

## **CABINET**

**Venue: Town Hall, Moorgate  
Street, Rotherham. S60  
2TH**

**Date: Wednesday, 6 April 2011**

**Time: 10.30 a.m.**

## **A G E N D A**

1. To consider questions from Members of the Public.
2. To determine if the following matters are to be considered under the categories suggested in accordance with the Local Government Act 1972.
3. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
4. Minutes of the previous meeting held on 23rd March, 2011 (copy supplied separately)
5. Role and Function of Overview and Scrutiny in Rotherham - "Improving Lives, Improving Places" (report herewith) (Pages 1 - 21)
  - Chief Executive to report.
6. Recording of Council Meetings (report herewith) (Pages 22 - 27)
  - Chief Executive to report.
7. Self Regulation and Improvement (report herewith) (Pages 28 - 32)
  - Chief Executive to report.
8. Sustaining School Improvement in Rotherham from April, 2011 (report herewith) (Pages 33 - 37)
  - Strategic Director of Children and Young People's Services to report.
9. Licensing Act 2003 - Statement of Licensing Policy (report herewith) (Pages 38 - 115)
  - Strategic Director of Neighbourhoods and Adult Services to report.
10. Gambling Act, 2005 - Statement of Licensing Principles (report herewith) (Pages 116 - 148)
  - Strategic Director of Neighbourhoods and Adult Services to report.

11. Proposed Changes to Planning Board (report herewith) (Pages 149 - 153)
  - Strategic Director of Environment and Development Services to report.
  
12. Minutes of a meeting of the Rotherham Local Development Framework Steering Group held on 18th March, 2011 (copy herewith) (Pages 154 - 158)
  - Strategic Director of Environment and Development Services to report.
  
13. Exclusion of the Press and Public.

The following item is likely to be considered in the absence of the press and public as being exempt under Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended March 2006) (information relates to finance and business affairs):-
  
14. Leisure and Green Spaces and Community Delivery Review (report herewith) (Pages 159 - 164)
  - Strategic Director of Environment and Development Services to report.

ROTHERHAM BOROUGH COUNCIL – REPORT
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1.	<b>Meeting:</b>	<b>Cabinet</b>
2.	<b>Date:</b>	<b>6 April 2011</b>
3.	<b>Title:</b>	<b>The role and function of overview and scrutiny in Rotherham: future arrangements</b>
4.	<b>Directorate:</b>	<b>Chief Executive's All wards</b>

**5. Summary**

The report sets out the findings and recommendations of the scrutiny review into the role and function of overview and scrutiny in Rotherham and its future arrangements. The report is attached as **Appendix 1**.

**6. Recommendations****That Cabinet**

- a. receives the report and determines its response to the recommendations;
- b. recommends to Council that changes be made to the Constitution to reflect any new arrangements/ approaches to Overview and Scrutiny in Rotherham;
- c. agrees a schedule for implementing the recommendations for the 2011/12 Municipal Year as appropriate;
- d. informs Overview and Scrutiny of its decision.

## **7. Proposals and Details**

**7.1** As part of its 2010/11 work programme, Performance and Scrutiny Overview Committee set up a review group to examine the role and function of scrutiny in Rotherham in light of the changing local government landscape.

**7.1.1** PSOC considered the report at its meeting of 25 March 2011 and agreed its recommendations (outlined in Section 3). The key findings are contained in Section 2 and further details of future arrangements are in Section 7 of the report.

**7.1.2** The supporting evidence was gathered through a comprehensive exercise which included

- Desktop review to explore best practice models
- Questionnaires circulated to **all** Members and key officers
- Focus groups with PSOC Members, O&S members, co-optees and partners
- Structured interviews with Cabinet Members and Strategic Directors conducted by Professor Heather Campbell and Dr Matthew Gebhardt, University of Sheffield
- Presentation and evidence from Jessica Crowe, Executive Director, Centre for Public Scrutiny

## **7.2 Issues emerging from the review**

**7.2.1** With very few exceptions, Overview and Scrutiny is seen to be a valuable part of the governance arrangements of the Council and has widespread support from both Members (Executive and non-Executive) and officers. However, there was a strong view that scrutiny needs to be different both in approach and its arrangements.

**7.2.2** PSOC agreed that this should be achieved through:

- Council agreeing a shared understanding of the role and function of Overview and Scrutiny in Rotherham;
- A greater focus on those areas where scrutiny can make the greatest impact;
- A greater emphasis on advance planning of scrutiny's work programme to enable scrutiny to look at borough-wide priorities and examine key issues, with clear links to corporate processes and decision-making cycles;
- An improved dialogue between Scrutiny, the Cabinet and Strategic Leadership Team about respective roles and responsibilities;
- Ensuring that scrutiny can respond to major service and structural changes e.g. NHS reforms, Localism Bill and the emerging transparency/self-regulation agendas, focusing outwardly and not just on the Council;
- Building on what works- scrutiny reviews are widely recognised as having impact and adding organisational value but future work should be more focussed and timely;
- Responding to financial, staffing and other resource constraints; leaner structures, with fewer panel meetings;

- Ensuring that scrutiny reflects and articulates the public voice;
- Supporting members to undertake this 'new' scrutiny confidently and effectively through the Member Development Programme

**7.2.3** PSOC agreed to restructure the O&S function to better reflect the priorities of the Council and its partners, by creating:

- an O&S Management Board to lead and manage the overview and scrutiny function, co-ordinate its workload and commission pieces of work;

Underpinning the Management board are four select commissions:

- A select commission focusing on self-regulation, value for money and budget transparency;
- A health scrutiny select commission;
- Improving Lives Select Commission – focussing on children and young people and the wider 'Think Family' agenda;
- Improving Places Select Commission – focussing on wider environmental/regeneration agendas

**7.2.4** It is suggested that each of the Select Commissions would meet every six-weeks. The schedule of meetings for the Management Board would be fortnightly although this may be subject to further review and revision. In-depth reviews may take place outside this cycle as per current arrangements.

**7.2.5** It should be noted that unlike the existing structures, PSOC recommends that future arrangements should not align portfolio holders to specific select commissions. Its view is that this would support the move towards greater co-ordination of work programmes and more efficient ways of working.

## **8. Finance**

Should the recommendations be accepted, the changes to scrutiny structures arising from this paper will make savings. These have yet to be costed but are likely to mean greater efficiencies in the use of officer resources, fewer formal meetings and a reduction in the associated production and distributions costs for agendas. Should the preferred structure be implemented, direct officer support to the Scrutiny Members can be met through existing staffing resources located in Scrutiny Services.

## **9. Risks and Uncertainties**

**9.1** Given that the review recommends a new approach to overview and scrutiny, it is suggested that the effectiveness of these arrangements are reviewed in 12 months to judge if they are fit for purpose.

**9.2** The Local Government landscape has changed beyond recognition since 2010. Like other areas of the Council, scrutiny needs to demonstrate relevance and impact but in the context of fewer resources. If scrutiny does not respond to this agenda and change its approach and arrangements, it will undermine its capacity to provide value for money and undertake effective scrutiny both within the Council and externally.

## **10. Policy and Performance Agenda Implications**

See full report

**11. Background Papers and Consultation**

All members were invited to contribute through questionnaire, focus groups and interviews

Focus groups were held with partners and co-optees

Key officers' views sought through interview and questionnaire

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# **A review of the role and function of Overview and Scrutiny in Rotherham**

## **“Improving lives, improving places”**

### **Scrutiny Review Group:-**

Cllr Jane Austen

Cllr Brian Steele

Cllr Glyn Whelbourn (Chair)

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## 1 PURPOSE OF THIS REPORT

As part of its 2010/11 work programme, Performance and Scrutiny Overview Committee set up a review group to examine the role and function of scrutiny in Rotherham. This report sets out the process and findings, and makes recommendations for future arrangements.

## 2 KEY FINDINGS

2.1.1 With very few exceptions, Overview and Scrutiny (O&S) is seen to be a valuable part of the governance arrangements of the Council and has widespread support from both Members (Executive and non-Executive) and officers. The review is satisfied that O&S in Rotherham has delivered improvements to services and held decision makers to account. However, by the same token there is widespread agreement that it is necessary and desirable for it to be different. The Council, alongside other public sector organisations, has had to make substantial in-year cuts and has set a budget which requires all services to work differently. Given the new landscape, it is essential that arrangements and ways of working are reviewed to ensure that O&S works more efficiently and effectively and continues to provide value for money. The requirement to focus on priority areas is therefore more pressing in order that resources are directed to the areas where Members wish to make the maximum impact. Staying the same cannot be an option.

2.1.2 For O&S to be its most effective there needs to be confidence, trust and mutual respect between it and the Executive.

This could be demonstrated through:

- The willingness of the Executive to have its decisions examined and challenged constructively
- Open and timely access to information and processes, particularly given the backdrop of unprecedented changes to Council and other public services
- Coordinated workload planning with clear links to corporate processes, priorities and decision-making cycles
- Recognising and valuing scrutiny's role in continuous improvement and the self-regulation/transparency agendas.
- Willingness of officers and partners to open themselves up to constructive scrutiny and challenge
- Willingness of Overview and Scrutiny members to make scrutiny a positive and productive experience for all participants.

2.1.3 Reviews are the most constructive and effective part of O&S activity, leading to service improvements and better outcomes for the people of Rotherham. However, there needs to be greater alignment with Council or Borough priorities and for recommendations to be more timely and focussed. Given the demands on Member's time, it is suggested that there should be a greater focus on shorter reviews conducted within a limited timescale. There is an emerging consensus that select committee-style meetings focused on a single item or spotlight review could take place on a scheduled basis, instead of the routine full committees.

2.1.4 There is a view that the existing panel arrangements are no longer fit for purpose, and their alignment to portfolios and directorate mean they are largely inwardly

focussed on the Council. Although there is concern about the way that panels operate, there is little support to disband them in their entirety, rather the view is to build on the skills and expertise of Members and change the focus and approach that scrutiny takes.

- 2.1.5 Unlike the existing structures, we recommend in the proposed arrangements portfolio holders are purposefully not aligned to specific select commissions. We believe this will support the move towards greater coordination of work programmes and break the “silo’d” relationship between a panel shadowing a Cabinet Member and his/her directorate.
- 2.1.6 With the exception of co-optees, there are poor levels of public awareness and engagement in scrutiny. There is a need to raise the public profile in O&S, inviting attendance at meetings and their greater contribution to work planning. This could in part be facilitated through better use of new media and technologies.
- 2.1.7 The commissioning and delivery of services in local areas is changing rapidly, with the potential for decision-making moving away from individual organisations into partnership structures or more complex arrangements. What needs to be in place for O&S members to link with other networks or non-executive functions to ensure that accountability is ‘joined up’ and transparent.
- 2.1.8 There is a need for greater member understanding and participation in Scrutiny. In order to support members to undertake this ‘new’ scrutiny confidently and effectively, there should be a renewed emphasis in the Member Development Programme on consolidating core skills such questioning and effective chairing.

### 3 RECOMMENDATIONS

1. That Council agrees that the primary function of Overview and Scrutiny in Rotherham is about “Improving Lives, Improving Places” and its priorities should be:
  - Holding decision makers and partners to account for delivery focusing on whether services make a difference in our communities
  - Ensuring value for money and budget transparency
  - Articulating and reflecting public voice

On the basis of this Council should agree O&S’ role and remit and its relationship with the respective parts of the Council’s governance arrangements;
2. To support the ongoing development of a positive and constructive relationship between O&S and the Cabinet, ensure that there are regular (at least quarterly) meetings scheduled between O&S Chairs and Cabinet to exchange concerns/forthcoming issues. These meetings should be scheduled in advance and published in the Council Year Book.
3. Ensure that O&S’ work reflects and articulates the public voice by:
  - Seeking ways to take O&S ‘out of the Town Hall’
  - Making the website more accessible
  - Establishing effective channels of communication with the community, including use of new media and technologies

- Developing ways to communicate scrutiny's work and raise its profile
  - Explore ways of further involving the community and other external stakeholders in the scrutiny process.
4. Develop the process for informing and approving O&S' work by:
- Developing a work programme that is informed by a range of stakeholders including the Cabinet, Senior Leadership Team (SLT), partners and the community. The work programme would ensure a balanced workload of different types of scrutiny work which would include internal/external focussed work, spotlight or more in-depth reviews, with capacity for responsive work as required.
  - Agreeing an annual work programme for 2011/12 that is endorsed by Council.
  - Having regular dialogue with the Chair of the Audit Committee, Chairs of Area Assemblies and Parish Councils to communicate respective work programmes, minimise areas of duplication and identify areas of joint working as appropriate.
  - Explore opportunities and agree approach for joint scrutiny with other authorities and non-executives/scrutineers from other bodies
  - Reviewing the current format of the Forward Plan of Key Decision's to see if it is fit for purpose
5. Deliver a Member Development programme to support O&S' development and raise awareness and understanding of the new roles, by:
- An initial "development day" event to inform the work programme and any future Member Development activity
  - Regular engagement and consultation – including workshops with and for scrutiny chairs
  - A programme of role development and skills training for members, including questioning skills and effective chairing
  - A programme of awareness raising sessions for officers and partners
6. Restructure the O&S function to better reflect the priorities of the Council and its partners, so as to be able to respond to major service and structural changes e.g. NHS reforms, Localism Bill and the emerging transparency/self-regulation agendas, by creating:
- an O&S Management Board to lead and manage the overview and scrutiny function, co-ordinate its workload and commission pieces of work;
- Underpinning the Management board are four select commissions:
- A select commission focusing on self-regulation, value for money and budget transparency;
  - A health scrutiny select commission;
  - Improving Lives Select Commission – focussing on children and young people and the wider 'Think Family' agenda;
  - Improving Places Select Commission – focussing on wider environmental/regeneration agendas.
7. Develop the roles and remits of the O&S Management Board and each of the 4 select commissions; including

- terms of reference for the Board and for each of the 4 select commissions – including any specific powers and responsibilities they have (e.g health scrutiny)
- role definitions/descriptions for the chair and vice chair of the O&S Management Board and for select commission chairs
- agree a meeting schedule for the Management Board and Select Commissions

Any agreed changes to be incorporated into the Council's Constitution.

8. Review the arrangement 12 months after implementation to see if they are 'fit for purpose'.

#### **4 SCOPE OF THE REVIEW**

4.1.1 The review group agreed to examine whether the overview and scrutiny function of the Council was fit for purpose in light of the changing local government landscape. The aim of the review was to

- explore how Overview and Scrutiny in Rotherham can best demonstrate relevance, challenge and accountability to the wider public;
- improve the efficiency and effectiveness of the scrutiny function, particularly in relation to the emerging self-regulation/ transparency agendas and resource pressures;
- examine if changes could be made to ways of working and structures to lead to greater focus and better outcomes for scrutiny and the wider governance arrangements of the Council;
- examine how scrutiny members are enabled and supported to take on new responsibilities or ways of working.

4.1.2 The supporting evidence was gathered through

- Desktop review and analysis of legislation, policy directives and commentary
- Desktop review to explore best practice models and approaches
- Revisiting the 2006 Self-evaluation Framework (Centre for Public Scrutiny) to see if the findings were still relevant and what change had been enacted since its publication
- Questionnaires circulated to **all** Members and key officers
- Focus groups with PSOC Members, O&S members (invitation issued to all members), co-optees and partners
- Interview with Martin Kimber, Chief Executive
- Structured interviews with Cabinet Members and Strategic Directors conducted by Professor Heather Campbell and Dr Matthew Gebhardt, University of Sheffield

- Presentation and evidence from Jessica Crowe, Executive Director, Centre for Public Scrutiny

4.1.3 The review commenced in October 2010 and its findings are to be submitted to Council in April 2011.

4.1.4 The review group would like to thank all who contributed for their time, co-operation and willingness to engage in this process. In particular, we are grateful for the considerable time and commitment given by colleagues from the University of Sheffield. Having an independent view to constructively challenge and question how we work was invaluable and our review is more robust from their input.

## 5 BACKGROUND

5.1.1 Performance and Scrutiny Overview Committee (PSOC) and the five Scrutiny Panels have been in place for over ten years in Rotherham. During this time, the responsibilities of scrutiny have widened, including the addition of health and crime and disorder scrutiny powers.

The panels were realigned in 2005 to greater reflect the priorities outlined in the Community Strategy, however there is still a strong emphasis on scrutinising Directorates. Although minor amendments have been made to the panels' remits, the 'Our Future' organisational review and subsequent 2009 Constitutional review did not make substantial changes to the way that scrutiny is organised or structured.

5.1.2 PSOC currently meets fortnightly. Each of the panels has determined their own meeting schedule. Children and Young People's Scrutiny Panel and Adult Services and Health meet every four weeks, whilst Democratic Renewal, Regeneration and Sustainable Communities Scrutiny Panels meet six-weekly. All panels will have additional meetings outside this schedule to conduct reviews or other scrutiny activities.

5.1.3 It has been custom and practice for each panel to develop its own work programme in conjunction with Cabinet Members and Strategic Directors. An outline of the work programme is published alongside the Annual Report and presented to Council early in the new Municipal Year.

5.1.4 Since scrutiny's formation, Overview and Scrutiny Members have been directly supported by a small team of advisers located in Scrutiny Services and Member Support. The team has recently reduced by 1.5 full-time equivalents and will have further managerial change in the near future. There will be 3 FTEs supporting the overview and scrutiny function. Each of the formal panel meetings are minuted by a Democratic Services Officer in addition to the support given by the Scrutiny Advisers.

5.1.5 Scrutiny in Rotherham has previously been nationally recognised by a number of bodies including the Local Government Information Unit, Centre for Public Scrutiny and IDeA (now Local Government Improvement and Development).

The last full corporate assessment carried out in 2006 stated *"Scrutiny is strong... and is particularly effective in the area of policy development. There is a high level of acceptance of scrutiny recommendations by the cabinet, and a number of important policy changes have stemmed from scrutiny work, for example in areas such as*

*domestic violence, and corporate parenting*” (Audit Commission, 2006). There has not been another corporate inspection since 2006, however, overview and scrutiny has contributed to several other assessments and corporate governance activities.

## 5.2 Current legislative requirements and challenges

A great deal has been written about the current Government’s legislative programme and policy framework. It is not intended to duplicate this. In summary, some of the main challenges for O&S are as follows:

- redefining its role in self-regulation; the abolition of CAA and National Indicator Set offers opportunities for O&S to play a role in peer reviews, offer challenge to self-assessment and renew its focus on improvement;
- ensuring that community empowerment aspects of the Localism Bill are truly representative and reflect wider community interests;
- potential for changing governance arrangements;
- O&S’ relationship to the wider health community, in light of changes to governance and commissioning arrangements and Public Health responsibilities;
- local policing arrangements and their governance;
- place-based/community budgeting/commissioning - bringing significant changes to the way services are delivered in local areas, with decision-making moving away from individual organisations into partnership structures; are there opportunities to link with other networks or non-executive functions to ensure that accountability is ‘joined up’?;
- grant settlement; ensuring that the difficult decisions taken about spending and resource allocations are robust;
- the ‘Big Society’ and active involvement of the public in service delivery.

## 6 ISSUES EMERGING FROM THE REVIEW

6.1.1 With very few exceptions, Overview and Scrutiny (O&S) is seen to be a valuable part of the Council machinery and has widespread support from both Members (Executive and non-Executive) and officers. However this is not a formal review of governance arrangements and should not be read as such. Although it is worth stating that whilst the Localism Bill (currently before Parliament) gives the opportunity to opt for different models (i.e. return to decision making by Committee), there was little appetite for this in the responses.

6.1.2 The Centre for Public Scrutiny has established four core principles to explain the most important activities of scrutiny. They are accepted standards of good practice and a useful tool against which we can measure the effective of arrangements in Rotherham:

1. provides ‘critical friend’ challenge to executive policy-makers and decision-makers

2. enables the voice and concerns of the public and its communities
3. is carried out by 'independent minded governors' who lead and own the scrutiny process
4. drives improvement in public services

There is no single definition of overview and scrutiny, but it may be helpful to differentiate the two parts of the process. The former, "overview", is a constructive and consensual process; in Rotherham this is largely undertaken in reviews, making recommendations to Cabinet or other bodies. "Scrutiny," on the other hand, is more directly related to examining the decision making of the executive or holding to account, which on occasions may be more seen as perhaps more challenging. In Rotherham, whilst O&S Members clearly valued their role in reviews (or overview) there was a strong commitment that one of their primary functions is 'holding decision makers to account' whether that be inside of the Council or across the Borough.

## **6.2 Provides 'critical friend' challenge to executive policy-makers and decision-makers**

- 6.2.1 For O&S to be its most effective there needs to be confidence, trust and mutual respect between it and the Executive.

This could be demonstrated through:

- The willingness of the Executive to have its decisions examined and challenged constructively
- Open and timely access to information and processes, particularly given the backdrop of unprecedented changes to Council and other public services
- Coordinated workload planning with clear links to corporate processes, priorities and decision-making cycles
- Recognising and valuing scrutiny's role in continuous improvement and the self-regulation/transparency agendas.
- Willingness of officers and partners to open themselves up to constructive scrutiny and challenge
- Willingness of Overview and Scrutiny members to make scrutiny a positive and productive experience for all participants.

- 6.2.2 The responses from the questionnaires, focus groups and interviews demonstrated a mixed view about how 'critical friend' challenge is given and received and if the relationship between Cabinet, O&S and SLT is functioning effectively at present.

There was universal agreement from all contributors that a greater emphasis should be placed on co-ordinating scrutiny's work programme to enable scrutiny to look at priorities, examine key issues and minimise duplication.

This could be achieved through the following:

- Advance planning of the annual work programme drawing together the views of O&S Members, the Cabinet, senior officers and partners to enable scrutiny to be more "forward looking", and contributing to the wider priorities of the Council identified in the Corporate Plan and Community Strategy. This could be

facilitated through a workshop-session with a six month evaluation. Whilst greater coordination would be welcome, it is not suggested that the work programme should be inflexible and prescriptive, as this may undermine O&S ability to be respond to unforeseen events or concerns (e.g. 2007 flooding or 2010 winter resilience).

- Greater management, co-ordination and prioritisation by (currently) PSOC to identify and delegate areas of work and act as a conduit should O&S Members, Cabinet, Audit Committee or SLT pinpoint concerns or issues that may warrant further attention.
- Greater use of the Forward Plan of Key Decisions (FPKD): A common view from scrutiny members is that information is received “after the horse has bolted”. Conversely, the view of many Cabinet Members and senior officers is that too much time is spent examining decisions *after* they have been taken, which was seen to be “unnecessary and ineffective”, particularly as the window for reconsidering the decision (call-in) had often passed.

