28	51
Environmental Health (non FPNs)	0	1	3	2	0	2	1	0	0	0	5	14
Trading Standards	0	0	0	0	0	0	1	0	0	0	1	2

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-OCTOBER 2018

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	18	0	0	5	1	0	0	24
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	432	0	0	0	0	0	0	432
Environmental Health (non FPNs)	4	11	16	14	38	2	6	5	2	17	1	116
Trading Standards	1	1	2	1	2	0	2	1	0	0	0	10

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-OCTOBER 2018

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	3	6	2	0	4	0	0	2	7	24
Environmental Health (FPNs) Not paid and prosecuted	16	14	22	34	65	20	30	10	3	19	199	432
Environmental Health (non FPNs)	3	10	15	17	26	5	4	6	1	9	20	116
Trading Standards	0	1	4	1	1	0	1	1	0	0	1	10

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2018 – MARCH 2019

	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Total 2018/2019
Waste Investigation Outcomes							
Duty of Care inspections into the waste disposal arrangements of commercial premises	125	120	156	82	112	128	723
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	105	102	122	71	111	74	585
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	30	41	50	35	62	80	298
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	2	0	0	0	0	2
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	5	3	7	6	3	28
Prosecutions							
Number of prosecution files submitted to legal services (number produced quarterly)			43			24	67

BIRMINGHAM CITY COUNCIL

**REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

19 December 2018
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
October 2018

1. Summary
 - 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 303 6103
E-mail: Emma.Rohomon@birmingham.gov.uk

3. Summary of Appeal Hearings for October 2018

	Magistrates'	Crown
Total	6	
Allowed		
Dismissed	5	
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court	1	

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In October 2018 costs have been requested to the sum of £2565.15 so far with reimbursement of £2440.15 so far (95.1%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to October 2018, costs associated to appeal hearings have been requested to the sum of £7270.70 so far with reimbursement of £6116.30 so far (84.1%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to October 2018, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £10483.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Prosecution files and computer records in Legal Proceedings team.

MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Mark Hayles	01.10.18	Dismissed	£565.00	£565.00	The appeal was against the decision of the Licensing Sub-Committee on 06.03.2018 to refuse to grant Mr Hayles's application for a private hire driver's licence as he was not deemed fit and proper due to a history of convictions. On 30.07.2018 Mr Hayles appeared before the District Judge The DJ could not accept Mr Hayles's explanation of the s18 assault. The case was adjourned to 1 October to enable Mr Hayles to obtain some case papers to confirm that he only pushed the gent in question. Mr Hayles failed to attend the hearing; the Appeal was dismissed and he was ordered to pay £565 costs.
2	Sajad Mahmood	24.10.18	Dismissed	£690.15	£690.15	The appeal was against the decision of the Licensing Sub-Committee on 13.03.2018 to revoke Mr Mahmood's private hire driver's licence due to information disclosed by West Midlands Police on his Disclosure and Barring Service certificate relating to allegations made against Mr Mahmood over a number of years. Balancing the fact that the allegations were not tested or proved against the fact that the Crown Court judge thought it necessary to make a restraining order to protect Mr Mahmood's ex-wife and daughter, the District Judge found that he was not persuaded on the balance of probabilities that the decision of the licensing sub-committee was wrong. The appeal was dismissed. Costs of £690.15 were applied for, and awarded in full.

MAGISTRATES' COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Shangara Singh Samra	01.10.18	Dismissed	£250.00	£250.00	The appeal was against the decision of the Licensing Sub-Committee on 16.07.18 to refuse to grant Mr Samra's application for a hackney carriage driver licence due a history a convictions and previous licences being revoked. Though the magistrates were extremely impressed with the support from his family and from external sources, they found that the decision of the licensing sub-committee was not wrong. They did not consider Mr Samra to be a fit and proper person. Accordingly, the appeal was dismissed. Costs in the sum of £250 were awarded against Mr Samra.
2	Mohammed Nawaz	22.10.18	Dismissed	£250.00	£250.00	The appeal was against the decision of the Licensing Sub-Committee on 28.03.18 to revoke the Hackney Carriage Driver's Licence held by Mr Nawaz due to a conviction for refusing to convey a passenger accompanied by an assistance dog. The appeal was dismissed, on the basis that the magistrates did not find Mr Nawaz to be a fit and proper person to hold a licence. Costs of £250 were awarded.