If the FPKD was used to its full potential (alongside better work planning), scrutiny could be consulted at a stage where meaningful input can be made, particularly in areas of concern or sensitivity. There is considerable overlap in support of this approach across all interviewees (whether O&S Members, Cabinet or Senior Officer). If this approach is not taken, there is a risk that the working patterns which are widely considered to be ineffective will continue.

- Regular dialogue between O&S and Cabinet Members. These would promote more effective forward planning and provide regular opportunities for joint problem solving. Previous efforts to undertake this have not been successful.
- Regular dialogue with the Chair of the Audit Committee, Chairs of Area Assemblies and Parish Councils to communicate respective work programmes, minimise areas of duplication and identify areas of joint working as appropriate.

6.2.3 There is a common perception amongst officers that routine scrutiny panels are on occasions adversarial rather than an interchange of ideas; whereas reviews were cited for their constructiveness. If this perception of routine meetings has foundation, then it is unlikely that officers will be open and willing to engage with the scrutiny process or scrutiny members; and necessarily the effectiveness of the function will be undermined.

6.2.4 Most respondents indicated that scheduled panel meetings are too long, with too many routine items on the agenda that are for noting rather than action, with little opportunity to influence or add value. Many also commented on the timeliness of information and the reluctance of some Cabinet Members and officers to engage. Again this points to the need to examine closely how work programmes are constructed and communicated.

6.2.5 There is a widespread acknowledgment that scrutiny of outside bodies is going to be an even greater necessity. The commissioning and delivery of local services is rapidly changing and becoming increasingly complex, with potentially multiple providers. With few exceptions, the focus of scrutiny has been largely inward looking rather than on wider partnerships or outcomes for the borough. Many respondents suggest that there should be an increased focus on health scrutiny to address the emerging health agenda both in terms of commissioning arrangements and public



health responsibilities. Members of the Local Strategic Partnership recognised the importance of accountability across the board, not just a focus on health, particularly ensuring that scarce resources are being wisely spent on the 'things that matter and make a difference'. However, they expressed concerns about duplication and timeliness, which again point to how priorities are determined.

### **6.3 Enables the voice and concerns of the public and its communities**

- 6.3.1 The coalition Government has shifted in the way it relates to Local Government. Councils will be expected to be more "transparent" and "accountable" to the communities they serve (for example by publishing all expenditure above £500). However, simply publishing a set of figures on a monthly basis is not enough. For the figures to mean something they need to be explained and contextualised. The challenge is therefore to show how the expenditure supports (or not) the priorities which the community has called on the council to adopt. O&S is ideally placed to do this.
- 6.3.2 With public faith in institutions, both nationally and locally, at a low, how to generate trust and openness is a contentious issue. Having a strong overview and scrutiny function which is outwardly focused in its engagement with the public while inwardly focused to hold the local authority to account, could be the key to achieving credibility for self regulation. The more that it can demonstrate the willingness to hold poor performance or poor practice to account the more it will be trusted. Other authorities (e.g. Cardiff) have spoken of the "need to build organisational confidence", developing a view of scrutiny as a safeguarding or preventative function. This is very much in line with the developing thinking around self-regulation and could define a role for scrutiny in self-assessment and performance improvement, looking beyond councils' own services to the wider outcomes that need to be achieved.
- 6.3.3 The main way in which members of the local community currently participate in scrutiny is as co-optees or as expert witnesses. Their contribution to the effectiveness of scrutiny in Rotherham is extremely valuable. Co-optees come from a wide range of backgrounds and are elected bi-annually to provide some degree of continuity. In addition, other co-optees are recruited to reviews on an 'as needed' basis.
- 6.3.4 Aside from co-optees and their input into reviews, public involvement in scrutiny is generally poor (as indeed it is in many other democratic arenas) although there have been notable successes in areas focussing on particular issues or concern (e.g. post office closure or water fluoridation). The need to move scrutiny from an introspective process, with most subject matter selected by Members and Officers, to one where issues are identified by the wider community is an ongoing challenge.
- 6.3.5 Jessica Crowe, Executive Director of the Centre for Public Scrutiny made the following observations. The abolition of the Audit Commission and CAA gives an opportunity for scrutiny to "shine a light on poor performance". She suggested that the scrutiny members can ensure that public concerns are aired and debated, holding all providers to account. Given the pressures on resources and the difficult decisions that are to be made, this role is all the more critical in as much as O&S can provide evidence based recommendations for improvement and savings, measuring and articulating what matters to local people.

At the heart of any discussions about O&S' work programme, should be the question

“What difference will this make to the people of Rotherham?”

6.3.6 With few exceptions, O&S rarely publicises its activities, which may partially explain the poor levels of public awareness. The opportunities to use new media and technology to raise the profile of scrutiny both externally and internally should be explored.

6.3.7 There may be opportunities to assess the scope for more localised scrutiny, developing better links with Area Assemblies and Parish Councils, with wider participation and increased attendance.

#### **6.4 Is carried out by ‘independent minded governors’ who lead and own the scrutiny process**

6.4.1 There was a strong consensus that if O&S is to be an ‘independent voice’, the scrutiny work programme should be ‘owned’ by O&S Members, and determined through a mutual understanding of borough wide priorities and a focus on the areas where a difference can be made.

In focus groups and from questionnaire responses, three priorities emerged:

- Holding decision makers and partners to account for delivery
- Budget transparency
- Articulating and reflecting public voice

It is suggested that the approach taken in its work programme reflects these themes.

6.4.2 One of the key roles of scrutiny is to ensure that the Council is using its resources wisely and getting value for money. The pressure to make savings makes the need to provide analysis and challenge on behalf of the public all the more critical. Several respondents (cross-party) said that the process could and should be improved by scrutiny being involved at an earlier stage asking “Has the money spent made a difference to the public of Rotherham?” If detailed budget options particularly around sensitive areas, are not discussed with all stakeholders in advance, the likelihood of protests and negative coverage increases. O&S could have a role in examining impact and how proposals link to wider priorities. The current approach does not do this.

6.4.3 The call-in procedure provides a clear route for decision makers to be held to account. However, this process is seen as being adversarial (and in some instances ineffective) and perhaps the low-numbers of call-in over the 10 years of scrutiny demonstrates that there is a reluctance to use it. If call-in is not used, then the public questioning of decisions and decision makers at scrutiny panels is inevitable. However, if pre-decision was used to best effect then the challenge is more likely to be focussed, timely, informed and constructive.

6.4.4 Although the changing landscape could lead to a significant expansion of scrutiny’s role, it was noted that not all members are actively involved in scrutiny at present. Any changes to approach or arrangements should be mindful of member’s capacity to meet any new requirements alongside their other community leadership roles.

6.4.5 Furthermore, there is a wide recognition that in order to support members to undertake this ‘new’ scrutiny confidently and effectively, there should be a renewed emphasis in the Member Development Programme on consolidating core skills such

questioning and effective chairing. The programme should continue to be open to co-opted members.

- 6.4.6 It is a shared view that without dedicated scrutiny officer support, the scrutiny function would not be as effective. However, as with other areas of the Council, the core function has been reduced to make savings and further changes are planned in its management. The requirement to focus on priority areas is therefore more pressing in order that officers and resources are directed to the areas where Members wish to make the maximum impact.

## **6.5 Drives improvement in public services**

- 6.5.1 Scrutiny reviews were viewed to be the most successful aspects of scrutiny's work. This is because of the flow of ideas, debate and focus on making a difference. Members also prepare in advance, develop understanding and insight in the subject area and have a practical investment in seeking solutions. There was overwhelming agreement that reviews have had a real impact leading to service improvements across the board. A great deal of scrutiny activity will often influence policy or resource decisions some years after the recommendations have been made (for example the Scrutiny Review into the Future Challenges of the Youth Service has been recently used to influence a wholesale review of the service some three years after its submission to Cabinet).
- 6.5.2 Although this was seen as the most constructive aspect of its work, there was a view that some reviews had taken too long to complete and consequently had lost impact and relevance. Given the demands on Member's time, it is suggested that there should be there should be a greater focus on shorter reviews conducted within a limited timescale. There appears to be an emerging consensus that select committee-style meetings focused on a single item could take place on a scheduled basis, instead of the routine full committees. This approach would not necessarily preclude more in-depth work as required.
- 6.5.3 Many contributors commented that there were questions about how the agreed recommendations were implemented and monitored. Although a high proportion of recommendations are accepted by the Executive, the implementation of some reviews has been patchy. Further work should be undertaken to ensure that there is greater organisational ownership of the implementation of agreed recommendations.
- 6.5.4 It was questionable whether 'routine' panels were viewed as being as effective as reviews. Some members clearly valued the opportunity to regularly question Cabinet Members and officers on aspects of service delivery. However, routine panel meetings seldom hear people's experiences of services or firsthand from those who deliver them. Whilst it would not necessarily be appropriate to become involved in operational minutiae, by understanding the context of services and their effectiveness, scrutiny can add value and inform the Executive's decisions about how scarce resources are allocated.
- 6.5.5 Although there is criticism of the way that panels operate, there is little support to disband them in their entirety, rather the view is to build on the skills and expertise of Members and change the focus and approach that scrutiny takes. Given the pressure on resources, the requirement to focus on priority areas is therefore more pressing in order that limited resources (both officer and financial) are directed to the areas where Members wish to make the maximum impact.

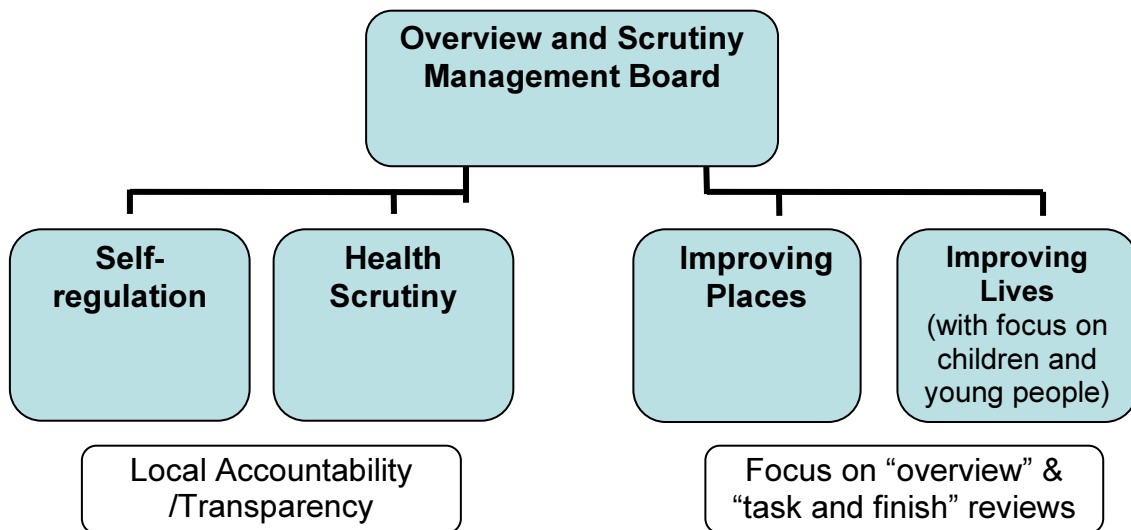
**7 A DIFFERENT WAY OF WORKING**

The recommendations in Section 3 outline the cultural changes that need to be put in place to ensure that O&S is fit for purpose. To support this change, we are suggesting a different way of working. There was general consensus among interviewees that the current organisation of the scrutiny panels (restructured in 2005) and their alignment with Cabinet member portfolios and directorates is not ideal. We have purposefully moved away from this.

7.1.1 The review examined different ways of models of workings, assessing the risks and benefits attached to each. Jessica Crowe’s (Centre for Public Scrutiny) input on the challenges facing O&S functions and how different authorities are responding was most helpful. The review group recognises that the greatest impact has been made in reviews and wants to build on this expertise by ensuring that this activity is focused on the “right things, in the right way and at the right time”. It also recognises the need to be ‘ahead of the game’, particularly in respect of the self-regulation and transparency agenda.

7.1.2 As the commissioning and delivery of local services changes rapidly and becomes increasingly complex, it is important that O&S is able to focus outwardly on improving outcomes across the Borough rather than focusing on those areas delivered by the Council. To do this successfully, there will need to be greater flexibility and coordination in approach.

7.1.3 With this in mind, recognising the need to streamline meetings and focus on activity where value can be added we propose the following option (agreed by PSOC at its meeting of March 25, 2011):



7.1.4 The suggested focus of these bodies is outlined in Table 1, however it is recognised that further work should be undertaken to develop the respective roles and remit of the Management Board and each of the Select Commissions.

**Table 1: outline of O&S remit****O&S Management Board**

- Call-in
- Councillor Call for Action
- Designated crime and disorder committee
- Co-ordinate and prioritise O&S' work programme
- To assign overview and scrutiny work as it considers appropriate, to the various commissions
- To make recommendations to the Cabinet or to any partner organisation on issues scrutinised relevant to those bodies, and where appropriate, direct to Council

<b>Self-regulation</b>	<b>Health</b>	<b>Select Commissions</b>
<ul style="list-style-type: none"> <li>• To scrutinise and raise issues as part of the self regulation process or through external assessments (peer review, inspection etc)</li> <li>• To monitor and hold to account the performance of service delivery within RMBC and its partner etc with particular reference to the Corporate Plan and Community Strategy</li> <li>• To monitor whether efficiency savings are achieved or exceeded</li> <li>• To scrutinise the annual budget setting process</li> <li>• Monitor the Council budget and MTFS</li> </ul>	<ul style="list-style-type: none"> <li>• To carry out in depth overview and scrutiny of issues as directed by the O&amp;S Management Board</li> <li>• To be the Council's designated scrutiny body for any issue relating to health and the public health agenda</li> </ul>	<ul style="list-style-type: none"> <li>• To carry out overview and scrutiny of issues as directed by the O&amp;S Management Board. These issues shall relate to the Select Committee theme</li> </ul> <p><b>Improving Lives:</b></p> <ul style="list-style-type: none"> <li>• any issue relating to the Every Child Matters agenda (note Health Scrutiny Committee responsibilities)</li> <li>• any issue relating to the 'Think Family' and early intervention/prevention agendas</li> <li>• any issues relating to non-health related adult social care</li> </ul> <p><b>Improving Places:</b></p> <ul style="list-style-type: none"> <li>• any issue relating to cohesion, leisure, neighbourhoods, environment, local economy, regeneration and employment (including skills and training)</li> </ul>

7.1.5 It is proposed to review the arrangements and ways of working 12 months after implementation to judge if they are 'fit for purpose', are responding to the changing landscape and have led to improved ways of working.

## 8 TIMETABLE

Review group agreed scope and terms of reference	22 October
Interview with Martin Kimber	26th November
Questionnaire: all Members key officers Co-optees	Sent <b>17 January</b> (closing date 31 January) Sent <b>19 January</b> (closing date 4 February) Sent <b>25 January</b> (closing date 8 February)
Focus Group 1: PSOC	28 January
Focus Group 2: invitation to all members	3 February
Focus Group 3: co-optees	9 February
Focus Group 4: partners	24 February
<b>Interviews conducted by Prof Heather Campbell and Dr Gebhardt</b> Leader, Councillor Roger Stone Deputy Leader, Councillor Terry Sharman Cabinet Member, Safeguarding and Developing Learning Opportunities for Children – Councillor Lakin Cabinet Member, Adult Independence Health and well Being – Councillor Doyle Cabinet Member, Community Development, Equality and Young Peoples issues – Councillor Hussain Cabinet Member, Safe and Attractive Neighbourhoods Councillor Akhtar Cabinet Member, Regeneration and Environment – Councillor Smith Cabinet Member, Culture, Lifestyle, Sport and Tourism – Councillor St. John Executive Director for Children and Young People's Services – Joyce Thacker Executive Director for Neighbourhood and Adult Services – Tom Cray Executive Director for Finance Services – Andrew Bedford Executive Director for Economic and Development Services – Karl Battersby Matthew Gladstone, Director of Policy, Performance and Commissioning	10 and 11 February (originally scheduled for early December but postponed due to snow)
Emerging issues fed back to review group	4 March
Presentation to PSOC from Jessica Crowe, Executive Director, Centre for Public Scrutiny Endorsement of emerging findings and recommendations	11 March
Consideration of draft report: PSOC	25 March

9 **THANKS**

- Cllr Roger Stone and Cabinet colleagues
- Senior Leadership Team
- Professor Heather Campbell and Dr Matthew Gebhardt, University of Sheffield
- Jessica Crowe, Executive Director, Centre Public Scrutiny
- Brian Chappell, Chair of Rotherham Partnership
- Helen Wyatt, NHS Rotherham
- Helen Watts, NHS Rotherham
- Sarah Whittle, NHS Rotherham
- Gill Atkin - RCAT
- Mark Smith – Safe@Last
- Jill Marsden – Job Centre Plus
- Sue Barratt – Grow
- Derek Corkell – Rotherfed
- Brian Walker, Co-optee
- Lyndsay Pitchley, Statutory Co-optee
- Joanna Jones, Co-optee
- All PSOC Members and other Members who participated in the Focus Groups

For further information about this report please contact:

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<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO Cabinet</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Cabinet</b>
<b>2.</b>	<b>Date:</b>	<b>6<sup>th</sup> April 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Recording Council Meetings</b>
<b>4.</b>	<b>Directorate:</b>	<b>Chief Executive's</b>

**5. Summary**

To review the procedures regarding the recording of Council Meetings.

**6. Recommendations**

- 1. That Standing Order 18 be amended to permit the recording of the ceremonial part of the annual Council meeting for the private use of the Mayor and his or her family.**
- 2. That a further report be submitted on the question of whether to permit the wider recording of Council meetings and if so, any safeguards that should be imposed.**



## 7. Proposals and Details

The Council's Standing Order 18 presently provides:-

(1) Except where the members present at a meeting of the Council, the Cabinet, a committee of the Cabinet or a committee authorised by majority vote the recording of the proceedings, no person shall record the proceedings or any part of them.

(2) A person authorised to record the proceedings of a Council meeting, in accordance with sub-paragraph (1), shall record them using the medium supplied or specified by the Council.

(3) A recording made in accordance with this standing order shall only be used or reproduced with the consent of the Council and on the terms specified by the Council.

The above Standing Order has applied for some considerable time. Members are asked to consider whether it should be reviewed in the light of modern communication methods and in the interests of opening up the workings of local democracy in action to a wider audience.

Two quite separate issues have prompted this report. The first is a request by the Deputy Mayor for permission to make a recording of the ceremonial part of the 2011 annual Council meeting. This will include those parts of the meeting comprising the election of the Mayor and his or her declaration of acceptance of office, the vote of thanks to the retiring Mayor and the retiring Mayor's speech and the appointment of the Deputy Mayor. At that point the Leader traditionally invites the guests to retire and take light refreshments, before the Council deals with the remainder of the business. The ceremonial part of the annual Council meeting should be a relaxed and celebratory occasion free from political controversy. Election as Mayor is the highest point of a Member's career and it would seem reasonable to permit this part of the meeting to be recorded on behalf of the Mayor and his or her family and friends for private use only.

A proposed amended Standing Order to permit this is attached at **Appendix 1**.

The second issue that has arisen is a request from Bob Neil MP, Parliamentary Under Secretary of State at the Department for Communities and Local Government highlighting the importance of Council giving citizens opportunities to access and experience their local democracy using modern communication methods. A letter has been sent to all Council Leaders and copied to Monitoring Officers and is attached at **Appendix 2**.

The letter urges greater openness and calls on Councils to give bloggers and online broadcasters the same routine access to Council meetings as traditional accredited journalists. Wider access to local decision making would improve public scrutiny and give stronger local accountability.

The letter does recognise that there are obligations under the Data Protection Act and quotes advice from the Information Commissioners Office.

Cabinet are asked to consider whether existing policy regarding recording of meetings should be reviewed, not merely because of the letter from the Minister, but generally in terms of how best to inform the public of Council decision making and in the light of the communication methods available today, including the Council's own much improved website. If it is felt the policy should be updated, Cabinet is asked to instruct officers to produce a further report examining the issues in more detail and suggesting appropriate safeguards, while encouraging openness and transparency.

## **8. Finance**

There are no financial implications arising directly from this report.

## **9. Risks and Uncertainties**

The Council will need to ensure that data protection obligations are complied with.

There may be some risk that if recording is permitted, selective editing or broadcasting of remarks out of context could be used in an attempt to create a misleading impression of a particular debate or decision. This should be considered as part of any further report.

## **10. Policy and Performance Agenda Implications**

Effective communications and marketing should support the strategic and operational business of the local authority, and in particular openness and transparency in the democratic process. These activities – including the development of new and social media – are therefore critical to the council's policy and performance agenda as a whole.

## **11. Background Papers and Consultation**

The Democratic Services Manager, Head of Communications and Head of Scrutiny Services have been consulted.

**Contact Name :** Tim Mumford, Assistant Chief Executive (Legal and Democratic Services)  
Telephone: 823500  
tim.mumford@rotherham.gov.uk

(1) Subject to paragraph (4), except where the members present at a meeting of the Council, the Cabinet, a committee of the Cabinet or a committee authorise by majority vote the recording of the proceedings, no person shall record the proceedings or any part of them.

(2) A person authorised to record the proceedings of a Council meeting, in accordance with sub-paragraph (1), shall record them using the medium supplied or specified by the Council.

(3) A recording made in accordance with this standing order shall only be used or reproduced with the consent of the Council and on the terms specified by the Council.

(4) Recordings of the ceremonial part of the annual Council meeting may be made for private and personal use on behalf of the Mayor or by his or her family and friends or by the Council and paragraphs (2) and (3) above shall not apply.



To All Council Leaders  
cc Monitoring Officers

**Bob Neill MP**  
*Parliamentary Under Secretary of State*

**Department for Communities and Local  
Government**  
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23 February 2011

Dear Colleague,

### **Access to Meetings**

As part of the Government's transparency drive I want to highlight the importance of your council giving citizens the opportunity to access and experience their local democracy using modern communication methods. It is essential to a healthy democracy that citizens everywhere are able to feel that their council welcomes them to observe local decision-making and through modern media tools keep others informed as to what their council is doing. The mainstream media also needs to be free to provide stronger local accountability by being able to film and record in meetings without obstruction.

Councils are now faced with important budget decisions affecting the day to day lives of people living and working in their communities. Council meetings have long been open to interested members of the public and recognised journalists, and with the growth of online film, social media and hyper-local online news they should equally be open to 'Citizen Journalists' and filming by mainstream media. Bloggers, tweeters, residents with their own websites and users of Facebook and YouTube are increasingly a part of the modern world, blurring the lines between professional journalists and the public.

There are recent stories about people being ejected from council meetings for blogging, tweeting or filming. This potentially is at odds with the fundamentals of democracy and I want to encourage all councils to take a welcoming approach to those who want to bring local news stories to a wider audience. The public should rightly expect that elected representatives who have put themselves up for public office be prepared for their decisions to be as transparent as possible and welcome a direct line of communication to their electorate. I do hope that you and your colleagues will do your utmost to maximise the transparency and openness of your council.

I do recognise that there are obligations on whoever is filming or publishing information – be it the council itself or a citizen or mainstream journalist – under the Data Protection Act 1998. But I do not see these obligations as preventing access for journalism. Nor are there grounds for any council

seeking to obstruct a citizen or other journalist from processing information. The Information Commissioner's Office has told us that:

' In the absence of any other legal barrier to comment, publication, expression and so on, the Act in and of itself would not prevent such processing of information.

In the majority of cases the citizen blogging about how they see the democratic process working is unlikely to breach the data protection principles.

In the context of photographing or filming meetings, whilst genuine concerns about being filmed should not be dismissed, the nature of the activity being filmed – elected representatives acting in the public sphere – should weigh heavily against personal objections'.

Moreover there are within the Act itself exemptions from the data protection principles which might apply in the circumstances of the citizen journalist. The first exemption relates to processing of information for journalistic purposes (section 32), the second for the processing of information for domestic purposes (section 36).

In short transparency and openness should be the underlying principle behind everything councils do and in this digital age it is right that we modernise our approach to public access, recognising the contribution to transparency and democratic debate that social media and similar tools can make.

I copy this letter to your monitoring officer given their responsibility for advising on your council's procedures and decision-making arrangements.

A handwritten signature in black ink, appearing to read 'Bob Neill', with a large, stylized initial 'B'.

**BOB NEILL MP**

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Cabinet</b>
<b>2.</b>	<b>Date:</b>	<b>6<sup>th</sup> April, 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Self Regulation and Improvement</b>
<b>4.</b>	<b>Directorate:</b>	<b>Commissioning, Policy &amp; Performance</b>

## 5. Summary

- 5.1 Despite the abolition of national performance and inspection frameworks such as Comprehensive Area Assessment (CAA) and Local Area Agreements (LAA) there is still an expectation from central government that Councils will take responsibility both collectively and individually to manage their performance, ensure improved outcomes for their local areas and deliver services with increased accountability and transparency.

The Local Government Group (LG Group) paper *'Taking the Lead: Self Regulation and Improvement in Local Government'* sets out an approach to meeting these expectations. This report summarises the content of the LG Group paper and makes recommendations for its proposals to be adopted and taken forward as a Council wide project led by the Performance and Quality Team.

## 6. Recommendations

- 6.1 That Cabinet considers the information set out in this report and agrees in principle to implementing the next steps for taking the LG Group's proposals forward locally as set out in paragraph 7.9.
- 6.2 That this paper is submitted to Performance Overview Scrutiny Committee (PSOC) for further consideration,

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## 7. Proposals and Details

- 7.1 During 2010 the Local Government Association consultation '*Freedom to Lead: Trust to Deliver*' set out proposals for a sector led approach to delivering public service improvements which was freed from the central controls, nationally imposed targets and inspection which had characterised previous national performance frameworks such as Comprehensive Performance Assessment (CPA) and the more recent Comprehensive Area Assessment (CAA). The consultation recognised that central controls had produced structures that were burdensome, costly and at times placed barriers against the innovation and creativity required to tailor services to meet the requirements and needs of local communities. The alternative proposed by the LGA was for a decentralised arrangement with responsibility for performance and service improvement devolved to local authorities but supported by a common set of shared principles and mutually agreed arrangements for challenge and service improvement.
- 7.2 Responses to the LGA consultation were largely supportive of its proposals which have subsequently been given increased weight following the Coalition Government's dismantling of the national performance frameworks for local authorities and the abolition of the Audit Commission. The outcome of the consultation, '*Taking the Lead: Self Regulation and Improvement in Local Government*' was published in February 2011 and sets out an approach to sector led self regulation which will come into effect from April 2011.
- 7.3 A theme repeated throughout '*Taking the Lead*' is that the proposals do not seek to re-create the burdensome statutory performance regimes of recent times. The Local Government Group (LG Group) does however expect that all councils will take necessary steps to ensure that they have arrangements in place to deliver improvement and greater accountability and be willing to support each other. The LG Group will in turn support local authorities via the provision of various tools, resources and arrangements which will enable self assessment, peer challenge, information sharing and so forth.
- 7.4 The Role of Individual Authorities:** The LG Group proposals set out a clear expectation that councils take responsibility for their own performance, responsibility for leading the delivery of improved outcomes for local people in their area and for making themselves more accountable to their local communities through greater transparency. The means by which this will be achieved will include ongoing consultation, encouraging resident feedback, collection, analysis and publication of performance information, sharing knowledge and good practice, participating in peer review arrangements, supporting and developing the role of members in the new environment and to make full use of scrutiny to challenge and improve both council services and those of their partners.
- 7.5 The Role of the Local Government Group:** The LG Group is made up of several organisations including the LGA and IDEA and functions as an integrated lobbying and improvement organisation for the local government sector. '*Taking the Lead*' sets out the means by which the group will support self regulation and improvement as follows:

- Local Accountability Tools – Development of web based, free of charge tools to enable Councils to work with local people, partners and communities to produce a shared assessment of current performance.
- Peer Challenge – LG Group is offering all councils one free of charge peer challenge over the three year period beginning April 2011. This will require a level of commitment from participating local authorities to provide high quality peers. Peer reviews may be tailored to suit local needs but will focus on corporate capacity and leadership. More subject specific peer challenge will be available but these will not be free of charge.
- Knowledge Hub – A free of charge web based tool to be fully operational by September 2011 that will enable sharing of information, knowledge, networking and collaboration.
- Data and Transparency – A free of charge area within the Knowledge Hub where councils may lodge and access data in particular to enable benchmarking. It is proposed that this is used to store data on a core of agreed metrics around cost efficiency and productivity, outcome and achievement and citizen satisfaction, but with the service offering the availability to go beyond these measures.
- Leadership Support – Ongoing development support for political and managerial leaders e.g. through the Leadership Academy and Leeds Castle programmes. The LG Group will continue to provide leadership support for political leaders and will be making available one subsidised place for every council for each of the next three years on one of the main programmes commissioned from the market.
- Learning and Support Networks – Ongoing support of officers and councillor networks at national and sub-national levels. LGG will seek to make use of these networks to inform its wider policy and lobbying role. .

**7.6 Local Government Group Improvement Programme Board:** Under LG Group proposals the Improvement Programme Board will maintain an overview of the performance of the local government sector. It will work with councils to find a 'light touch' method of gathering information and intelligence which it will use to monitor and identify trends including where things might be going wrong and identify circumstances where it might be appropriate to talk with and support local councils. The Improvement Programme Board will also meet with the remaining regulatory bodies and central government to provide reassurance that the sector is providing effective self regulation.

**7.7 Role of Audit and Inspection:** The LG Group recognises the continuing need for external audit of local authorities to ensure the integrity of public spending. There is, however, a general wish to ensure this does not eventually evolve into a full inspection regime. The group recognises that inspection should continue in some areas (e.g. safeguarding) but in the majority of areas peer challenge will be more appropriate

**7.8 Role of Central Government:** The LG Group requests that central government powers to intervene be used only as a last resort and that



government raises any initial concerns with individual councils and the Improvement Programme Board to ensure the sector is allowed to take responsibility for resolving issues wherever possible.

**7.9 Next Steps:** It is advised that all local authorities participate to some degree in the arrangements proposed by the LG Group in particular as a means of developing local improvement and accountability but also as a collective means of providing assurance to Central Government and of avoiding the return of burdensome inspection regimes and intervention. For Rotherham Council it is recommended that the following initial priorities should be taken forward by the Performance and Quality Team:

- Submit this paper to a joint Cabinet and SLT meeting and to a Performance Overview Scrutiny Committee (PSOC) for further discussion
- Raise general officer and member awareness of the LG Group 'offer' e.g. via Departmental Management Team meetings, M3 Manager Briefings and for councillors via the Member Development Panel
- Utilise the various LG Group improvement, self assessment and information tools as they become available
- Ensure local participation in data sharing systems such as the Knowledge Hub thereby contributing to the ongoing development of benchmarking information for the local government sector in the absence of any further Audit Commission quartile data.
- Investigate local capacity for providing high quality peers to deliver challenge to other councils.
- Explore the opportunity for a peer review for children's services as notified to the Minister when the authority came out of government intervention.

## 8. Finance

8.1 There are no financial issues related to this report.

## 9. Risks and Uncertainties

9.1 Local authorities seen to be opting out of the scheme may be more vulnerable to poor performance and, more importantly, poor reputation.

9.2 Current budgetary and resource pressures may impact on the extent to which the Council is able to contribute staff to Peer Challenges of other local authorities.

## 10. Policy and Performance Agenda Implications

10.1 The LG Group proposals provide a voluntary framework for local performance management and service improvement. Implementation at local level is a key priority the Performance and Quality Team.

**11. Background Papers and Consultation**

*Taking the Lead: Self Regulation and Improvement in Local Government,  
Local Government Group, February 2011*

**Contact Name:**

John Finnen, Performance Officer,  
Commissioning, Policy and Performance,  
Tel Internal: 54713  
Tel External: 01709 254713

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET</b>
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1.	<b>Meeting:</b>	<b>Cabinet</b>
2.	<b>Date:</b>	<b>6<sup>th</sup> April, 2011</b>
3.	<b>Title:</b>	<b>Sustaining School Improvement in Rotherham from April 2011</b>
4.	<b>Directorate:</b>	<b>Children and Young People’s Services: School Effectiveness Service</b>

### 5. Summary

The Local Authority is working intensively with Rotherham schools to design and deliver a new ‘school improvement partnership’ with effect from April 2011. At that point, fundamental shifts in government policy on schools and local education provision will combine with stringent financial cuts to Local Authorities to make current practice unsustainable. We will need to establish a new settlement with schools and new approaches to individual and collective school improvement to ensure our children and young people continue to progress as they should. This proposed partnership builds on the considerable successes of Transforming Rotherham Learning (TRL) over the last five years but will require a step-change in system leadership, support structures and resourcing to be effective.

### 6. Recommendations

- **That Cabinet endorse the proposals for a new Rotherham school improvement partnership.**
- **That Cabinet request a further report on the new proposed governance structures.**
- **That Cabinet seek to enter into a minimum of a two-year agreement with the Partnership, ensuring a period of relative stability with the new governance arrangements.**

## 7. **Proposals and Details**

The coalition government has published a White Paper, 'The Importance of Teaching', (December 2010), which promises an unprecedented change in national education policy and provision at local level across Local Authorities and schools. Many of the cornerstones of previous government policy over twenty years are rapidly being dismantled and the funding streams which supported them significantly reduced or terminated. Particularly significant is the disappearance of the National Strategies apparatus and the extensive loss of employment in the workforce dependent on it. Other considerable national programmes have been cancelled and funding to support Local Authority school improvement teams severely reduced. The previously dominant model, therefore, of Local Authority support to local schools through a central workforce is no longer sustainable, even if it were to be desirable.

In its place, government anticipates a free market of school improvement support, determined and funded by schools themselves to meet their specific needs, and provided by strong schools (Academies, Outstanding schools, Academy chains), locally and nationally accredited lead Headteachers (National Leaders of Education: NLE – Local Leaders: LLE) and commercial organisations. Local Authorities may well retain responsibility for their most vulnerable schools (Ofsted categories, below or close to KS2/ GCSE floor targets) and may choose to operate in the commercial market but their near monopoly on the supply of 'school improvement' will be broken and their influence on local schools potentially much weakened unless they adapt - and adapt quickly.

Government is actively dismantling familiar systems and deliberately challenging established cultures and expectations. Its aspiration is that every school becomes an Academy and it will use Free Schools and Training Schools to disturb and redraw local landscapes. Funding mechanisms which bypass Councils will increase the financial power of schools in a competitive school improvement market and further reduce the capacity and influence of Local Authorities. Schools choosing to become Academies take significant sums out of the collective Local Authority budget, threatening local government employment and the capacity of the Local Authority to sustain strategic activity, notably in areas of high vulnerability, such as Special Educational Needs. However, the Local Authority is in no position to obstruct schools seeking Academy or Trust status and should not try to: the real issue is the behaviour of schools and the quality of their contribution not their titles.

Extensive discussions with Headteachers and Chairs/Vice Chairs of Governors since summer 2010 have confirmed that educational leaders in Rotherham want to work collectively for a different future where schools enjoy the 'freedoms' offered by the coalition government but within a sustained collaborative approach informed by the TRL core values and collective mission. For example, the 3 secondary Academies have all reaffirmed their commitment to TRL and continue to behave as genuine partners in that endeavour. Schools overwhelmingly wish to exercise their new powers responsibly on behalf of all learners, not 'go it alone' or 'opt out' of the Rotherham professional community. There are exciting opportunities here to sustain the gains of the last five years in Rotherham and ensure the goals of TRL remain achievable despite the shifts in national policy.

What this requires is a fundamentally new settlement and relationship between schools and the Local Authority which recognises the changes required by national government but integrates them into the local professional culture which is markedly different from that in most other Local Authorities. Such a settlement will be based on partnerships in Learning Communities 0-19, which are Headteacher led and supported by a smaller but still valued Local Authority. School improvement energy, expertise and resources will increasingly be provided by lead schools and Headteachers rather than a central School Effectiveness Service team. Headteachers and other leaders, working through representative structures, will take responsibility for commissioning school support, financing it and evaluating its impact.

The governance of this activity is critical because it must model the relationships, leadership and accountability which underpin it. A 'Transforming Rotherham Learning Partnership Executive' would combine the functions of the current TRL Executive (which authorises the Partnership Plan and commissions work in Leadership, Inclusion and Learning) with new responsibilities appropriate to the changed environment. This body would be closely connected, through Headteacher representation to both the Schools' Forum (which contracts use of the Dedicated Schools Grant within the Local Authority) and the new School Improvement Partnership. Policy and financial governance would, therefore, be invested in a single body made up primarily of school leaders, using the Schools Forum constitution as a legal core. There is the potential to develop such an organisation into a formal Trust, if desired/needed, but it would begin in the voluntary contracting of schools and the LA around the core TRL values, the deployment of the central workforce and school change-makers to improve Standards and the investment of the funding made available to the Partnership from the DSG, school budgets and government grants (notably the new 'Endowment Fund').

Two Working Parties, Primary/Special and Special/Secondary have met several times with the support of Consultant Headteachers. The groups will come together to produce a joint proposal that will go to all Heads and Governors and to the CYPs Strategic Director and Cabinet. The proposal will be underpinned by the TRL principles and a clear Mission Statement:

Any emerging partnership must be more effective and successful in promoting the outcomes of all children and young people and will need to address underperformance, particularly in KS2, and the variable standards in the secondary phase. The Local Authority is determined to improve its practice to support Heads and Governors in our joint commitment to accelerate progress. In summary, the partnership will be tested against its ability to accelerate progress at a series of levels:

- all students making at least good progress
- no underperforming cohorts
- all teachers delivering at least good learning and
- all schools moving to at least the next level of successful performance

The Partnership would place a Teaching School structure at the heart of the school improvement strategy. Discussions have already begun across primary, special and the secondary school, Wickersley, that meet the exacting criteria for Teaching

School status with the ambition of submitting a cross-phase partnership bid in April 2011. The Partnership could adopt the principles of a Social Enterprise organisation without the bureaucracy of more formal entities. Representation would be based on Learning Communities and embrace other partners crucial to the shared endeavour e.g. 14-19, P&V Providers 0-3. There would be the potential to market services beyond Rotherham's borders: examples of this already exist and the monies generated would increase the collective resource to promote local capacity and sustainability.

In summary, then, the Partnership proposal is designed to:

- i. ensure the sustainability of the TRL mission in the new political and financial context
- ii. recognise school leaders' aspirations to combine individual freedoms with a strong collaborative culture
- iii. mobilise the expertise of strong schools and school leaders on behalf of the whole community, especially the most vulnerable
- iv. secure continued local control over the Rotherham agenda
- v. sustain the relevance of the LA as a partner in provision for children and young people, albeit in a more 'junior' role

Within this new settlement, the role of a smaller but high quality SES will be to:

- i. manage a challenging transition period between the old world of school improvement and the new, retaining Headteachers' confidence in a period of unprecedented disturbance
- ii. support the most vulnerable schools, not least those in Ofsted categories
- iii. champion the progress and wellbeing of the most vulnerable learners across the local system
- iv. build the capacity of the new leaders of school improvement, through targeted professional development and the brokering of networks and collaborations
- v. broker entrepreneurial activity beyond Rotherham in the sub-region and beyond
- vi. ensure the alignment of the new school improvement profile with broader CYPS and RMBC priorities

### 8. **Risks and Uncertainties:**

If the LA and schools fail to establish a new settlement, the risks of damage to local provision are fundamental and urgent. They include

- i. an increase in schools electing to become Academies, including in the Primary and Special phases
- ii. atomisation of the local system where schools choose to 'go it alone', competing for resources and position

- iii. significant reductions in the DSG and, therefore, the capacity to operate collectively, if Academies and Trusts increase
- iv. commercial activity by external providers – private companies and Academy chains – working to their own agendas in Rotherham
- v. a breakdown in relationships – in effect, the end of the local school system serving the local community

**9. Finance**

Funding for LAs and schools remains unclear until both budgets are confirmed later this term. What is already evident is that the Local Authority's capacity to support local school improvement will be significantly reduced by losses from revenue and grant funding and staffing; much of that responsibility will, therefore, pass to schools who, it is promised, will have sufficient resources to purchase support. Schools may be persuaded to contribute to a collective Partnership budget to secure services of the quality and range they require; there are precedents for this within and beyond the SLA model. Heads are currently working with the Local Authority to review the DSG which has earmarked £750,000 funding for Partnership activity. Government is currently out to tender on management of an 'Endowment Fund' (£110m initially) to resource innovative school improvement practice, to which we intend to bid. Creating the collective capital to fund local school-led improvement activity will be vital to the improvement of Standards and in ensuring Rotherham is not to become the playground of Academy chains and commercial predators.

**10. Policy and Performance Agenda Implications**

This is, in essence, a fundamental redefinition of school/Local Authority relationships with significant shifts in power, responsibility and accountability. These will need to be fully explored and secured as the Partnership is built. However, the voluntary nature of the endeavour and its organic development will allow that exploration to occur before commitments on each side become irreversible.

This may well demand an apparent surrender of Local Authority power to collaborative structures but is the only way to secure continued relevance and respect. Headteachers will expect any future financial model to be independent of the LA and be governed within the Partnership system. That is crucial to ensure financial credibility and integrity and to drive the social entrepreneurship necessary for the medium-term. Only that approach will command Heads' confidence and encourage schools to contribute their own resources for the collective good.

**11. Background Papers and Consultation**

The White Paper 'The Importance of Teaching' DfE 2010 'Sustaining a local school improvement resource', 'Developing Support for School Improvement in Rotherham' and 'An example of school-led school improvement activity' - papers presented by SES to Headteachers and CYPS DLT January 2011. Performance Clinic 17<sup>th</sup> February, 2011. Strategic Management Team 21<sup>st</sup> March, 2011.

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<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Cabinet</b>
<b>2.</b>	<b>Date:</b>	<b>6th April, 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Licensing Act 2003 – Statement of Licensing Policy</b>
<b>4.</b>	<b>Programme Area:</b>	<b>Neighbourhoods and Adult Services</b>

**5. Summary**

The purpose of this report is to update and review the authority's formal Policy relating to the Licensing Act 2003.

All local authorities in England and Wales have an obligation to have, and from time to time review, their Policy relating to the Licensing Act 2003. The current statement of Licensing Policy was last reviewed in December 2007.

**6. Recommendation**

- **That Cabinet approves the attached Statement Licensing of Policy and recommends to full Council that the policy be adopted.**



## 7. Proposals and Details

The Licensing Act 2003 requires local authorities to produce and publish a 'Statement of Licensing Policy'. The Policy is a decision for the full Licensing Committee. The Act also sets out the minimum content of a policy, and the procedure that should be followed in preparing and publishing the policy (including the necessary steps that must be taken when consulting on the licensing policy).

The 'Statement of Licensing Policy' document must be a statement of principles that the licensing authority proposes to apply in exercising their functions under the Act during the three-year period to which the policy applies. All licensing policy statements should promote the licensing objectives, namely:

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

Any application would be dealt with on its own individual merits and by reference to the four licensing objectives. The policy covers applications, reviews, transfers and variations of licences for the licensable activities. The licensing authority may depart from this policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. In the event of a departure from this policy the licensing authority will give full reasons for the decision to depart.

The Licensable activities covered by the Policy are:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of a member of that club
- The provision of regulated entertainment, and
- The provision of late night refreshment

The proposed Statement of Licensing Policy is attached as Appendix A.

The local authority consulted with a wide and varied an audience as possible regarding the policy or any amendments in accordance with the Licensing Act 2003. This included the Chief of Police for the area, the Fire Authority, any such persons as the licensing authority considers being representative of holders of licences in respect of premises situated in the authority's area and of businesses and residents in its area.

Attached as Appendix B is a table of responses received during the consultation process and comments regarding whether the points raised have been included as an amendment to the policy or whether they have not been included and reasons why.

**8. Finance**

The Council has consulted with a wide variety of stakeholders during the consultation period. Cost effective methods of consultation have been used wherever possible (such as email and web publishing). Any costs associated with the consultation have been met by existing licensing budgets.

**9. Risks and Uncertainties**

The council is under a statutory obligation to publish and periodically review a statement of licensing principles. Any risks to the council as a result of the adoption of the attached policy are considered to be minimal as the policy is based on guidance from LG Regulation (formerly LACORS).

**10. Policy and Performance Agenda Implications**

The development of an appropriate Statement of Licensing Policy contributes to the priority themes of Rotherham Alive and Rotherham Proud. By regulating unlicensed activities, and promoting the licensing objectives (including the responsible sale of alcohol), the authority also contributing to the NAS priorities of creating safer neighbourhoods, reducing anti-social behaviour and protecting vulnerable adults.

**11. Background Papers and Consultation**

Licensing Act 2003

Licensing Act 2003 guidance issued by Department of Culture, Media and Sport (DCMS)  
Attached table of responses received during consultation period (Appendix B).

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# **ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

## **Licensing Act 2003**

### **Statement of Licensing Policy March 2011**

Neighbourhood and Adult Services  
Business Regulation  
Licensing Office  
Reresby House  
Bow Bridge Close  
Rotherham  
S60 1BY

# STATEMENT OF LICENSING POLICY

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## 1. INTRODUCTION

- 1.1 Rotherham lies on the River Don, at its confluence with the River Rother, between Sheffield and Doncaster and is surrounded by several smaller settlements which together form the wider Metropolitan Borough of Rotherham.

Rotherham itself was founded in the Early Middle Ages and established itself as a key Saxon market town. By the turn of the 16<sup>th</sup> Century Rotherham was home to the first brick building in what is now known as South Yorkshire in the form of 'The College of Jesus' which rivalled the colleges in Oxford and Cambridge and this along with the parish church of All Saints made Rotherham an enviable and modern town.

Rotherham's industrial heritage lies with the coal, iron and steel industries as well as the manufacturing of glass and the milling of flour.

Since 2007 the town has started to rejuvenate itself in the form of the 'Rotherham Renaissance' which has included the construction of new buildings including apartments and retail units as well as the renovation of existing buildings with architectural significance in the town such as the Imperial Buildings. As of June 2009, two of the largest buildings 'The Old Market' on Domine Lane, an apartment and shopping building is open and dominates the skyline of the town centre alongside the completed Keppel Wharf which is mixed apartment and retail space.

A new Civic Quarter is now under construction which will include new offices for the local authority, Rotherham United are moving back into the town to play their football at a new 12,000 seater community stadium which will be to the rear of the Council Offices and a new cultural quarter including a new theatre, library and arts centre is to be established on Forge Island.

Rotherham is also home to one of Yorkshire's most visited tourist attractions, Magna, the UK's first science and adventure centre which also hosts a number of highly successful entertainment events which include live concerts and dance events.

Rotherham is home to some of the countries most highly regarded leisure and nightlife providers and is a popular destination for the provision of food, drink, cultural activities and entertainment. The Council recognises that licensed premises in the district are a major contributor to employment and in attracting visitors, making Rotherham a vibrant town and community.

Beyond the town centre and away from the Don Valley, the Rotherham District is largely rural, containing a mixture of farming and mining communities as well as the large Wentworth Woodhouse Estate, where the last surviving kiln of the Rockingham Pottery can be seen.

With a population of around 248,000 people the Rotherham Borough is made up of a vibrant mix of people, cultures and communities and the aim of the Authority is to make the Borough a pleasant, safe and prosperous place in which to live, work, learn and relax.

There is a strong commitment across the borough to work together for the benefit of all Rotherham communities. The Council leads on development of a community strategy, working in partnership with other public sector organisations, private companies and voluntary and community groups. The strategy aims to promote the social, economic and environmental success of the Rotherham Borough.

- 1.2 Rotherham Council has carried out a comprehensive consultation process prior to and during the writing of its Licensing Policy document. This process will continue in accordance with the Act.
- 1.3 This document sets out Rotherham's Licensing Policy, which will guide the Licensing Committee when considering applications for the sale and supply of alcohol, regulated entertainment, late night refreshment, cinematographic and theatrical performances.
- 1.4 This document should be read in conjunction with the licensing authority's Licensing Guidance Notes, Codes of Practice and Pool of Standard Conditions Document.

### **THE LICENSING OBJECTIVES**

- 1.5 The aim of this Licensing Policy is to promote the licensing objectives which are:
  - The prevention of crime and disorder
  - Public safety;
  - The prevention of public nuisance;
  - The protection of children from harm

The Licensing Policy will be applied with a view to promoting these four objectives.

The licensing authority will seek to encourage a sustainable entertainment and leisure industry.

- 1.6 The policy aims to provide guidance to applicants, objectors and all interested parties on the general approach to licensing in the borough. Although each and every application will be dealt with separately and on its own individual merits, the licensing authority in writing this policy is offering guidance on the wider considerations that will be taken into account.
- 1.7 The policy will be reviewed at least every three years, and/or if any amendments and/or additions are required to the policy at any time within those three years.
- 1.8 The policy document and guidance contained therein which are appropriate to Rotherham are intended for the guidance of the Licensing Committee as well as to assist applicants in presenting their applications.
- 1.9 The policy is not intended to limit the power or fetter the discretion of the Licensing Committee who will listen to and determine on its merits any application placed before them.
- 1.10 The licensing authority takes a positive approach to licensing and regulation of events and activities. It recognises the important role that well regulated, varied and safe entertainment can play in promoting the vitality and viability of the district's town and village centres, particularly the evening economy. It is also aware that tastes and trends change over time and that, in the light of increasing competition within the entertainment industry, any licensing system must be sufficiently flexible and responsive to new initiatives from the licensing industry and individuals.

- 1.11 In light of the above, the licensing authority, as Licensing Authority, has adopted a tailored Licensing Enforcement Policy (attached at Appendix L). The enforcement policy should therefore be considered as complimentary to the Licensing Policy.
- 1.12 The licensing authority is aware of the statistical link between places selling alcohol and providing entertainment and incidents of crime and disorder throughout the borough and is seeking to address these with South Yorkshire Police and other agencies through the Safer Rotherham Partnership, such as NHS Rotherham.
- 1.13 Careful consideration has also been given to the Safe, Sensible, Social – The Next Steps in the National Alcohol Strategy published 5 June 2007 (information about this available on the Department of Health’s website at [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalasset/dh\\_075219.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalasset/dh_075219.pdf)), the Youth Alcohol Action Plan, published June 2008 by the Home Office <http://publications.dcsf.gov.uk/eOrderingDownload/Cm%207387.pdf> and to the licensing authority’s obligations under section 17 of the Crime and Disorder Act 1998.
- 1.14 This Statement of Licensing Policy complies with the licensing authority’s duties under the Licensing Act 2003 and account has been taken of guidance issued under section 182 of the Act.
- 1.15 The licensing authority recognises its obligations under the Race Relations (Amendment) Act 2000, and will ensure that the impact of the adoption of this statement of licensing policy on the promotion of race equality is properly monitored and assessed.
- 1.16 The European Convention on Human Rights makes it unlawful for a Local Authority to act in a way that is incompatible with a Convention right. In relation to this Statement of Licensing Policy the licensing authority has given regard to the European Convention on Human Rights and in particular:

Article 1 of the First Protocol – every person is entitled to the peaceful enjoyment of his her possession, including for example the possession, including for example the possession of a licence.

Article 6 – in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 – everyone has the right to respect for his or her home and private life.

Article 9 – Freedom of thought, conscience and religion.

Article 10 – Freedom of expression.

Article 11 – Freedom of assembly.

Article 14 – Prohibition of discrimination on relation to convention rights. This policy is not intended to override the right of any person to apply for the variety of permissions available under the 2003 Act and to have such applications considered on their individual merits. Similarly, the Policy is not intended to override the right of any person to make representations on an application or to seek a review of the licence where provision has been made for them to do so under the 2003 Act.

- 1.17 The licensing authority will also take account of other local Corporate and Action plans and strategies such as the Local Area Agreement, Directorate Strategic Overviews and Service Business Plans.

## **2. HOW THIS POLICY APPLIES**

All applications for new premises licences or variations need to be supported by an operating schedule. The schedule must specify (amongst other things) the steps which the applicant proposes to promote each of the licensing objectives. Each of the licensing objectives is of equal importance, therefore it is important that the applicant gives each of the four objectives paramount consideration.

If no responsible or interested person lodges an objection (known as “relevant representation”) to the application, the licensing authority must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Licensing Act 2003. The steps proposed by the applicant will become licence conditions. The licensing authority will have no discretion to refuse the application or alter or add to the conditions arising from the operating schedule.

Where however, there are relevant representations, then a hearing before a licensing sub-committee will normally follow. After the hearing, the sub-committee must, having regard to the representations, take such steps as it considers necessary to promote the licensing objectives. These may include refusing the application, or adding to or modifying conditions proposed in the operating schedule.

In exercising its discretion, the licensing sub-committee will have regard to (amongst other things) to this licensing policy. Therefore, in drawing up their operating schedule, applicants would be well advised to read this policy carefully. Where an operating schedule complies with this policy, it is generally less likely that an interested party or responsible authority will make representations about it. Therefore compliance with this policy is likely to assist the applicant to avoid delay and expense of a contested hearing, and the risk of a refusal or the addition of unwanted licence conditions.

This is not to say that an application which complies with the policy will necessarily be granted or that an application which does not comply with it will necessarily be refused. Where there have been relevant representations, the licensing authority will always consider the merits of the case, and interfere with the operating schedule only when, and to the extent, necessary to promote the licensing objectives. Nor will blanket or standard conditions be applied without regard to the merits of the individual case. So, for example, the licensing authority will not interfere with an operating schedule which does not comply with this policy where the steps proposed are sufficient to meet the licensing objectives in the individual circumstances of the case.

From July 2009, the Licensing Act 2003 has been amended by the insertion of sections 41A to 41C in relation to the minor variation process. This process accommodates for small variations which will not impact adversely on the licensing objectives. The process is simplified whereby there is no requirement to advertise in the newspaper or circular or copy it to responsible authorities. However, the applicant must display it on a white notice and displayed for a period of 10 working days starting on the working day after the minor variation application was given to the licensing authority. The licensing authority must consult with the relevant responsible authorities and the application must be determined within 15 working days. There is no right to a licensing hearing if the licensing authority receives any relevant representations from the responsible authorities or interested parties (as for a full variation or grant application).



However, the policy represents the licensing authority's view of the best means of securing the licensing objectives in most normal cases. It has been drawn up in consultation with other expert bodies and responsible authorities, together with community stakeholders. While the contents of the operating schedule are a matter for the applicant, where there is a representation to a schedule which departs from the policy, the licensing sub-committee will normally expect to be given good reason for the departure if it is to be asked to make an exception to the policy.

In this policy, there are a number of references to the licensing authority's requirements of applicants. As explained above, the policy is only engaged where the licensing authority has a discretion following the receipt of representations. In such cases, the licensing authority will not apply the policy rigidly, but will always have regard to the merits of the case with a view to promoting the licensing objectives.

Further, the policy will be used when dealing with a number of other matters. For example, where considering an application for review of a licence, the licensing authority is likely to view with concern premises, which are operated, in clear breach of the terms of this policy.

The contents of this section apply both to premises licences and club premises certificates.

### **3. SCOPE OF POLICY**

3.1 The policy covers new applications, reviews, transfers and variations of licences for the following licensable activities:

- 1 The sale by retail of alcohol;
- 2 The supply of alcohol by or on behalf of a club to, or to the order of a member of that club;
- 3 The provision of regulated entertainment to the public, to club members or with a view to profit, such as:
  - A performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - Boxing or Wrestling Entertainment
  - A performance of live music
  - Any playing of recorded music
  - A performance of dance
  - Provision of facilities for making music
  - Provision of facilities for dancing
- 4 The provision of late night refreshment, i.e. supply of hot food and/or drinks from any premises between 23.00 to 05.00.

3.2 There are a number of exemptions listed in Schedule 2 to the Act namely:

- Film exhibitions solely for the purpose of demonstrating any product, advertising goods or services or providing information, education or instruction or forming part of an exhibit for any museum or art gallery.
- Live or recorded music which is incidental to some other activity which is not a licensable activity.
- Receipt and playing of live television programmes.

- Entertainment or entertainment facilities for the purpose of or incidental to religious meetings or services, or at a place of public religious worship.
- Entertainment or entertainment facilities at a garden fete or similar which is not promoted with a view to private gain.
- Morris dancing or similar or live unamplified music which is an integral part of such a performance.
- Entertainment or entertainment facilities on board a vehicle which is moving.
- Hot food or drinks which contain alcohol, or are supplied free of charge, or are supplied by a registered charity or person authorised by a registered charity or supplied on a moving vehicle.
- Hot drinks supplied by a vending machine.

#### **4 PROMOTION OF LICENSING OBJECTIVES**

- 4.1 Where the licensing authority has discretion to deal with an application for a new licence, variation, transfer or review it will do so on the individual merits of the case and by reference to the four licensing objectives which are:-
- i) the prevention of crime and disorder;
  - ii) public safety;
  - iii) the prevention of public nuisance and
  - iv) the protection of children from harm.
- 4.2 Where relevant representations have been made the licensing authority may have no alternative but to refuse an application or to attach further conditions unless adequate proposals for addressing these issues are included in the operating schedule. The licensing authority will, as far as possible, assist applicants on how best to adequately address these matters (if this is possible) or advise where further advice and information can be obtained. The licensing authority wishes to encourage applicants to submit fully completed applications in order to reduce unnecessary delays and costs associated with returning application forms or the attendance at hearings.
- 4.3 Various factors need to be considered when addressing licensing objectives and the weight attached to each objective will vary depending on the circumstances. Relevant factors will include the size, facilities, design or state of repair (where this may impact in public safety) of the proposed premises; the type and frequency of entertainment to be provided; the location of the premises and its proximity to such places as offices, schools, religious establishments and residential property; and access to public transport or off street parking (where this may be an issue), although this is not an exhaustive list. Applicants will only be expected to address issues that are in their direct control but encouraged to co-operate with official agencies in establishing precautions for minimising any disturbance etc caused by patrons away from licensed premises.
- 4.4 Where the responsible authorities and interested parties do not raise any representations about the application made to the licensing authority, it is the duty of the licensing authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed by the Act.
- 4.5 The licensing authority may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations and

it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations.

## **5 THE PREVENTION OF CRIME AND DISORDER**

5.1 In accordance with the Crime and Disorder Act 1998, the Violent Crime Reduction Act 2006 and the Licensing Objectives the licensing authority will have regard to the likely effect of the exercise of its licensing function on, and do all it can to prevent crime and disorder throughout the borough. In so doing the licensing authority will have regard to the likely impact of licensing and related crime and disorder in the borough when considering the location, operation and management of all proposed licence applications, reviews and variations, when its discretion has been engaged.

5.2 An applicant will be expected to demonstrate in his Operating Schedule how he intends to promote the prevention of crime and disorder. The licensing authority will only expect applicants to take such action or precautions that are in their control, but would normally expect applicants to have taken appropriate advice from the Police before making their application. All applicants are therefore advised to seek advice and guidance from South Yorkshire Police and look to the Police as the main source of advice in relation to Crime and Disorder when addressing these issues. Applicants are also advised to take account of local planning and transport policies, tourism, cultural implications and crime prevention strategies. Details of where these policies can be viewed can be found in the Guidance to Applicants.

Crime prevention measures will where appropriate include suitable training of all bar staff and security personnel to prevent the use and supply of drugs and other illegal substances within the licensed premises and to ensure that incidents of crime and disorder in the premises are reduced to a minimum.

5.3 Applicants for personal licences will be expected to have both knowledge of the relevant licensing law and also the practical implications of how this relates to their responsibilities.

5.4 Applicants for premises licences will be expected to be fully aware of their legal responsibilities for ensuring adequate supervision and management of licensed activities at all times. They will also be expected to consider issues relating to 'designing out' potential problems. These may, where appropriate, include provision of appropriate lighting outside the premises, installation of CCTV cameras, non-shatter glass on windows etc.

5.5 All door staff working wither under contract for a security company or employed 'in-house' will be required to be registered under the Private Security Industry Act 2001 and regulated by the Security Industry Authority. Door staff are defined as those responsible for security, protection, screening the suitability of persons entering the premises or conflict management in places such as pubs, clubs and other licensed premises open to the public. Further information can be found at <http://www.the-sia.org.uk>.

5.6 Applicants are also expected to address the issue of how to anticipate and minimise any potential disorder that might be caused in the vicinity of their premises. Issues concerning liaison with local bus, taxi and private hire companies should be considered both as a means of preventing public nuisance and crime and disorder on departure and also as a way of promoting the safety of their own

staff. The licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned when addressing the prevention of crime and disorder in their application. The licensing authority acknowledges that licensing law is not the primary mechanism for general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned, although it is a key aspect of such control.

- 5.7 The licensing authority expects that under normal circumstances the person responsible for any premises where alcohol is available for sale or supply and consumption on those premises will be a member of the Rotherham Licence watch scheme or similar scheme approved by the licensing authority and South Yorkshire Police. The Rotherham Licence Watch Scheme is designed to discourage troublemakers from pubs and clubs throughout the borough by information sharing and is a useful body to represent licensees.
- 5.8 The licensing authority expects applicants to state within their Operating Schedule the occasions (if any) on which they determine the need to use toughened glass or polycarbonate glasses in their premises to limit sale and supply of bottled drinks to diners at tables.
- 5.9 The licensing authority expects applicants to provide secure storage for used/discarded drinks bottles to prevent their use as offensive weapons.
- 5.10 The licensing authority expects a risk assessment to be carried out in relation to dance floors to ensure a safe environment. The risk assessment should normally consider adequate supervision of dancers, a safe location for the DJ or band and use of special effects and lighting.
- 5.11 To further assist in the promotion of the crime prevention objective, further conditions may be attached to a premises licence. Such conditions will normally arise out of the applicant's operating schedule and/or be drawn from the licensing authority's model pool of conditions as may be appropriate for the particular premises.

## **6 PUBLIC SAFETY**

- 6.1 The licensing authority recognises that different types of premises will present differing issues of public safety. For example, the safety considerations of public houses, nightclubs, restaurants, hotels (with entertainment), theatres and cinemas will raise issues peculiar to them. However, there are also many common themes. The licensing authority will work with South Yorkshire Fire and Rescue and other agencies to secure consistency and a standardised method of carrying out risk assessments which may be used where appropriate and in particular will refer to the Regulatory Reform (Fire Safety) Order 2005 and its requirements. Information leaflets are available from South Yorkshire Fire and Rescue.
- 6.2 However, the prime responsibility for securing the safety and well being of their customers and staff is placed on those providing entertainment, refreshment or events. Operating schedules are therefore expected to identify both the risks and precautions that will need to be taken to minimise or eliminate these. Guidance notes to assist applicants can be found in the appendices to this Policy.

- 6.3 Any conditions the licensing authority may need to attach to licences to address safety issues will seek to secure the most cost effective solution without prejudicing public safety, taking account of the nature of the premises and the scale or type of entertainment to be provided.
- 6.4 The licensing authority recognises that there are five key areas to address in ensuring the environment for a dance event is safe:
- Prevention of overcrowding
  - Air conditioning and ventilation
  - Availability of drinking water
  - Further measures to combat overheating
  - Overall safety

Applicants who intend to promote this type of entertainment are therefore expected to give details of how they intend to address each of these areas. Further information and advice can be obtained from the Safer Clubbing Guide, published by the Home Office in conjunction with the Department of Health and the Department of Culture Media and Sport. This guide can be viewed at [www.drugs.gov.uk](http://www.drugs.gov.uk)

- 6.5 Applicants are also expected to address positively the need to secure reasonable access and safety for people with disabilities who wish to visit their premises. In this regard licensees are reminded of their obligations under the Disability Discrimination Act 1995.
- 6.6 Specific types of adjustments licensees should consider in order to comply with their obligations under the Act, depending on the type of premises concerned include:
- Making adjustments to the premises such as improving access routes and ensuring that they are free of clutter or redecorating part of their premises to provide better contrast to someone with a visual impairment;
  - Providing appropriate or additional training for staff who may come into contact with customers to help them provide services for people with different types of disabilities;
  - Acquiring or using modified equipment, for example a telephone with text display for use by deaf customers; and
  - Making service literature and instructions more accessible for example providing a Braille version for blind customers and ensuring service, reception and payment points are designed to facilitate ease of use by all;
  - Accessible sanitary provisions
- 6.7 For further information, reference should be made to the Department of Education and Employment document "Disability Discrimination Act 1995 – Overcoming Physical Barriers to Access for Disabled Customers, A Practical Guide for Smaller Service Providers". Further guidance and assistance to help service providers meet the general needs of disabled customers in meeting the requirements of the Disability Discrimination Act is available from the Disability Rights Commission website at [www.drc-gb.org](http://www.drc-gb.org).
- 6.8 Where relevant representations have been received the licensing authority may require evidence that items in respect of the building structure included in Appendix G have been considered by a suitably qualified person. In order to avoid relevant representations, applicants may consider the provision of relevant safety certificates such as Electrical Safety Certificates, Gas Certificates, Fire Safety

Certification, appropriate Risk Assessments and/or policy documentation including safe capacities appropriate for the type of premise and its usage.

- 6.9 The licensing authority encourages adequate numbers of appropriately trained first aid staff to be on the premises. Where first aiders are employed they must be qualified to a standard recognised by a voluntary service organisation such as St Johns Ambulance, if they are to treat members of the public. Arrangements must be in place for ongoing first aid training and adequate medical supplies to be available.
- 6.10 Where its discretion is engaged the licensing authority may attach conditions to licences to promote the Public Safety Objective. These conditions will be based on the applicant's operating schedule and/or drawn from the model pool of conditions relating to this objective.
- 6.11 Attached to this policy at appendix H is a guidance note in relation to your obligations under Health and Safety at Work provisions.
- 6.12 Attached to this Policy at Appendix E is a Useful Contacts section where you will find the details of the licensing authority's Health and Safety at Work enforcement section, Building Control and South Yorkshire Fire and Rescue.
- 6.13 Attached to this policy at Appendix G is a guidance note in relation to Fire Safety.

## **7 THE PREVENTION OF PUBLIC NUISANCE**

- 7.1 In accordance with the Clean Neighbourhoods & Environmental Act 2005 and the Anti-Social Behaviour Act 2003, Public Order Act s5 and the licensing objectives the licensing authority will have regard to the likely effect of the exercise of its' licensing function on, and all it can do to prevent public nuisance.
- 7.2 The licensing authority accepts that different people may have differing levels of tolerance to the unavoidable ordinary activity involved in the provision of entertainment or refreshment. The licensing authority also acknowledges the role that a vibrant and varied entertainment scene can have in promoting tourism, leisure opportunities, and on the local economy.
- 7.3 The licensing authority will however, look carefully at the impact of licensed premises and events with regards to potential noise and disturbance to nearby local residents or businesses. It is also recognised that the later the entertainment takes place, the greater will be the need to take steps to ensure that activities do not cause unreasonable disturbance.
- 7.4 Applicants are therefore expected to consider such factors as noise insulation, noise attenuation measures, the positioning of amplification equipment etc. Advice on such issues can be obtained from the licensing authority's Community Protection Officers. The licensing authority considers that prevention is better than the cure and it may be possible to design measures for minimising disturbance and therefore complaints about noise pollution.
- 7.5 Applicants will also be expected to address the issue of encouraging orderly conduct of customers leaving their premises. Properly trained door and other staff can assist in this and may be required by condition of licence. Appropriate announcements or reminder notices may also be of assistance. The establishment of good working relationships with transport operators can also often assist in encouraging clientele to leave their premises in an orderly manner.

- 7.6 The licensing authority strongly recommends that operators establish good communication links with the Police to ensure that where difficult situations develop inside premises and are likely to cause disturbances outside, that preventative action can be taken before the problem arises. There is already in existence a Radio link system (contact details at Appendix E) and applicants are expected to demonstrate whether such systems would be required.
- 7.7 Where its discretion is engaged the licensing authority will seek to balance the rights of local residents and others with those wishing to provide entertainment or other activities. Conditions will be attached and, where necessary, tailored to address public nuisance issues that may arise in particular premises.
- 7.8 In determining licence applications where relevant representations have been received, the licensing authority will consider the adequacy of measures proposed to deal with the potential for undue disturbance, public nuisance and/or anti-social behaviour having regard to all the circumstances of the application (including the combinations of licensable activities). The licensing authority will particularly consider:-

The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping both from the premises and from external sources under the control of the licensee. These may include:-

- Amplified and non-amplified levels;
- Singing and speech;
- Disposal to waste and bottle bins;
- Plant and machinery;
- Food preparation, the cleaning of premises and equipment;

Measures to combat this may include the installation/adoption of soundproofing, air conditioning, to allow windows to be kept closed, sound limitation devices, cooling down periods with reduced music levels at the end of the night and adopting hours of operation appropriate to the activities in question and the location.

- The use of gardens, play areas, car parks, access roads, other open-air areas and temporary structures.
- The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving or leaving the premises, including the consideration of the cumulative effect of this might have in areas with other licensed premises nearby. This will be of greater importance between 11 pm and 7 am than at other times of the day.
- The steps taken or proposed by the applicant to prevent queuing (either by pedestrian or vehicles). If some queuing is inevitable then they should be formed away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction, for example, making provision for queuing inside the premises;
- The steps taken or proposed by the applicant to ensure staff leave the premises quietly;

- The arrangements made or proposed for parking by patrons and the effect of parking by patrons on local residents including the slamming of vehicle doors, vehicle horns, vehicle stereos, noise from engines idling, and vehicle exhaust fumes;
  - The arrangements for liaising with providers of public transport during the proposed hours of opening (including taxis and private hire vehicle operators);
  - Whether the licensed taxi or private hire vehicles serving patrons are likely to disturb local residents and the measures proposed by the applicant to prevent disturbance from this source;
  - The installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
  - The suitability of delivery and collection areas and the times, frequency and method of operation, to the extent that these facilities are in the control of the licensee;
  - The location of external lighting (including security lighting that is installed inappropriately) and the siting and operation of internal or external illuminated displays or illuminated advertising;
  - Whether the premises would lead to increased refuse storage or disposal problems, including additional litter (e.g. fly posters, illegal placards, food waste and food packaging, cans, bottles, advertising 'flyers') in the vicinity of the premises and the measures proposed by the applicant to control this;
  - The steps taken to prevent the release of odours passing to neighbouring premises.
- 7.7 Where the considerations apply to late-night refreshment premises, they shall only be taken to apply to their operation between the hours of 11 pm and 5 am when a premises licence would be required.
- 7.8 In considering applications from pubs, clubs and similar premises/activities the licensing authority will have regard to the guidance provided in the "Good Practice Guide on the Control of Noise from Pubs and Clubs" published by the Institute of Acoustics, 77A St Peter's Street, St Albans, Hertfordshire AL1 3BN (Tel 01727 848195) March 2003.
- 7.9 Applicants are advised to seek guidance from a suitably competent noise consultant.
- 7.10 Where its discretion is engaged the licensing authority may attach conditions to licences to prevent public nuisance. These conditions will be based on the applicant's operating schedule and drawn from the model pool of conditions relating to this objective.
- 7.11 Attached to this policy at Appendix I is a guidance note in relation to the reduction of noise.
- 7.12 Attached to this policy at Appendix E is a Useful Contacts section where you will find the details of the Community Protection Team of the Council.



## 8 PROTECTION OF CHILDREN FROM HARM

- 8.1 The wide range of premises that will fall to be licensed under this Act means that children will visit many of these either as part of a family group or on their own.
- 8.2 The licensing authority, in addition to the usual consultees, will consult with the Rotherham Safeguarding Children Board or any other similar agency, which in the opinion of the licensing authority are to be consulted, on any application where concerns are raised regarding access for children.
- 8.3 Where children are to be admitted to the premises the provision of extra resources or measures to ensure their safety, may include Criminal Records Bureau checks for staff, extra staffing or stewarding etc, risk assessments and clear notification of the times and the areas of the premises to which the children will be admitted.
- 8.4 When deciding whether to limit access to children or not following receipt of relevant representations the licensing authority will judge each application on its own individual merits. Examples that may give rise to concern in respect of children would include premises:-
- Where entertainment of an adult or sexual nature is provided
  - Where there is a strong element of gambling taking place
  - With a known association with drug taking or dealing
  - Where there have been convictions for serving alcohol to those under 18
  - With a reputation for underage drinking
- 8.5 Where a large number of children are likely to be present on any licensed premises, for example, a children's discotheque, show or pantomime, then conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure their safety and protection, if relevant representations have been received. Applicants are advised to ensure that all adults employed or involved with supervision or management have received the necessary Police checks.
- 8.6 The options available for limiting access by children would include –
- A limit on the hours when children may be present
  - A limitation or exclusion when certain activities are taking place
  - The requirement to be accompanied by an adult
  - Access may be limited to parts of the premises
  - An age limit (for under 18s)
- 8.7 The licensing authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club.
- 8.8 It is advisable that applicants carry out their own risk assessment to encompass all premises and activities to be undertaken and seek the views of the key responsible authorities including

South Yorkshire Police  
South Yorkshire Fire and Rescue

Council Services:           Community Protection  
  Building Consultancy

Planning  
Rotherham Safeguarding Children Board  
Community Safety

Details of how to contact these agencies can be found in Appendix E, useful contacts.

Children and Cinemas

- 8.9 The licensing authority will require licensees to ensure in the case of premises giving film exhibitions that children will be restricted from viewing films unless that film is classified for that age group by the British Board of Film Classification (BBFC) or the licensing authority.

Proof of Age Scheme

- 8.10 Licensees should note that the licensing authority are concerned that under 18s are frequently involved in drink related disorder. The licensing authority recommends that all licensees ask for proof of age if they are uncertain as to the age of the customer. The licensing authority supports the use of proof of age schemes which carry the PASS hologram logo such as 'Challenge 21'. Licensees are strongly recommended to ensure that there are prominently displayed in licensed premises 'under 18' warning signs. The licensing authority expect that all staff responsible for the sale of alcohol receive information and advice on the licensing laws relating children and young persons in licensed premises.

The licensing authority, South Yorkshire Police and Rotherham Trading Standards are committed to the creation of a "no card, no sale" climate throughout the Borough.

- 8.11 Licensees must be aware that if they are convicted of an illegal sale their licence may be reviewed.

Staffing Levels

- 8.12 Where any regulated entertainment is taking place, when that entertainment is provided wholly or mainly for children, the number of attendants to assist persons entering or leaving the premises (excluding the licensee and/or the premises supervisor) must be stated in the operating schedule and must be of a level to ensure the safety of those attending the premises. Numbers of attendants required is stated in the Guidance as 1 per area occupied by the children + 1 per exit. In addition the licensing authority would normally expect a minimum ratio of 1 attendant to 30 children or part thereof.
- 8.13 The licensing authority may attach conditions to licences to protect children from harm, where its discretion has been engaged. These conditions will be based on the applicant's operating scheme and/or drawn from the model pool of conditions relating to this objective.
- 8.14 Attached to this policy at appendix J is a guidance note in relation to the protection of children from harm.
- 8.15 Attached to this policy at Appendix E is a Useful Contacts section where you will find details of the licensing authority's Child Protection Section.

## **9 SPECIAL EVENTS IN THE OPEN AIR OR IN TEMPORARY STRUCTURES**

- 9.1 The licensing authority is keen to encourage and promote live musical and similar entertainment in the open air or in temporary structures for example marquees etc. Such events can provide opportunities for community involvement and civic pride and can attract visitors to the Borough.
- 9.2 The success of such events depends on the quality, levels of safety, and consideration for the rights of people who live or work in the vicinity as well as the standard of facilities for those coming to enjoy the event.
- 9.3 General guidance on planning such events is available to organisers from the various agencies, but it is important to appreciate that substantial notice should be given so that proper preparations and precautions can be put in place for the event. A list of useful contacts can be found in the Appendix E to this policy.
- 9.4 In particular, the following issues should normally be addressed:-
- A detailed risk assessment identifying all inherent risks concerned with the event and the precautions that will be put in place to address these.
  - A contingency plan to deal with any emergency situations that may arise during the event.
  - A central location for all safety and insurance certificates and other documents relevant to the promotion of the event and equipment used, so that they can be readily produced if required by an authorised officer.
  - Ticketing arrangements and estimation of maximum number of visitors to the event. Appropriate levels of trained stewards and security staff will also to be considered.
  - Detailed planning of sanitary conveniences, first aid provision, temporary structures, temporary road closures, parking arrangements and any banners or signs to be used.
  - At an early stage there should be liaison and discussion with local residents on how to minimise disturbance and disruption to them.
  - Positive proposals for ensuring the access, safety and comfort of people with disabilities who may wish to enjoy the event.
  - Arrangements for reuniting children who may have become separated from their guardians.
  - Properly trained security staff should be used who have been trained and registered in accordance with the Securities Industries Act.
  - Ensure first aid and or medical provision meet minimum requirements laid down in the HSE Guide to Health and Safety and welfare at music and similar events.
- 9.5 Applicants for premises licences are expected to state in their Operating Schedule the precise nature of all entertainment proposed to take place, and to have carried out risk assessments for each entertainment type.
- 9.6 When considering applications for relevant open-air events such as large scale concerts after relevant representations have been received the licensing authority will have regard to the "HSE Guide to Health, Safety and Welfare at music and similar events" and to the "Code of Practice on Environmental Noise Control at Concerts", published by The Noise Council 1995. Available from the Chartered Institute of Environmental Health Publications ISBN 0900103515.

## **10 PAVEMENT CAFES**

- 10.1 Rotherham Council encourages and positively supports pavement cafes within the borough. Provision of pavement cafes has proved successful in enhancing town centre life and attractiveness but there is a need for improving the management of site layout and quality without affecting the objective or promoting and encouraging their existence. Without adequate management pavement cafes can potentially cause obstruction to pedestrians and detract from the surrounding environment.
- 10.2 Applicants wishing to provide such facilities will therefore need to make application to Streetpride (Network Management) part of Rotherham Council. Council officers will be pleased to offer advice and help which may prevent wasted time and money on application that may not succeed.

## **11 STAGE HYPNOTISM**

- 11.1 Licensees are reminded that, where regulated entertainment is provided in premises, performances by stage hypnotists require a separate permission under the Hypnotism Act 1952. Information on making such applications is available from the Licensing Office.

## **12 AMUSEMENT WITH PRIZES PERMITS**

- 12.1 On 1 September 2007 the Gambling Act 2005 came into force, replacing the Gaming Act 1968 and including new rules for the provision of gaming machines and other forms of gambling in alcohol licensed premises.
- 12.2 If premises already hold a Section 34 permit issued under the Gaming Act 1968, this will remain in force until it expires, unless the premises licence holder changes.
- 12.3 If premises have two AWP machines or less then they are required to "notify" the Licensing Authority that they have the machines and pay a notification fee.
- 12.4 If premises have more than two AWP machines then they are required to apply for a licensed premises gaming machine permit.
- 12.5 The Gambling Act 2005 establishes several categories of gaming machine. It restricts the gaming machines that can be operated on alcohol licensed premises to categories C and D. The level of stakes and prizes is defined by the category of machine.
- 12.6 More information on the Gambling Act 2005 can be obtained by contacting the Licensing Unit or from the Gambling Commission.

## **13 LICENSING HOURS**

- 13.1 The licensing authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. It accepts that a variety of opening hours related to the circumstances, and the requirements of different licensees may assist in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where customers tend to gather.
- 13.2 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend for shopping purposes. However, in the case of individual shops that are known to be a focus of

disorder and disturbance then, subject to representations from the police, a limitation on licensing hours may be appropriate.

- 13.3 The licensing authority will deal with issue of licensing hours on the individual merits of each application. However, where valid representations have been received, which are well founded on issues of concern, stricter conditions may be imposed in regard to noise control for premises in largely residential areas.

#### **14 INTEGRATING STRATEGIES**

- 14.1 The licensing authority on dealing with the Licensing Act 2003, will adopt a multi-disciplinary approach to ensure proper integration of local and national strategies to promote the licensing objectives.

- 14.2 Appropriate Council Directorates will be encouraged to set up separate working groups to ensure proper integration of local Crime Prevention, Planning, Transport, Tourism, Health and Cultural Strategies.

- 14.3 The licensing authority will agree protocols with South Yorkshire Police to enable them to report to Committee responsible for transport matters on the need for swift and safe dispersal of people to avoid concentrations that can produce disorder and disturbance.

- 14.4 Arrangements will be made for the Licensing Committee to receive reports from time to time on the:-

- The needs of the local tourist economy
- Cultural strategy for the area
- The employment situation in the area and the need for new investment and employment where appropriate.

- 14.5 The licensing authority recognises that there should be a clear separation of the planning and licensing functions. Licensing applications will not be a rerun of the planning application.

- 14.6 The licensing authority will ensure that reports are sent from the Licensing Committee to the Planning Committee advising them of the situation regarding licensed premises in the area and including the general impact of alcohol related crime and disorder to assist them in their decision making.

- 14.7 Details of who to contact to discuss current policies and strategies can be found at Appendix E Useful Contacts.

#### **15 RELATED LEGISLATION AND STRATEGIES**

CRIME AND DISORDER ACT 1998 – the licensing authority will, as a matter of good practice, involve the Crime and Disorder Reduction Partnerships in decision making in order to ensure its policies and effective strategies to take into account crime and disorder.

ALCOHOL HARM REDUCTION STRATEGY – Safe, Sensible, Social – The Next steps in the National Alcohol Strategy. The licensing authority, in partnership with the alcohol strategy group has ensured the draft alcohol strategy helps promote one or more of the licensing objectives.

THE ANTI-SOCIAL BEHAVIOUR ACT 2003 – allows authorised environmental officers the power to issue a closure order effective for up to 24 hours.

VIOLENT CRIME REDUCTION ACT 2006 – introduced new measures to ensure the police and local communities have the powers to tackle guns, knives and alcohol-related violence. Such measures include:

- Offence of persistently selling alcohol to children (3 or more occasions in a period of 3 consecutive months on the same premises)
- Local authorities and the police to designate Alcohol Disorder Zones, as a last resort to tackle alcohol related crime and disorder
- An amendment to the Licensing Act 2003, enabling licensing authorities on the application of a senior police officer in cases of serious crime and disorder, to attach interim conditions to licences pending a full review.

THE HEALTH ACT 2006 – Workplace smoking ban on all enclosed workspaces and public spaces including pubs, clubs, restaurants where staff employed. ‘Enclosed’ means anywhere with more than 50% of wall and ceiling space filled.

THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 – provides local authorities with additional power to issue a fixed penalty notice to any licensed premises emitting noise that exceeds the permitted level between the hours of 23.00 and 07.00.

THE EU SERVICES DIRECTIVE – The directive is to develop the single market for services breaking down barriers to cross border trade with the EU and make it easier for service providers within the scope to set up business or offer services in other EU Countries. The directive requires that all notices and authorisations in the scope are able to be completed electronically via a single point of contact. The exemptions are applications for personal licences, reviews and representations. For more information contact the licensing office or [www.businesslink.gov.uk](http://www.businesslink.gov.uk).

POLICING AND CRIME ACT 2009 – Put an explicit duty on the police to work together with local authorities and to reflect their communities’ priorities in their work. New measures include:

- A mandatory code of practice for alcohol retailers.

**FROM 6 APRIL 2010**

1. The responsible person will take all reasonable steps to ensure that that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children–

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to–
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

**FROM 1 OCTOBER 2010**

4. The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures

The responsible person is defined as:-

- (a) In relation to licensed premises —
  - (i) The holder of a premises licence in respect of the premises;

- (ii) The designated premises supervisor (if any) under such a licence or
  - (iii) Any individual aged 18 or over who is authorised by such a holder or supervisor
- (b) In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

The offence for breaching these conditions is covered by Section 136 of the Licensing Act, the penalty for which is up to £20,000 fine and/or 6 months imprisonment.

#### **FROM 1 OCTOBER 2010 (OFF SALES)**

4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- (c) In relation to licensed premises –
- (j) The holder of a premises licence in respect of the premises;
  - (iv) The designated premises supervisor (if any) under such a licence or
  - (v) Any individual aged 18 or over who is authorised by such a holder or supervisor
- (d) In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

The offence for breaching these conditions is covered by Section 136 of the Licensing Act, the penalty for which is up to £20,000 fine and/or 6 months imprisonment.

- Elected members of licensing authorities included as interested parties
- The reclassification of lap dancing clubs so they require a sex establishment licence

## **16 CUMULATIVE IMPACT**

16.1 When considering an application for a licence the licensing authority will not take “need”, in the context of commercial demand, into account. However, the cumulative impact of licensed premises on the promotion of the Licensing Objectives will be considered by the licensing authority, where appropriate.

16.1 Cumulative impact is concerned with the serious problems of nuisance and disorder that can arise where there is a concentration of premises and reflects the increasing capacity of all those premises taken together and the resulting impact on the surrounding area.

16.2 Where in such circumstances the licensing authority receive representations from a responsible authority or interested party that an area has become saturated with licensed premises, they may if not satisfied that the imposition of conditions would



address the issue, consider refusing an application because the grant of such a licence would undermine one of the licensing objectives.

16.3 The licensing authority will take the following steps in considering Cumulative Impact:-

- Consider evidence on identification of serious and chronic concern from a responsible authority or representatives of interested parties about crime and disorder or nuisance.
- Identify the area from which problems are arising and the boundaries of that area and the particular types of premises at issue.
- Make an assessment of any evidence presented in assessing the causes.
- Consider adopting a policy about future applications for specified types of premises within that area.

16.4 The licensing authority does not intend to operate a quota system that would effectively pre determine any application in particular areas nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the impact they are likely to have on the local community.

## **17 ENFORCEMENT**

17.1 The licensing authority will establish with South Yorkshire Police, South Yorkshire Fire and Rescue and other agencies, protocols relating to the enforcement of the 2003 Act.

17.2 The licensing authority will have particular regard to the following principles; the targeting of high risk premises or activities which require greater attention; consistency of approach; transparency and proportionality.

17.3 The licensing authority will operate a light touch inspection regime for well managed and well maintained premises.

17.4 The licensing authority will properly investigate any complaints received. The views of vocal minorities will not be allowed to predominate over the general needs of the community or the rights of licensees unless those views are well founded on issues of concern that can be demonstrated.

17.5 In accordance with the licensing authority's licensing enforcement policy, the licensing authority adopts a multi-agency approach to the enforcement of licensing breaches. Consideration will be given as to the appropriate powers that should be used to address a problem where other agencies for example South Yorkshire Police, South Yorkshire Fire and Rescue or the licensing authority's Community Protection also have their own powers. Formal enforcement will always be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.

## **18 LIVE MUSIC, DANCING AND THEATRE**

18.1 The licensing authority recognises that performances of live music and dancing are central to the development of cultural diversity and vibrant and exciting communities and will take proper account of the need to encourage and promote such entertainment.

18.2 When considering applications for such events, following receipt of relevant representations the licensing authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives.

18.3 If there is evidence that licensing requirements deter live music and dancing, the licensing authority will consider how to prevent it, and if necessary will change this Policy.

## **19 CONDITIONS OF LICENCE**

19.1 The licensing authority will only impose conditions that are necessary in order to address the licensing objectives. Where these can be addressed in different ways, the most cost effective solution will be required. The licensing authority in particular, wishes to positively encourage live music, dancing and theatre and so will not impose excessive requirements that will discourage such events. The licensing authority does not propose to implement standard conditions of licence across the board but, instead, will draw on a model pool of conditions and attach conditions tailored to individual applications. The model conditions can be found in Appendices A to D to this document.

19.1 The model conditions address, among other things, issues surrounding:-

- Crime and disorder
- Public safety
- Theatres and cinemas (promotion of public safety)
- Public nuisance
- Protection of children from harm

19.2 The model conditions reflect advice received from the Department of Culture Media and Sport and consultation with Council Departments and statutory consultees. The licensing authority will not attach conditions where the matter at issue can be more appropriately addressed by other legislation. It should also be stressed that this is not intended to be exhaustive, other conditions may be appropriate depending on the circumstances and in the light of representations received by the licensing authority.

19.3 In small venues where premises are primarily used for the supply of alcohol for consumption on the premises and which have the capacity limit of no more than 200 persons, imposed conditions relating to the provision of music entertainment have no effect between 8 am and Midnight. Conditions may only be attached where they are necessary to prevent crime and disorder or for public safety reasons.

## **20 CINEMAS**

20.1 All films exhibited at local premises will require classification from the British Board of Film Classification or the licensing authority itself. Where the licensing authority's discretion is engaged conditions may be attached to licences specifying how such classification should be displayed on-screen, outside the premises and in any advertisement for the exhibition.

It should also be noted that the licensing authority reserves the right to pre-view, re-classify or prohibit the showing of any film, irrespective of whether it has been classified by the British Board of Film Classification, where it feels there are reasonable grounds for doing so.

Attached at Appendix K is a Film Classification Guide to assist applicants.

## 21 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

21.1 The licensing authority has established a Licensing Committee to administer the wide range of licensing decisions and functions which the licensing authority will be involved in.

21.2 The Licensing Committee has delegated certain decisions and functions and established a number of sub committees to deal with them. This will provide an efficient and cost effective service for all parties involved in the licensing function.

21.3 The grant of non-contentious applications has been further delegated to officers.

21.4 The table below sets out the agreed delegation of decisions and functions to Licensing Committee, Sub Committees and Director of Housing and Neighbourhoods.

Matter to be dealt with	Licensing Committee	Licensing Sub Committee	Director of Housing and Neighbourhoods
Recommendation and Development of Licensing Policy for consideration by Executive Committee	All cases		
Application for a personal licence		If a relevant Police objection is made	All other cases
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated premises supervisor		If a relevant Police objection is made	All other cases
Application for minor variation to premises licence/club premises certificate			All cases
Application for removal of the requirement for a designated premises supervisor and personal licence at community premises			All cases
Request to be removed as a designated premises supervisor			All cases
Application for transfer of premises licence		If a relevant Police objection is made	All other cases

Applications for Interim Authorities		If a relevant Police objection is made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases	
Decision to object when Local Authority is a consultee and not the lead authority		All cases	
Determination of a Police representation concerning a temporary event notice		All cases	

## 22 SUMMARY OF PROCESS

22.1 Where relevant representations have been received each application for a licence will be considered:-

- On its individual merits;
- In accordance with the Licensing Act 2003, as may be amended and supporting Regulations;
- With reference to statutory guidance as may be issued by the Secretary of State from time to time as provided for by S182 of the Act;
- With reference to the licensing authority's Licensing Policy

22.2 Nothing in the licensing authority's Licensing Policy will:-

- Prevent any person from applying under the Act for any of the permissions or consents provided for therein and from having that application considered and determined on its own merits
- Prevent any person or stop any person from making representations on any application or from seeking a review of a licence or certificate where the Act permits them to do so

## 23 CONSULTATION AND REVIEW PROCESS

23.1 In accordance with the Act, the licensing authority is committed to consulting with interested citizens and organisations throughout the borough with regard to the preparation of its licensing policy and any future amendments revisions or alterations thereto.

23.2 In addition to any other consultees the licensing authority has consulted with the following persons:

- (a) South Yorkshire Police
- (b) South Yorkshire Fire and Rescue
- (c) Persons/bodies responsible for local holders of premises licences
- (d) Persons/bodies responsible for local holders of club premises certificates
- (e) Persons/bodies responsible for personal licensees
- (f) Persons/bodies responsible for business and residents in its area

23.3 The views of all the following individuals and organisations were sought as part of the formal consultation exercise which the licensing authority undertook with regard to the amended draft statement of licensing policy:

- South Yorkshire Police
- British Transport Police
- South Yorkshire Fire and Rescue
- Crown Prosecution Service
- Rotherham Trading Standards
- Yorkshire Ambulance Service
- NHS Rotherham
- Town Centre Management
- All 63 Rotherham Councillors
- Rotherham Community Safety Partnership
- Rotherham Crime Reduction Partnership
- Safer Rotherham Partnership
- Rotherham Area Child Protection Committee
- Anston Parish Council
- Aston-Cum-Aughton Parish Council
- Bramley Parish Council
- Brampton Bierlow Parish Council
- Brinsworth Parish Council
- Catcliffe Parish Council
- Dalton Parish Council
- Dinnington St John's Town Council
- Firbeck Parish Council
- Gildingwells Parish Meeting
- Harthill-With-Woodall Parish Council
- Hooton Levitt Parish Meeting
- Hooton Roberts Parish Meeting
- Laughton-En-Le-Morthern Parish Council
- Letwell Parish Council
- Maltby Town Council
- Orgreave Parish Council
- Ravenfield Parish Council
- Thorpe Salvin Parish Council
- Thrybergh Parish Council
- Thurcroft Parish Council
- Todwick Parish Council
- Treeton Parish Council
- Ulley Parish Council
- Wales Parish Council
- Wentworth Parish Council
- Whiston Parish Council
- Wickerlsey Parish Council
- Woodsetts Parish Council
- Equity
- Arts Council England
- Honeycombe Leisure Plc
- Mitchells and Butlers
- Luminar Leisure Ltd
- British Beer and Pub Association
- Gardner Leader Solicitors
- Laurel Pub Company
- Barnsley and Rotherham Chamber of Commerce
- Hammonds Solicitors

- British Entertainment and Dance Association
- Jennings Brothers plc
- Thwaites Inns
- Berwin Leighton Paisner Solicitors
- Burtonwood Brewery plc
- Somerfield Stores Ltd
- InnCourt
- Rotherham Licence watch
- Swinton Licence watch
- Brinsworth Licence watch
- Federation of Licensed Victuallers
- Rollits Solicitors
- Yorkshire Rural Community Council
- Scottish and Newcastle Retail Ltd
- Cinema Exhibitors Association
- Rank plc
- Circus Arts Forum
- European Entertainment Corporation
- Bargain Booze Ltd
- Camra
- Punch Taverns plc
- Association of Licensed Multiple Retailers
- Enterprise Inns plc
- Unique Pubs
- Poppleston Allen Solicitors
- Ford and Warren Solicitors
- John Gaunt and Partners Solicitors
- Gosschalks Solicitors
- All existing premises licence holders
- All existing club premises certificate holders
- Council Services:
  - Planning and Regeneration
  - Community Protection
  - Children and Young People Services
  - Press and Marketing
  - Streetpride
  - Food, Health and Safety
  - Culture and Leisure Services
  - Legal Services

23.4 This policy statement will come into effect on 22 December 2010 and will be operational for a period of 3 years thereafter. Its effectiveness in assisting in the promotion of the licensing objectives will be monitored during this period with a further review before.

23.5 Any amendments to this Policy, unless very minor, will be consulted upon following the same process as outlined above.

Model Pool of Conditions

The conditions in the Model Pools will not be automatically applied in any case. Where relevant representations have been received, however, the licensing authority may consider the conditions in the Model Pools and impose such of them, as it considers necessary to promote the licensing objectives. Applicants may wish to use the Model pools as a guide when drawing up their operating schedule.

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## APPENDIX A

### Conditions Relating to Prevention of Crime and Disorder

It should be noted that certain matters are offences under the Licensing Act 2003. For example it is an offence to be party to the following:-

- Selling or supplying alcohol to a person who is drunk
- Knowingly allow disorderly conduct on licensed premises
- Being the holder of a premises licence or a designated premises supervisor to knowingly keep or to allow to be kept on licensed premises any good that have been imported without payment of duty or which have otherwise been unlawfully imported
- Sale of alcohol to under 18's
- Allowing the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

**Conditions dealing with these matters are therefore not necessary and will not be attached to licences. Applicants should note that the absence of such conditions on any licence does not authorise the commission of such acts as a defence to such offences.**

### General

#### Text Pagers

Text pagers connecting premises licence holders, designated premises supervisor's, managers of premises and clubs to local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble makers or individuals suspected of criminal behaviour who are about in a particular area. Licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people can also use pager systems.

Where a condition requiring the text/radio pager links the police is attached to a licence it will include the following:-

- The text/pager equipment is kept in working order at all times;
- The pager link is activated, made available to and monitored by a designated premises supervisor or by a responsible member of staff at all times that the premises are open to the public;
- Any police instructions/directions are complied with whenever given; and
- All instances of crime and disorder are reported via the text/radio [ager link by the DPS or responsible member of staff agreed to an agreed police contact point.

In relevant circumstances conditions may be imposed requiring the use and maintenance of such systems.

#### Door Supervisors



Conditions relating to the provision of door supervisors and security teams may be valuable in:

- Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- Keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- Maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are required as a condition of licence, which means that they would have to be registered with the Security Industry Authority, conditions will also be imposed dealing with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times door staff should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

Door supervisors also have a role to play in ensuring public safety.

### Bottle bans

Bottle may be used as weapons inflicting more serious harm during incidents of disorder. Conditions may therefore be necessary to prevent sales of drinks in their bottles for consumption on the premises. However, the Council notes evidence that many women consider that drinking from bottles to be safer as it is easier for them to prevent the possible spiking of drinks with drugs in bottles the openings of which may be readily covered. These issues will therefore need to be carefully balanced when specifying such conditions.

### Plastic containers and Toughened Glass

Glasses containing drinks may be used as weapons during incidents of disorder and can cause serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glass, that inflict less severe injuries. The location and style of the venue and the activities carried on there will be particularly considered in assessing whether such a condition is necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

The use of plastic or paper drinks containers may also be relevant as measures to promote public safety.

### CCTV

The presence of closed circuit television cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Where such conditions are necessary there will also requirement to maintain cameras in working order, and to retain recordings for an appropriate period time. The approval of the police will be required as to the type and positioning of the equipment to be used.

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration may be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on taking open containers from the premises may also be a relevant necessary measure to prevent public nuisance.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in the premises after they have been purchased from the bar. An example would be a sports ground where it may be necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions will not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be complied with.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance.

Capacity limits

Although most commonly considered as a condition of a licence on public safety grounds, consideration may also be given to conditions that set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration may also be given to appropriate door supervisors needed to ensure that the numbers are appropriately controlled.

Proof of Age Cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of "proof of age" before such sales are made. Such a condition may also make provision for the production of other proof, such as photo-driving licences, student cards and passports to be acceptable.

The wording of any condition requires careful thought. For example many premises have adopted the "Challenge 21" or "Challenge 25" or other similar initiatives. Under Challenge 21/Challenge 25 those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21/25 and who is attempting to buy alcohol.

Proof of age may also be relevant and necessary to protect children from harm.

Crime prevention notices

It may be necessary at some premises for notices to be displayed that warn customers of the prevalence of crime that may target them. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets

or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed, which advise customers not to leave bags unattended because of concerns about terrorism. Consideration may also be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

#### Drinks promotions

Standard conditions will not be attached to premises licence or club premises certificates which promote fixed prices for alcoholic drinks. Conditions tailored to the individual circumstances of particular premises, which address irresponsible drinks promotions, may be considered where it is considered this is necessary for the promotion of the licensing objectives.

Irresponsible promotions are addressed through mandatory licensing conditions. The licensing authority however will be objective when considering whether a promotion is responsible or irresponsible within the context of the licensing objectives.

#### Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

#### Large Capacity Venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

Large capacity “vertical drinking” premises, sometimes called High Volume Drinking Establishments (HVVDs) are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol and little or no seating for patrons.

Where necessary and appropriate conditions can be attached to licences for these premises which require adherence to:

- A prescribed capacity
- An appropriate ratio of tables and chairs to customers based on the capacity; and
- The presence of security staff holding the appropriate SIA licence or exemption to control entry for the purpose of compliance with the capacity limit.

**APPENDIX B**

Model Pool of Conditions

Conditions Relating to Public Safety

General

The following options will be considered as measures that, if necessary, would promote public safety. It should be recognised however that special issues might arise in connection with outdoor and large-scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions of the licence or certificate will also depend on local knowledge of the character and vicinity of the premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, and responsible authorities should consider:

- Model National and Standard Conditions for Place of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0717624536
- Managing Crowds Safely (HSE 2000) ISBN 9780717618347
- Guide to Safety at Sports Grounds (The Stationery Office, 2008) (“The Green Guide 5<sup>th</sup> Edition”) ISBN 978 0 11 702074 0
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained though <http://www.streetartsnetwork.org.uk/>
- Fire Safety Risk Assessment – Small and Medium Places of Assembly ISBN 978185112820-4
- Fire Safety Risk Assessment – Large Places of Assembly ISBN 978185112821-1
- The Fire Safety (Regulatory Reform) Order 2005
- The following British Standards should also be considered:
  - BS 9999 : 2008
  - BS 5839 : Part 1 : 2002 (Fire Detection/Fire Alarms)
  - BS 5266 : Part 1 : 2005 (Emergency Lighting)

Disabled People

Consideration will also be given to conditions that ensure that:

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency: and
- Disabled people and all employed staff on the premises are made aware of those arrangements.

#### Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exists. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- All exits doors are easily opened without the use of a key, card, code or similar means;
- Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- Any security fastenings are removed prior to the premises being open to the public;
- All fire doors are maintained effectively self-closing and shall not be held open;
- Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- The edges of the treads of steps and stairways are maintained so as to be conspicuous.

#### Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a Log Book.

#### Curtains, hangings, decorations and upholstery

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Hangings, curtains and temporary decorations are maintained in a flame-retardant condition;

- Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- Temporary decorations are not used without the prior written consent of the licensing authority.

#### Accommodation limits

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- The licence holder, a club official, manager or designated premises supervisor are aware of the number of people on the premises and required to inform any authorised person on request.

#### Fire action notices

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

#### Outbreaks of fire

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- The fire brigade service must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

#### Loss of water

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- The local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

#### Access for emergency vehicles

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- Access for emergency vehicles is kept clear and free from obstruction.

## First Aid

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- Adequate and appropriate supply of first aid equipment and materials is available on the premises.
- If necessary, at least one suitably trained first aider shall be on duty when the public are present; and if more than one suitably trained first aider that their respective duties are clearly defined.

## Lighting

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present.
- Fire safety signs are adequately illuminated.
- Emergency lighting is not to be altered without the written consent of the licensing authority
- Emergency lighting batteries are fully charged before the admission of the public, members or guests.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

## Temporary electrical installations

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- Temporary electrical wiring and distribution systems are not provided without notification to the licensing authority at least ten working days before the commencement of the work.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.

- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

### **Ventilation**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- The premises are effectively ventilated and verified as such by the licensing authority.
- Where the ventilation system is designed to maintain positive air pressure within part of the premises, that pressure is maintained whenever the public, member or guests are present in that part of the premises.
- Ventilation ducting is kept clean.
- Air filters are periodically cleaned and replaced to maintain a satisfactory air supply.

### **Indoor Sports Entertainments**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that:

- If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- Where a ring is involved, it is constructed and supported to the satisfaction of the licensing authority and any material used to form the skirt around the ring is flame-retardant.
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 meters of the ring.
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also *Managing Health and Safety in Swimming Pools* issued jointly by the Health and Safety Commission and Sport England)

### **Conditions Relating to Theatres and Cinemas**

In addition to the points made above, there are particular matters in the context of public safety and fire safety, which should be considered in connection with theatres and cinemas. The points, which follow, are examples of the types of specialised conditions that may be necessary for these premises.

### **Premises used for Closely Seated Audiences**



**Attendants**

- a) The number of attendants on each floor in a closely seated auditorium be required in accordance with the following formula:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 – 100	One
101 – 250	Two
251 – 500	Three
201 – 750	Four
751 – 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- e) No article shall be attached to the back of any seat, which would reduce the clear width of gangways or cause a tripping hazard or obstruction.
- f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

**Standing and Sitting in Gangways etc**

- a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- c) In no circumstances shall anyone be permitted to
- i) sit in any gangway
  - ii) stand or sit in front of any exit; or
  - iii) stand or sit on any staircase including any landings

**Drinks**

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

**Balcony Fronts**

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

**Special effects**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Special effects include:

- Dry ice machines and cryogenic fog
- Smoke machines and fog generators
- Pyrotechnics, including fireworks
- Real flame
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products)
- Explosives and highly flammable substances

In certain circumstances, it may be necessary to require that certain special effects may only be used with the prior consent of the licensing authority.

**Scenery**

Any scenery should be maintained flame-retardant.

**Safety Curtain**

Where a safety curtain is necessary, it should be arranged so as to protect the audience from the effects of fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non combustible material or inherently or durably treated flame-retarded fabric.

**Ceilings**

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person every five years and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

**Seating**

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

**Premises used for Film Exhibitions**

**Attendants – premises without a staff alerting system**

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

<b>Number of members of the audience present on the premises</b>	<b>Minimum number of attendants required to be on duty</b>
--	--

1 – 250	Two
<b>And one additional attendant for each additional 250 members of the audience present (or part thereof)</b>	
Where there are more than 150 members of an audience in any auditorium or any floor	At least one attendant shall be present in any auditorium or on any floor

### **Attendants – with a staff alerting system**

- b) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of staff on the premises who are available to assist in the event of an emergency
1 – 500	Two	One
501 – 1000	Three	Two
1001 – 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

- c) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- i) the holder of the premises licence or the manager on duty at the premises; or
  - ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
  - iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
- d) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- e) The staff alerting system shall be maintained in working order.

### **Minimum Lighting**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007: Maintained Lighting for Cinemas.

### **Flammable films**

No flammable films should be allowed on the premises without the consent of the licensing authority.

**APPENDIX C**

Model Pool of Conditions

Conditions Relating to the Prevention of Public Nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on permitted temporary activities that are causing noise nuisance resulting from noise emanating from the premises. These matters will be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

**General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules and responsible authorities are considering such applications the Council, as licensing authority is considering following the receipt of relevant representations from a responsible authority or interested party, the following options may be considered as necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the character and the vicinity of the premises.

**Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests may be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) to less than those applied for by the imposing of conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this will be balanced by the potential impact on disorder that could result from artificially early fixed closing times.

Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions may be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

**Noise and vibration**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration may be given to conditions that ensure that:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises.
- Prominent clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas being restricted or prohibited.
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

### **Noxious smells**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration may be given to conditions that ensure that:

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

### **Light pollution**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration may be given to conditions that ensure that:

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. The need for any such condition will be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

### **Litter**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration may be given to conditions that ensure that:

- Litter is properly controlled through a waste management strategy agreed with the licensing authority, and that conditions to prevent unlawful advertising in relation to those premises are imposed.

**APPENDIX D**

Model Pool of Conditions

Conditions Relating to the Protection of Children from Harm

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for the supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there.

In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions, are therefore, unnecessary.

**Access for children to licensed premises – in general**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on will be considered where it is necessary to protect children from harm.

For any premises with known associations (having been presented with evidence at a hearing) with underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there will be a strong presumption against permitting any access at all for children less than 18 years.

Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- Explain their reasons; and
- Outline in detail the steps that they intend to take to protect children from harm on such premises.

For any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 10pm in the evening, there will be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- Explain their reasons; and
- Outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, subject to the premises licence holder or club's discretion, the expectation would be for unrestricted access for children of any age to premises. Where an applicant intends to exclude children totally from the premises then this should be made clear on the operating schedule.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates on behalf of the alcohol industry a Code of Practice on the naming, packaging and promotion of alcoholic drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older. Complaints about products under the code are considered by the Independent Complaints Panel and the Panels decisions are published on the Portman Groups website, in the trade press and in annual report. If products packaging or point of sale advertising is found to be in breach of the Code the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcoholic products sold in licensed premises in a manner which may appeal to or attract minors.

Consideration may be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Groups Retailer Alert Bulletins.

### **Age Restrictions – specific**

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. It may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place. However, following representations made by responsible authorities and interested parties it may be necessary to consider a range of conditions that are tailored to the particular premises and their activities where these are necessary. The following will be expected to be considered:

- The times of during when age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day. Any conditions imposed would clarify the position.
- Types of event or activity in respect of which no age restrictions may be needed, for example;
  - Family entertainment; or
  - Non alcohol events for young age groups such as under 18s dances
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - During “Happy Hours” or on drinks promotion nights
  - During activities outlined above.

### **Age Restrictions – cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, (requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself), conditions restricting the admission of children to film exhibitions should include:

- A condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed.
- A condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way;
  - U Universal – suitable for audiences aged four years and over
  - PG – Parental Guidance – some scenes may be unsuitable for young children
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult
  - 15 – Passed only for viewing by persons aged 15 years and over
  - 18 – Passed only for viewing by persons aged 18 years and over.
- That conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film.
- A condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12, 12A, 15 or 18 category no person appearing to be under the age of 12, under 12 and unaccompanied, 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position at each entrance to the premises a notice in the following terms –

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]  
CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age provided that the prior written consent of the person’s parents or legal guardian has first been obtained”.

### **Theatres**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities.

The admission of children to the performance of a play is normally expected to be at the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of



children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

In this circumstance consideration will be given to whether a condition should be attached to premises licences, which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency.

### **Entertainment especially for children**

Where performances are presented especially for children in theatres, cinemas or other places of entertainment (e.g. children's disco) conditions are anticipated to be needed which require:

- An attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

The licensing authority will, having regard to any representations made by the responsible authorities on the issue, also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

### **Children in performances**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18.

The Children (Performances) regulations 1968 as amended set out requirements for children performing in a show. Conditions will not duplicate those regulations. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the matters outlined below will be considered:

- Venue – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- Fire safety – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- Special effects – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

## USEFUL CONTACTS

Neighbourhood and Adult Services  
 Business Regulation  
 Licensing Office  
 Reresby House  
 Bow Bridge Close  
 Rotherham  
 S60 1BY

Tel: 01709 823153

Fax: 01709 823154

Email: [licensing@rotherham.gov.uk](mailto:licensing@rotherham.gov.uk)

Website: [www.rotherham.gov.uk](http://www.rotherham.gov.uk)

Food, Health, Safety & Infectious Diseases	Reresby House Bow Bridge Close Rotherham S60 1BY	01709 823126
Community Protection (inc Noise Control)	Reresby House Bow Bridge Close Rotherham S60 1BY	01709 823118
<u>Environment and Development Services</u>		
Planning	Bailey House Rawmarsh Road Rotherham S60 1TD	01709 823863
Building Control	Bailey House Rawmarsh Road Rotherham S60 1TD	01709 823847
Development Control	PO Box 652 Rotherham S60 9DE	01709 823835
Transport, Planning and Policy	Bailey House Rawmarsh Road Rotherham S60 1TD	01709 822958
Children and Young Peoples Services	Norfolk House Walker Place Rotherham S65 1HX	01709 254925
Town Centre Management And Tourism	40 Bridgeway Rotherham S60 1PQ	01709 835904

South Yorkshire Police	Main Street Police Station Main Street Rotherham S60 1QY	01709 832154
South Yorkshire Fire and Rescue	Rotherham Technical Fire Safety Rotherham Fire Station Fitzwilliam Road Rotherham S65 1FT	01142 532825
Rotherham Trading Standards	Reresby House Bow Bridge Close Rotherham S60 1BY	01709 334521
Licence Watch	Unit 2 Genesis Park 2 Sheffield Road Templeborough Rotherham S60 1DX	01709 386200

Useful Websites

Association of Convenience Stores	<a href="http://www.thelocalshop.com">www.thelocalshop.com</a>
Alcohol Concern	<a href="http://www.alcoholconcern.org.uk">www.alcoholconcern.org.uk</a>
Bar, Entertainment and Dance Ass	<a href="http://www.beda.org.uk">www.beda.org.uk</a>
British Beer and Pub Ass.	<a href="http://www.beerandpub.com">www.beerandpub.com</a>
British Institute of Innkeeping	<a href="http://www.bii.org.uk">www.bii.org.uk</a>
Department for Culture Media And Sport	<a href="http://www.culture.gov.uk">www.culture.gov.uk</a>
Gambling Commission	<a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a>
British Retail Consortium	<a href="http://www.brc.org.uk">www.brc.org.uk</a>
Wine and Spirit Trade Association	<a href="http://www.wsta.org.uk">www.wsta.org.uk</a>
Local Crime and Disorder Reduction Partnerships	<a href="http://www.crimereduction.gov.uk">www.crimereduction.gov.uk</a>
Association of Police Authorities	<a href="http://www.apa.police.uk">www.apa.police.uk</a>
Anti-Social Behaviour Guides	<a href="http://www.together.gov.uk">www.together.gov.uk</a>
Smoke Free Legislation	<a href="http://www.smokefreeengland.co.uk">www.smokefreeengland.co.uk</a>
Business Link	<a href="http://www.businesslink.gov.uk">www.businesslink.gov.uk</a>

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

## **LICENSING ACT 2003**

### **GUIDANCE FOR APPLICANTS**

Guidance notes on when a licence is needed and how to make an application are available from the Licensing Office on request.

DRAFT

**APPENDIX G**

**PUBLIC SAFETY GUIDANCE NOTE**

Applicants are required to satisfy the Council that appropriate measures have been taken to ensure the safety of the public whilst on the premises. Details of the steps taken to achieve this objective must be contained within the operating schedule submitted with the application for a premises licence.

Public safety issues to be considered in drawing up operating schedules will vary according to the types of activities to be held on the premises but will generally include the following matters:

- Fire safety issues including:
  - Means of escape in case of fire
  - Travel distances
  - Alarms
  - Detection capabilities
  - Emergency lighting
  - Fire suppressing systems
  - First aid/fire fighting equipment
  - Enclosure of escape routes
  - Fire doors
  - Exit signage
  - Facilities for disabled evacuation
  - Layouts for temporary seating
  - Access and facilities for fire fighting
  - Fire resisting enclosures to high risk rooms
  - Operation of fire safety systems within the premises
  - Surface spread of flames ratings to walls and ceilings
  - Fire retardant treatments for drapes, furnishings and decorations etc
  - General fire precautions

Management arrangements including:

- Personal emergency and evacuation plans and disabled evacuation
- Evacuation procedures
- Entry/egress control
- Staff training
- Equipment testing and records
- General housekeeping
- Incident logs
- Checking availability of exit routes and final exit doors prior to occupation of the building

General structural safety including:

- Stability of external and internal walls
- Condition of floors, roof members, beams, mezzanine floors, stairs, lintels, ceilings and any other structural elements.

Fire resistance of the same

Safety of fixed appliances:

- Guarding to fires in public places
- Boiler flues and combustion air

Safety of stairs, ramps etc:

- Guarding to stairs, landings, ramps and changes in level
- Robustness of guarding to areas subject to crowd loading
- Condition of stairs and ramps
- Headroom to stairs, ramps and escape routes
- Steepness of stairs – rise and going of treads
- Clear indication of floor surfaces
- General condition of floor surfaces (e.g. trip hazards, non slip surfaces)
- Provision of safety glazing in critical locations

Access and facilities for disabled people, elderly/infirm, parents with children:

- Provision of reasonable access
- Provision of reasonable facilities
- Adequate signage, lighting contrasts
- Provision of communication

Certification by a suitably qualified person may be required in respect of any of the above items.

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## APPENDIX H

## Health and Safety Guidance

Licensing Applications

*Applicants are required by law to protect the health and safety of their employees and anyone on their premises. The following information has been produced to help you to fulfil your duties. Leaflets providing further detailed guidance are enclosed. A list of useful further reference guides is provided overleaf.*

- As an employer or self-employed person you are responsible for carrying out a risk assessment. This involves identifying any hazards in your workplace that may affect anyone (e.g. members of the public, visitors and employees) and taking suitable precautions to prevent them causing harm. The enclosed leaflet gives guidance on the five steps to carrying out a suitable risk assessment.

Where you have five or more employees, you are required to record the findings of your risk assessment.

You must consider all hazards in your risk assessment, including those affecting public safety. The following are examples of issues that should be considered as part of your risk assessment if they are applicable to your premises/work activities:

- Adequate guarding to stairs, landings, ramps and changes in level
- The provision of handrails to staircases
- Non-slip coverings to floors, stairs and ramps
- Floor coverings, stairs, external grounds and ramps in good condition
- Adequate headroom to stairs, ramps and escape routes
- Steepness of stairs
- Clear indication in changes in floor level and changes in floor coverings
- Provision of safety glazing where appropriate
- Safety and maintenance of electrical installations and appliances
- Guarding to fires in public places
- First aid and accidents

**FACT:** Slips and trips are one of the most common causes of injuries in work places and you must do all you can to prevent them (see enclosed leaflet).

- If you will be holding events at your premises, a risk assessment must be carried out for each event. The Health and Safety Executive produces a guidance document on Event Safety (see references).
- If you have five employees or more you are required by law to produce a written health and safety policy statement. The organisation and arrangements for carrying out the policy should be included in the statement and it must be brought to the attention of all employees. A guidance leaflet is enclosed.

**If you require further advice on Health and Safety matters, please contact our Food, Health and Safety, Infectious Diseases Team on 01709 823174. We have a range of free information sheets and leaflets covering various health and safety issues.**

Useful Free Information leaflets

An introduction to Health and Safety (INDG259)

Take a fresh look at Health and Safety (INDG385)

5 Steps to Risk Assessment (INDG163)

Managing Health and Safety – 5 Steps to Success (INDG275)

Starting your business – Guidance on preparing Health and Safety Policy Document for small firms (INDG324)

Electrical Safety and You (INDG231)

Electrical Safety for Entertainers (INDG247)

Gas Appliances – Get them checked – Keep them safe (INDG238)

Preventing Slips and Trips at Work (INDG225(rev1))

Getting to grips with manual handling (INDG143(rev2))

Other Useful Guidance: The following publications can be obtained from HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 2WA (Tel: 01787 881165).

The Event Safety Guide (HSG95) ISBN: 0 7176 2453 60

Working Together on Firework Displays (HSG123) ISBN: 0 7176 2478 1

Giving your own Firework Display (HSG124) ISBN: 0 7176 0836 0

Managing Crowds Safely (HSG154) ISBN: 0 7176 1834 X

Electrical Safety at Places of Entertainment (GS50) ISBN: 0 7176 1387 9

The Radiation Safety of Lasers used for Display Purposes (HSG95) ISBN: 0 7176 0691 0

Essentials of Health and Safety at Work ISBN: 0 7176 0716 X

Guidance on writing a Health and Safety Policy for the Licensed Trade is available from Federation of Licensed Victuallers Associations, Brighouse, 01484 710534

There are many health and safety information sources available to you to assist you to ensure good health and safety management at your premises. If you need any further information or advice – please contact Food, Health, Safety and Infectious Diseases on 01709 823126.



**APPENDIX I**

**Guidance Note for Applicants in relation to Noise from Licensed Premises**

These notes should be read in conjunction with Rotherham Council's Licensing Policy.

What is noise? Noise is, quite simply, unwanted sound. What is music to one person may be noise to another. Music and sound being played and generated in your premises may be enjoyed by your customers but is unlikely to be enjoyed by your neighbours.

Why do I need to be concerned about noise? Because the prevention of public nuisance is one of the objectives of the Licensing Policy and the minimisation of noise transmission from any licensed premises is fundamental to this objective.

Do I need the services of a Noise Consultant? Under normal circumstances no, however where noise control has been a problem in the past or is likely to be, and the solution to the problem is not easily resolved, you may require expert help and advice. Officers for the Community Protection Team will be able to undertake a comprehensive assessment of the problem. In situations where substantial changes or new build is being undertaken, it is recommended that a consultant be employed at the design stage.

The following issues should be considered when making an application for a licence.

The type of structure in which the entertainment is performed. If, for example, amplified music from either a live band or recorded music played by a DJ or karaoke is proposed, then it will be more intrusive to neighbours if residential properties or other noise sensitive properties, are attached or in close proximity. Sound is transmitted both through the air and via the structure of buildings, so if buildings are attached to your premise then noise may be transmitted by both these paths. If you occupy a public house in a row of terraced properties and wish to play amplified music it is highly likely your neighbours will be affected by the noise and consideration will have to be given to reducing the noise level, location of the speakers, and restriction of the hours of entertainment. Whereas if you occupy a public house which is detached and has no properties in the immediate vicinity you may not have to impose as many restrictions.

Doors and windows. Open doors and windows can be a particular problem in warmer weather when they are opened for ventilation. Windows may have to be kept closed when entertainment is taking place and an alternative form of ventilation such as air conditioning may have to be considered. Alarms may be fitted to windows to warn of customers opening windows. Secondary glazing may have to be installed, particularly if windows face noise sensitive property. Premises which have conservatories can be problematic where amplified music is played and consideration may have to be given to the provision of patio doors to the access to reduce noise emission. External doors may have to be provided with a lobby and a second set of doors to minimise noise emissions.

Extractor fan outlets and air bricks. Any holes in the fabric of the building can transmit noise and consideration needs to be given to the location of ventilation ducts and air grates in relation to noise sensitive properties. Silencers may have to be fitted to the outlets of ventilation ducts and acoustic louvers may have to be fitted to air grates.

Location and orientation of speakers. Speakers should be located away from party walls and orientated away from neighbouring properties. Where noise is transmitted to the structure, the speakers could be placed on a foam mat, or if they are suspended, hanging the speakers on spring hangers.

Level of the music. Music being played too loud is the most common reason for complaint with regard to entertainment. If the music is reduced to a level, which cannot be heard in adjacent premises, then it will not be a problem. Sound limiting devices can be installed in premises to prevent the sound level within premises to prevent the sound level within premises exceeding a pre-determined level.

Restricting the hours of entertainment. There may be some events, which give rise to noise levels which can be heard in adjacent properties. These are likely to be the one off events, held infrequently and in outdoor locations, such as pop concerts. In these circumstances, as well as reducing the noise level to an acceptable level, restricting the hours of entertainment will be necessary.

Outdoor sources of noise. The hours of use of outdoor children's play areas, garden areas, balcony areas which are adjacent noise sensitive properties, may have to be restricted in the evening, to prevent undue disturbance. Use of such areas after 21.00 is not recommended.

#### Useful documents

Good Practice Guide on Control of Noise from Pubs and Clubs – Institute of Acoustics 2003.

Code of Practice on Environmental Noise at Concerts – Noise Council 1995.

#### Contacts

Community Protection  
(inc Noise Control)

Reresby House  
Bow Bridge Close  
Rotherham S60 1BY

01709 823118

## APPENDIX J

## Protection of Children from Harm

Example Risk Factors and Potential Control Measures Table  
(To be read in conjunction with Appendix D of this Document)

Risk Factors	Potential Control Measures
1.	Any entertainment or services (regulated or otherwise) that are/include that of an adult or sexual nature.
<ul style="list-style-type: none"> <li>• People under 18 not admitted or taking part in the entertainment/services (including staff if under 18).</li> <li>• Action to be taken if a person under 18 is discovered on the premises, which help ensure their protection from harm.</li> <li>• Measures for ensuring non-admission such as door supervision, age checks (including staff).</li> <li>• Sufficient screening of the relevant entertainment/services from view of those under 18 (including staff) e.g. smoked windows, doors closed.</li> <li>• Clear signage that entertainment/services are occurring which are not suitable for under 18s.</li> <li>• Specify type of entertainment that will be provided (e.g. Lap Dancing Clubs)</li> </ul>	
2.	Entertainment or services include strong and offensive language.
<ul style="list-style-type: none"> <li>• People under 18 not admitted (including staff).</li> <li>• People under 18 not within hearing distance. Soundproofing may be required.</li> <li>• Measure for ensuring non-admission such as door supervision, age checks (including staff).</li> <li>• Clear signage that entertainment/services are occurring which are not suitable for under 18s.</li> </ul>	

3.	Convictions for underage sales of alcohol	<ul style="list-style-type: none"> <li>• People under 18 not admitted (including staff).</li> <li>• Evidence of suitable staff training and age identification scheme in place and followed.</li> <li>• Signs provided informing customers that sales will not be made to under 18s and that age identification may be required.</li> </ul>
4.	Known reputation for underage drinking.	<ul style="list-style-type: none"> <li>• People under 18 not admitted (including staff).</li> <li>• Evidence of suitable staff training and age identification scheme in place and followed.</li> <li>• Signs provided informing customers that sales will not be made to under 18s and that age identification may be required.</li> </ul>
5.	Known association with drug taking or dealing.	<ul style="list-style-type: none"> <li>• People under 18 not admitted (including staff).</li> <li>• Evidence of measures taken to prevent drug taking and dealing.</li> </ul>
6.	Strong element of gambling on the premises.	<ul style="list-style-type: none"> <li>• People under 18 not admitted (including staff).</li> <li>• Measures to screen the gambling activity off from children.</li> </ul>

7.	Children and performances	<ul style="list-style-type: none"> <li>• Suitability and number of supervisors including care of children as they move from stage to dressing room etc. and to ensure that all children can be accounted for in case of an evacuation or emergency.</li> <li>• Suitability of the venue, for example, to ensure it can accommodate safely the numbers of children intended.</li> <li>• Fire safety, for example, that all chaperones and crew receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.</li> <li>• Special effects, as some may be inappropriate and may trigger adverse reactions in children, particularly e.g. flashing lights, dry ice, smoke, etc.</li> <li>• Note: See The Children (Performances) Regulations 1968 as amended, but do not duplicate provisions.</li> </ul>
8.	Entertainment aimed at children	<ul style="list-style-type: none"> <li>• Suitability and number of supervisors (see Statutory Guidance Annex F and also Appendix D of this document).</li> <li>• Measures to ensure that seating/standing arrangements for children are suitable.</li> </ul>
9.	Concerns regarding admitting children to films that have been classified as beyond suitability for children's age.	<ul style="list-style-type: none"> <li>• Staff training and age identification procedures.</li> <li>• Signage to explain that children will not be admitted to film showings which are not suitable for their age group, and that adults should not purchase tickets on children's behalf in this respect (see Appendix D of this document).</li> </ul>
10.	Previous known concerns about danger to children at the premises.	<ul style="list-style-type: none"> <li>• Measures to counter these specific dangers.</li> <li>• State whether there have been any previous concerns about danger to children on your premises and specify these concerns.</li> <li>• What action have you taken to counteract them.</li> </ul>
11.	Child-orientated premises located closed to adult-orientated premises.	<ul style="list-style-type: none"> <li>• Identification of any risks and control measures in place.</li> </ul>

12.	History of lack of suitability of age-identification procedures used on the premises.	<ul style="list-style-type: none"> <li>• People under 18 not admitted.</li> <li>• Evidence of suitable staff training and age identification scheme in place and followed.</li> <li>• Signs provided informing customers that sales will not be made to under 18s and that age identification may be required.</li> </ul>
13.	Potential concerns regarding proposed staff customer and/or staff: children ratios.	<ul style="list-style-type: none"> <li>• Measure to address these concerns</li> </ul>
14.	Potential concerns regarding qualifications of staff employed to look after children.	<ul style="list-style-type: none"> <li>• Requirement for Criminal Records Bureau (CRB) checks for staff employed to look after children.</li> <li>• Evidence of suitable training/experience.</li> </ul>
15.	Risk of children visiting the premises unaccompanied.	<ul style="list-style-type: none"> <li>• Evidence of training and procedures to deal with such situations where they are deemed to be of potential harm to children.</li> </ul>
16.	Living accommodation for children on the premises.	<ul style="list-style-type: none"> <li>• Assessment of potential risks and control measures in place.</li> </ul>
17.	Likelihood of premises attracting extremes of age groups.	<ul style="list-style-type: none"> <li>• Assessment of potential risks and control measures in place.</li> </ul>
18.	Close proximity of premises to 'child sensitive' properties.	<ul style="list-style-type: none"> <li>• Assessment of potential risks and control measures in place.</li> </ul>
19.	Lack of appropriate welfare facilities for children on premises (e.g. First Aid, toilets)	<ul style="list-style-type: none"> <li>• Welfare facilities provided.</li> </ul>
Risk Factors		Potential Control Measures
20.	There is a risk of physical, moral or psychological harm to children.	<ul style="list-style-type: none"> <li>• Assessment of potential risks and control measures in place.</li> </ul>
21.	Children under 18 employed on premises where there is evidence of binge/underage drinking, drug dealing/taking, significant gambling or entertainment/services of an adult/sexual nature provided.	<ul style="list-style-type: none"> <li>• Restriction of that employment</li> <li>• Persons under 18 not admitted.</li> </ul>
22.	Concerns regarding child abuse on premises.	<ul style="list-style-type: none"> <li>• Staff are familiar with reporting concerns to line manager who in turn should (if appropriate) contact The Children's Social Care Access Team on 01709 823987.</li> </ul>

This document has been produced with the help of LACORS (Local Authorities Co-ordinators of Regulatory Services) and the ADSS (Association of Directors of Social Services).

## THE LICENSING ACT 2003

### Film Classification Guidelines

This document is available on request from the address below.

Neighbourhood and Adult Services  
Business Regulation  
Licensing Office  
Reresby House  
Bow Bridge Close  
Rotherham  
S60 1BY

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## **LICENSING OFFICE POLICY ON REGULATING AND LICENSING EVENTS AND ACTIVITIES**

### **The Licensing Office**

Rotherham Metropolitan Borough Council sees its role as one of being available to assist the organisers and promoters of events to comply with their legal responsibilities so that they are successful, safe and enjoyable for all.

Our overall approach to regulating and enforcing the legislation is therefore to protect the safety, health and comfort of both those who may wish to participate in events and also the interests and residential amenity of nearby residents and businesses. This approach will help to maintain public confidence in the Borough as a place to seek entertainment and services and ultimately, therefore is in the interests of businesses, charities and the organisers of events.

The Councils Licensing Office is responsible for processing, issuing, and in conjunction with our Community Protection Unit, ensuring compliance with a wide variety of licences and permits. These are listed at the back of this Policy.

For the above reason, the Licensing Unit, together with the Council as a whole has committed itself to the principles of the Enforcement Concordat as set out below.

### **The Principles of Good Enforcement: Policy and Procedures.**

This document sets out what business interests, organisers of entertainment, events, collections, other activities requiring licences, permits or permissions from the Council can expect from the Licensing Office and Community Protection Team.

The primary aim of the licensing legislation and therefore the Licensing Office and the Community Protection Team is to protect the public, the environment and groups such as consumers, beneficiaries and customers. At the same time carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. The Licensing Office and Community Protection Team are committed to these aims, to maintaining a fair and safe trading environment and also to ensuring that the Borough is an enjoyable place to live, work and play.

The effectiveness of legislation in protecting consumers or sectors of society depends crucially on the compliance of those regulated. The Council recognise that most people want to comply with the law and will take care to help business, event organisers and others to meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens reap the benefits of this policy through better information, choice and safety.

The Council and the Licensing Unit have adopted the Central and Local Government Concordat on Good Enforcement. Included in the term "enforcement" are advisory visits and generally with compliance as well as licensing and formal enforcement action. By adopting the Concordat the Licensing Unit commits its officers to the following policies and procedures.



## **The Principles of Good Enforcement:**

### **Openness**

The Council will provide information and advice in plain language on the rules that apply and will disseminate this as widely as possible. The Council will be open about how work is dealt with, including any charges that are set, consulting businesses, voluntary organisations, consumers and other interested parties. Anyone experiencing difficulties or requiring information on general issues, specific compliance failures or problems can discuss them with the Licensing Office staff.

### **Helpfulness**

Prevention is better than cure and our role therefore involves actively working with business and event organisers, especially individuals or small scale concerns to advise on and assist with compliance. A courteous and efficient service will be provided and our staff will identify themselves by name.

A contact point and telephone number will be provided for further dealings with us and concerned parties are encouraged to seek further advice/information from us. Applications for approval of establishments, licences, registration etc will be dealt with efficiently and promptly. Wherever practicable all other agencies that are able to take enforcement action will be effectively co-ordinated to minimise unnecessary overlaps and time delays.

### **Proportionality**

Costs of compliance for business will be minimised by ensuring that any action required is proportionate to the risks. As far as the law allows, account will be taken of the circumstances of the case and the attitude of the operator or organiser when considering action.

Particular care will be taken to work with small concerns and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

### **Consistency**

Duties will be carried out in a fair, equitable and consistent manner (with an inclusive approach to equal rights and applying the principles of the Human Rights Act). While officers are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies.

### **Complaints about the service**

Well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups are in place. In cases where disputes cannot be resolved any right of complaint or appeal will be explained, with details of the process and the likely timescales involved.

## **The Principles of Good Enforcement: Procedures**

Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what timescale and making sure that legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case, and if possible, resolve points of difference unless immediate action is required (for example in the interests of health and safety where there is a serious danger to public safety or the environment or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action is required will be given at the time (where it is reasonably practicable to contact the person responsible for the premises or the event) but will be confirmed in writing, in most cases within 5 working days and, in all cases within 10 working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken or when notifying you of the decision (whenever possible this advice will be issued with the decision letter or enforcement notice).

### **The Licensing Units Policy on Formal Enforcement**

Where it comes to our attention that breaches of licensing requirements are taking place, then generally these will be discussed with the alleged person(s) responsible. Our approach will be to explain why the Council takes this seriously and to give a reasonable period for the operator to rectify this and outline the consequences for failure to do so. Arrangements made will be set down in writing so that there is no uncertainty about what is required and the timescales involved.

There may be circumstances where it is necessary to take immediate action to resolve the issue. This will generally be the case where there is an immediate and serious risk to the health or safety of the public or of a potentially serious and unacceptable risk of noise or environmental pollution.

In assessing the degree of risk consideration will be given to the views of agencies such as the Police, Fire Authority, Ambulance Service and the Councils own Building Consultancy and Environmental Health Services so that we can take a coordinated approach.

Particular care will be taken to assist and explain the legal requirements to community, voluntary, charitable or other non-profit making groups.

Where it is clear that individuals, companies or groups have previously had breaches of licensing requirements pointed out to them then almost invariably legal action will be taken against them for subsequent breaches. Those organisations supported by large breweries or national chains etc are expected to have a higher level of knowledge of licensing requirements than others and this will be taken into account when deciding what action is appropriate.

The Licensing Office works closely with other licensing authorities regionally and nationally in order to encourage consistency, so account will be taken of any verifiable information received from those sources about the previous conduct in other areas of those alleged to be in breach of licensing requirements.

Where events are taking place without a licence, the expectation is that these activities would cease immediately when this is pointed out to the organiser. This is because, in these circumstances we are unable to guarantee the safety of the public. Applications that may have been made subsequently will be processed as quickly as possible, no further events should take place unless or until a licence or permit is issued. Account will be taken of whether unlicensed activities have continued after this has been pointed out to the

organiser by the Council (or other partner agencies such as the Police), when deciding whether to take formal legal proceedings.

If there is an established right of appeal available to an alleged offender against any action proposed then our understanding of this right will be set out in writing. Individuals are advised to seek their own independent advice if in doubt.

## **Complaints**

The Licensing Office welcomes and treats seriously any constructive feedback on the standard of service provided, as hopefully this will help inform improvements in the future and help make us more responsive.

Where you have a valid complaint the nature of this will be established and where possible it will be remedied without delay.

Complaints will be acknowledged within 2 working days with a full response in writing within 15 working days.

Responses will be in writing where there is appropriate and will always be so if you request this. An apology will be issued where the service is at fault.

If it is not possible to resolve the complaint to the satisfaction of the complainant then it will be referred to a more senior officer and/or complaints officer for investigation in line with the Councils procedures for dealing with complaints which can be viewed in the leaflet "Tell us your views – Customer complaints, comments and compliments".

For further information or advice please contact:-

Deborah Bragg, Licensing Manager  
Tel: 01709 334524  
Email: [deborah.bragg@rotherham.gov.uk](mailto:deborah.bragg@rotherham.gov.uk)

The Licensing Office deals with all the following types of licensing matters:

- Adult Gaming Centres
- Family Entertainment Centres
- Bingo Halls
- Betting Offices
- Casinos
- Unlicensed Family Entertainment Centre Gaming Permits
- Club Gaming Permits
- Club Gaming Machine Permits
- Occasional Use Notices
- Temporary Use Notices
- Small Lotteries
- Alcohol Licensed Premises Notification of Intent to have Gaming Machines
- Alcohol Licensed Premises Gaming Machine Permits
- Street Collection Permits
- House to House Collections
- Approval of premises for Marriages/Civil Ceremonies

Sex Establishments  
Scrap Metal Dealers  
Motor Salvage Operators  
Premises Licences  
Temporary Event Notices  
Personal Licences  
Club Premises Certificates  
Private Hire/Hackney Carriage Driver Licences  
Hackney Carriage/Private Hire Vehicle Licences  
Private Hire Operator Licences

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## OFFENCES

OFFENCE	SECTION OF ACT	MAX PENALTY
<b>Premises Licence</b>		
Failing to notify change of name or address by premises licence holder or designated premises supervisor	33	£500
Failing to notify the Council that the Designated Premises Supervisor (DPS) has changed address (unless they have already notified us themselves)	33	£500
Failure to notify designated premises supervisor of determination of application for variation to premises licence	40	£1000
Where the DPS has said he wishes to be removed from the licence (and is also the holder of the Premises Licence), failing to give his licence to the Council or explain why he cannot do so	41	£1000
Failing to tell the DPS that a licence or interim authority has been granted	49	£1000
Failing to tell the DPS that an application has been made to transfer the Premises Licence	46	£1000
Failure to produce the licence at the Council's request within 14 days in the event of a determination notice, lapse etc.	56	£500
Failure to secure safe custody of or to display on premises the premises licence	57 (2) & (3)	£500
Failure to produce the premises licence or certified copy for examination to constable or authorised person	57 (7)	£500
<b>Qualifying Clubs</b>		
Failing to notify the Council of any alteration to the name, or the rules, of the Club	82	£500
Failing to notify the Council of cessation of authority to use the relevant registered address	83	£500
Failing to give the Council the Club Premises Certificate when required to do so for updating etc	93	£500
Failing to secure safe custody of or to display club premises or certifies copy	94 (5) & (6)	£500
Failing to ensure a summary of the Certificate (or a certified copy) AND a notice of the nominated person's position is prominently displayed	94 (4)	£500
Failing to produce the Certificate or certified copy when asked to do so by a constable or authorised person	94 (9)	£500
Obstructing an authorised person or constable wishing to enter and inspect an	96	£500

application for grant, variation or review		
OFFENCE	SECTION OF ACT	MAX PENALTY
<b>Temporary Events Notices</b>		
Obstructing an authorised officer from entering the premises to assess the impact on the crime prevention objective	108	£500
Failing to display the Temporary Event Notice, or keep it at the premises in the custody of the Premises User, or his nominee (either of whom must be present) – the notice of nomination must be displayed	109 (4)	£500
Failing to produce the Temporary Event Notice to a constable or authorised officer	109 (8)	£500
<b>Personal Licences</b>		
Failing to notify the Council upon application for a grant or renewal of a relevant offence or foreign offence	123	£2500
Failing to notify the Council of any change in name and address	127	£500
Failing to produce or notify the Court of the Personal Licence when being dealt with for a relevant offence	128	£500
Failing to notify the Council that you have been convicted of a relevant offence/foreign offence where the Court has not already done so	131	£500
Failure to produce licence for updating to Council within 14 days of notice	134	£500
<b>General Offences</b>		
Carrying on, or knowingly allowing the carrying on, of any licensable activities without a licence or Temporary Event Notice	135	Six months in prison and/or £20,000/forfeiture
Unauthorised exposure of alcohol for sale by retail	137	Six months in prison and/or £20,000/forfeiture
Possession of alcohol with intent to sell by retail or supply	138	£500/forfeiture
Knowingly allowing disorderly conduct on relevant premises	140	£10,000
Knowingly selling or attempting to sell or supply alcohol to, or allowing alcohol to be sold to, someone who is drunk	141	£1000
On relevant premises, knowingly obtains alcohol for consumption on those premises for a person who is drunk	142	£1000
When drunk or disorderly, failing to leave relevant premises when asked by a constable or other relevant person, or attempting to enter or re-enter having been asked not to	143	£200

OFFENCE	SECTION OF ACT	MAX PENALTY
Knowingly keeping or allowing to be kept, any goods on which duty has not been paid, or any other illegally imported goods, on relevant premises	144	£1000 plus forfeiture
Sale of alcohol by retail on or from a vehicle that is not permanently or temporarily parked	156	3 months in prison and/or £20,000
Knowingly selling or attempting to sell alcohol in contravention of a Magistrates Court order prohibiting the sale of alcohol on trains (this order can only be made on the application of a senior Police Officer, and only if necessary to prevent disorder)	157	3 months in prison and/or £20,000
Knowingly or recklessly making a false statement in, or in connection with, a licensing application	158	£5000
Allowing premises to be open where a review has been made and the licence has been revoked: until the time limit for appeal, or the appeal has been dealt with	168	3 months in prison and/or £20,000
Intentionally obstructing an authorised person wishing to enter the premises to see if a licensable activity being carried on	179	£1000
<b>Closure Order Offences</b>		
Knowingly keeping, or allowing to be kept open, premises subject to an "identified area" closure order. A constable may use "such force as may be necessary for the purpose of closing the premises..."	160	£1000
Permitting relevant premises to be open in contravention of a closure order on identified premises	160	3 months in prison and/or £20,000
Permitting relevant premises to be open in contravention of a Magistrates Court closure order	165	3 months in prison and/or £20,000
<i>Note: A constable may use such force as may be necessary to close premises so they comply with a Closure Order, but will not be liable for damages for act or omission, unless you can prove bad faith or a breach of section 6(1) of the Human Rights Act</i>		
<b>Underage Offences</b>		
Knowingly allowing an unaccompanied child on premises exclusively or primarily being used for the supply of alcohol for consumption on the premises	145	£1000
Allowing an unaccompanied child to be on relevant premises between midnight and 5.00am when the premises are being used for the purpose of supplying alcohol for consumption there	145	£1000
Selling alcohol to a person aged under 18	146	£5000

OFFENCE	SECTION OF ACT	MAX PENALTY
Knowingly allowing the sale or supply of alcohol on relevant premises to a person aged under 18	147	£5000
Knowingly allowing alcohol to be supplied to, or to the order of, a Club Member who is under 18, or to the order of a Member, to someone under 18	147	£5000
Sale or supply of liqueur confectionary to a child under 16	148	£500
Attempting to buy alcohol when aged under 18 (unless sent by a constable or trading standards officer)	149	£1000
Being supplied with alcohol by a Club you are a member of, by or on behalf of the Club, because of some act or default of yours, or attempting to have alcohol supplied to you or to your order by or on behalf of your club	150	£1000
Buying, or attempting to buy alcohol on behalf of a person aged under 18	151	£5000
Being a Club Member and making an arrangement for alcohol to be supplied to a person under 18, or attempting to make such arrangements	149 (3)	£5000
Buying, or attempting to buy, alcohol for consumption on relevant premises by a person aged under 18: or having (but act or default) alcohol supplied to him or to his order, for consumption on the premises by a person aged under 18	149 (4)	£5000
Knowingly consuming alcohol on relevant premises	150	£5000
Knowingly allowing consumption of alcohol on the premises by a person aged under 18	150 (2)	£5000
Knowingly delivering alcohol sold or supplied on the premises to a person aged under 18 (also applies to clubs)	151	£5000
Knowingly allowing someone else to deliver alcohol sold on relevant premises to a person aged under 18	151	£5000
Knowingly allowing a person aged under 18 to sell alcohol or supply alcohol – does not apply where the alcohol is sold for consumption with a table meal in premises used for service of table meals	153	£200



Appendix B - Schedule of Responses to review of Statement of Licensing Policy

Reference	Respondent	Comments	Response
001	Chris Renouccie	<p>'I propose the following should be examined:</p> <p><b>Notice by a DPS to relinquish their responsibilities</b></p> <p>Should require a minimum of 24 hours notice by DPS to avoid the closure of an outlet e.g. DPS notifies authority they have relinquished their responsibilities at 3pm 7 October – outlet has until 3pm 8 October to appoint DPS.</p> <p><b>Payment of Licensing Fees</b></p> <p>These should be online in all instances.</p> <p><b>Complaints by individuals / neighbours regarding problems from licensed premises</b></p> <p>The complainant should be identified to the operator of the premises to avoid vexacious</p>	<p>Would require change to primary legislation – not something that can be done locally – no change to policy.</p> <p>Payment methods are not something specific to the Policy and we are introducing credit/debit card payments in the very near future – BACS payments / Cash / Cheque already accepted – no change to policy.</p> <p>Some complainants are vulnerable and can ask to remain anonymous –</p>

		<p>complaints – we have a situation where an individual lodged complaints against a site as they had been excluded for bad behaviour – the authority wasted four visits until the company through its enquiries identified the individual.</p> <p><b>Complaints from householders / tenants regarding problems from licensed premises</b></p> <p>When the authority receives a complaint regarding the above it should make the householder/tenant aware that they must declare to a future occupier any complaints they have made. The company has experienced a problem at the Victoria, Horbury, Wakefield where a neighbour constantly complained about noise from the site even when it wasn't open. The complaints ceased when the owner of the house realised it could affect the value of its property.</p> <p><b>Visits to licensed premises by local authority representatives</b></p> <p>In Wakefield when these visits take place the individual is accompanied by two police officers – this needs to change as the cost of this outweighs any benefit. The visit should be to check administrative compliance which can be done when the site is closed.</p>	<p>all enforcement agencies working together quickly highlight where a complaint maybe be vexatious / malicious – no change to policy required.</p> <p>As above – no change to policy required.</p> <p>The Licensing Authority and Responsible Authorities in Rotherham all work closely together to avoid duplication and unnecessary burden on business. Problem premises are identified and a joint approach to resolving issues taken. Local authority licensing enforcement</p>
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		<p><b>Licensing Enforcement Officer Role</b></p> <p>Need to be removed as the work is duplicated by the Police.</p> <p><b>Licensing Authority Income and Expenditure Report</b></p> <p>This should be published annually and issued to fee payers to inform them where the money has been spent.</p> <p>In my experience since the creation of the new system authorities have created cost and work by over managing the situation.</p> <p>Poorly run outlets are easily identifiable are not in the majority. Start thinking positive about pubs.</p>	<p>officers do visits on their own as well as with other agencies when required. Each has their own area that they are looking at – no duplication of roles is experienced – no change in policy required.</p> <p>As above – no policy change required.</p> <p>Noted – no policy change required.</p> <p>Noted – no policy change required.</p> <p>Noted – no policy change required.</p>
002	Wickersley Parish Council	We are particularly concerned that applications for changes to licensing conditions do not seem to cross-refer to any similar planning conditions which may be in force. We have dealt with a number of cases recently where a change to a	With regards to Parish Councils as 'interested parties' the guidance issued by Department of Culture Media and Sport does state that a parish council can send in

		<p>licensing or a planning application - for which we have an interest in commenting - has been subsequently granted and yet contradicts the corresponding planning/licensing condition in force. For example, opening/closing times for businesses or changes of use.</p> <p>Further, we feel that the Licensing Committee should be encouraged to take on board the views of the Parish Council during application consultation, rather than just interested individuals - as the Parish Council represent all residents in our area and our view is often formed after discussion with interested residents.</p>	<p>representations to an application on behalf of local residents in relation to an application made under the Licensing Act 2003.</p> <p>With regards to planning conditions/licensing the guidance is quite specific on how the two regimes shall operate, please see extract below:-</p> <p>The statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.</p> <p>The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should</p>
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			<p>not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.</p> <p>The granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.</p> <p>There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.</p> <p>No change to policy required.</p>
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## ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

<b>Meeting:</b>	Cabinet
<b>Date:</b>	6th April, 2011
<b>Title:</b>	Gambling Act 2005 Statement of Licensing Principles
<b>Directorate:</b>	Neighbourhood and Adult Services

## 5. Summary

The Gambling Act 2005 requires the Council to prepare and publish a Statement of Licensing Principles before it carries out any function in respect of applications made under the Act. The current statement of principles required reviewing and republishing in accordance with the requirements of the Act.

## 6. Recommendations

- That Cabinet approves the attached Statement of Principles and recommends to full Council that the policy be adopted.

## 7. Proposals and Details

The Gambling Act 2005 requires the Council to prepare and publish a Statement of Licensing Principles before it carries out any function in respect of applications made under the Act.

The statement must be determined with a view to promoting the three licensing objectives:

1. preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime;
2. ensuring that gambling is conducted in a fair and open way;
3. protecting children and other vulnerable persons from being harmed or exploited by gambling.

The current statement has been redrafted and is attached as Appendix A to this report.

The statement details how the Council intends to exercise the licensing functions imposed upon it by the Act. It states the Council's general approach to the making of licensing decisions and the regulation of licensable activities. It also provides transparency for all those affected by the licensing regime which means not only applicants for a licence, but also local residents who are able to make representations to the Council in opposition to some applications.

A Statement of Licensing Principles must be prepared and published every three years. During the three year period, the policy must be kept under review and revised as appropriate.

Section 349 (3) of the Act requires the licensing authority to consult the following on the statement of principles or any subsequent revision:

- In England and Wales, the chief officer of police for the authority's area;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

The consultation period ended on 25 October 2010 and no comments were received.

The redrafted Statement of Principles has been written in the same format as that produced by LG Regulation (the statutory body that coordinates the regulatory activities of Local Authorities). This will ensure a consistency of approach throughout the Country and also reflect any changes to the Guidance issued under the Gambling Act 2005 by the Gambling Commission since its original publication.

The redrafted and updated Statement of Licensing Principles must be approved, published and advertised as soon as possible after the consultation process has been completed.

Approval of the final draft will be required from full Council before it comes into force.

## **8. Finance**

The Council consulted with a wide variety of stakeholders during the consultation period. Cost effective methods of consultation were used wherever possible (such as email and web publishing). Any costs associated with the consultation have been met by existing licensing budgets.

## **9. Risks and Uncertainties**

The council is under a statutory obligation to publish and periodically review a statement of licensing principles. Any risks to the council as a result of the adoption of the attached policy are considered to be minimal as the policy is based on guidance from LG Regulation (formerly LACORS).

## **10. Policy and Performance Agenda Implications**

The development of an appropriate Statement of Licensing Principles contributes to the priority themes of Rotherham Alive and Rotherham Proud. By regulating unlicensed gambling activities, promoting the licensing objectives (including responsible gambling), the authority also contributing to the NAS priorities of creating safer neighbourhoods and protecting vulnerable adults.

## **11. Background Papers and Consultation**

Gambling Act 2005  
Department of Culture, Media and Sport (DCMS)  
Gambling Commission – Draft Guidance to Licensing Authorities  
LACORS / LG Regulation Statement of Principles Template and Guidance

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## ROTHERHAM METROPOLITAN BOROUGH COUNCIL

Gambling Act 2005 – Statement of PrinciplesMarch 2011

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*This Statement of Licensing Principles was approved by Rotherham Metropolitan Borough Council on*

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

## PART A

### **1. The Licensing Objectives**

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

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

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

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

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

### **2. Introduction**

Rotherham Metropolitan Borough Council is situated in the County of South Yorkshire. The Council serves around 250,000 people living in the borough and that figure is increasing steadily as more people are attracted by the quality of life and economic opportunities on offer. The Council area is around 70% rural with a central urban area.

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.

Rotherham Metropolitan Borough Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other

persons but we have not listed all of these.

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 are attached at Appendix B

Our consultation took place between **[dates to be inserted once consultation period has been agreed]** and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at: <http://www.berr.gov.uk/files/file47158.pdf>

The full list of comments made and the consideration by the Council of those comments is available by request to: Rotherham Metropolitan Borough Council, Licensing Authority, Reresby House, Bow Bridge Close, Rotherham, S60 1BY or via the Council's website at: <http://www.rotherham.gov.uk>.

The policy was approved at a meeting of the Full Council on **[date to be inserted once date of meeting is known]** and was published via our website on **[date to be inserted as appropriate]**. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

Rotherham Metropolitan Borough Council, Licensing Authority  
Reresby House, Bow Bridge Close, Rotherham, S60 1BY  
Email: [licensing@rotherham.gov.uk](mailto:licensing@rotherham.gov.uk)

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

### **3. Declaration**

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

#### **4. Responsible Authorities**

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

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at:  
<http://www.rotherham.gov.uk/graphics/Business/Licensing>

#### **5. Interested parties**

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

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

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

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

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

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department at Reresby House, Bow Bridge Close, Rotherham, S60 1BY, by phone on 01709 334524.

## **6. Exchange of Information**

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

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

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

## **7. Enforcement**

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

This licensing authority's principles are that:

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

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

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

This licensing authority has adopted and implemented a risk-based inspection programme, based on:

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

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

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

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the Neighbourhoods and Adult Services, Community Protection Manager. Our risk methodology is also available upon request.

## **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 be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

PART B

**PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

**1. General Principles**

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

**(i) Decision-making**

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

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 16) and also that unmet demand is not a criterion for a licensing authority.

**(ii) Definition of "premises"**

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

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of



separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

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

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

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

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

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

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

### **Casinos**

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

### **Adult Gaming Centre**

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

### **Betting Shops**

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

### **Tracks**

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

### **Bingo Premises**

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

### **Family Entertainment Centre**

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

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

### **(iii) Premises "ready for gambling"**

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

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

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

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

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

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

#### **(iv) Location**

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

#### **(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

“In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any

irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal”.

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

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

**(vi) Duplication with other regulatory regimes**

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

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

**Licensing objectives**

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

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

This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission’s Guidance does however envisage that licensing

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

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

This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. *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— see page 17).

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

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

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

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

**Conditions**

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

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

- reasonable in all other respects.

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

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

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

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

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

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will 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.

### **Door Supervisors**

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

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

## **2. Adult Gaming Centres**

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

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

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

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

### **3. (Licensed) Family Entertainment Centres:**

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

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

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

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

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### **4. Casinos**

#### *No Casinos resolution*

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

### **5. Bingo premises**

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

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a



relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

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

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

## **6. Betting premises**

### *Betting machines*

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

## **7. Tracks**

At present this Authority does not have any licensed Tracks however this licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority would 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 would therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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

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

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

#### *Gaming machines*

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

#### *Betting machines*

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

#### **Applications and plans**

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

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

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

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

through occasional use notices where the boundary premises do not need to be defined.

(See Guidance to Licensing Authorities, para 20.32).

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

## **8. Travelling Fairs**

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

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

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

## **9. Provisional Statements**

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

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

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

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of

the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

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

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

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

In addition, 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.

## **10. Reviews**

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

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

The request for the review will also be subject to the consideration by 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.

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. Unlicensed Family Entertainment Centre gaming machine permits

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

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

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

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

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

This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that

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

## **2. (Alcohol) Licensed premises gaming machine permits**

### **Automatic entitlement: 2 machines**

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

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

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

### **Permit: 3 or more machines**

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

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

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

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

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

### **3. Prize Gaming Permits**

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

The applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

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

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

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

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



other gambling.

#### 4. Club Gaming and Club Machines Permits

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

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

- Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

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

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

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

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

- (a) that the club is established primarily for gaming, other than gaming prescribed

under schedule 12;

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

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

## **5. Temporary Use Notices**

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

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

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

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

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

## **6. Occasional Use Notices:**

The licensing authority has very little discretion as regards these notices aside from

ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

**APPENDIX A**  
**Delegation of functions**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub Committee of licensing committee</b>	<b>Officers</b>
Three year licensing policy	<b>x</b>		
Policy not to permit casinos	<b>x</b>		
Fee setting (when appropriate)		<b>x</b>	
Application for premises licences		If a relevant representation made and not withdrawn	If no relevant representation made/ representations have been withdrawn
Application to vary a licence		If a relevant representation made and not withdrawn	If no relevant representation made/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		If a relevant representation made and not withdrawn	If no relevant representation made/ representations have been withdrawn
Review of a premises licence		<b>x</b>	
Applications for club gaming/ club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/ club machine permits		<b>x</b>	
Applications for other permits			<b>x</b>

(including small society lottery registrations)			
Cancellation of licensed p gaming machine permits			<b>x</b>
Consideration of temporary use notice			<b>x</b>
Decision to give counter Notice to a temp. use notice		<b>x</b>	

**APPENDIX B**  
**Gambling Act 2005**

**Statement of Licensing Principles – April 2010**

**Consultation List – Consultation on full policy document**

Area Assembly Co-Ordinators  
Association of British Bookmakers  
BACTA (British Amusement Catering Trade Association)  
British Casino