MAGISTRATES' COURT – PRIVATE HIRE OPERATOR'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Mohammed Latif	12.10.18	Dismissed	£250.00	£125.00	The appeal was against the decision of the Licensing Sub Committee on 08.08.18 to refuse to grant a Private Hire Operator's Licence to Mr Latif due to a previous conviction and cautions. After hearing from both parties the Magistrates decided that Mr Latif had failed to show that the decision of the Licensing Sub-Committee was wrong, he had presented no new evidence to suggest the decision was wrong and they were of the view that the decision made on 8 August 2018 by the Licensing Sub Committee was the right decision. Mr Latif's appeal was dismissed. An application for our costs of £250 was made. The Court made an order for Mr Latif to pay £125 of our costs.

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Petros Liatas In respect of Domus 28-30 Bristol Street Birmingham B5 7AA	31.10.18	Withdrawn pre-Court	£560.00	£560.00	The appeal was against the decision of the Licensing Sub Committee on 14.05.2018 to refuse to grant a Premises Licence to Petros Latis in respect of Domus following a representation received from West Midlands Police. The appeal was withdrawn pre-court.

**REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING & PUBLIC PROTECTION COMMITTEE**

19 December 2018
ALL WARDS

**ACTION TAKEN BY THE CHAIR OF THE LICENSING
& PUBLIC PROTECTION COMMITTEE:**
October 2018

1. Summary
 - 1.1 This report advises the Committee of action taken by the Chair under authority from the Licensing & Public Protection Committee, together with an explanation as to why this authority was used.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 303 6103
E-mail: emma.rohomon@birmingham.gov.uk

3. Background Information

- 3.1 On 16 March 2007 Section 52 of the Road Safety Act 2006 came into force. This has had the effect of enabling a licensing authority to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect – meaning that the suspension or revocation takes effect immediately once notice of the authority's decision has been given to the driver – where this decision is considered necessary in the interests of public safety.

4. Summary of Action Taken for October 2018

- 4.1 On 1 October 2018 authority was sought to revoke with immediate effect the hackney carriage driver licence held by driver reference 38653. On 1 October 2018 the Licensing Enforcement Section received information from West Midlands Police: Driver 38653 has been investigated and charged by West Midlands Police for allegations of assault by beating. The Driver appeared from Custody at Birmingham Magistrates' Court on 24 September 2018, the court remanded the driver on bail.
- 4.2 The interests of public safety being considered paramount, an authorisation of the Director of Regulation and Enforcement, acting in consultation with the Chair, was obtained and on 4 October 2018 notice was hand delivered personally to driver 38653's last known address, advising that his hackney carriage driver licence was revoked with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

5. Implications for Resources

- 5.1 No specific implications have been identified; however, drivers retain the right to appeal through a Magistrates' Court, which may result in the imposition of costs either to or against the City Council.

6. Implications for Policy Priorities

- 6.1 The contents of the report contribute to the City Council's published policy priority of improving the standards of licensed vehicles, people and premises in the City.

7. Implications for Equality and Diversity

- 7.1 The actions identified in this report were taken in accordance with the Regulatory Services enforcement policy, which ensures that equality issues have been addressed.

DIRECTOR OF REGULATION AND ENFORCEMENT

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEEItem 10

19 DECEMBER 2018

SCHEDULE OF OUTSTANDING MINUTES

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
934 (ii) 15/11/2017	<u>Update Report on Proposed Strategy for Venues Operating as Shisha premises in Birmingham</u> The Acting Service Director of Regulation and Enforcement be requested to instruct officers to undertake a wider consultation with key stakeholders on the adoption of the proposed strategy. Officers to present the outcome of the consultation at a future meeting of Committee, with their recommendations on a finalised Strategy for the Committee's approval.	Report due in January 2019
942 (ii) 15/11/2017	<u>Revision of Birmingham City Council Act 1990 Establishments for Massage and/or Special Treatments</u> The Acting Service Director of Regulation and Enforcement be requested to provide a report for Committee reviewing the need for the Birmingham City Council Act 1990 and options including delegation of hearings to Licensing Sub-Committees.	Report due in January 2019
1071 21/10/2018	<u>Update Report On Unauthorised Encampments</u> – The Acting Service Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within the report.	Report due in January 2019

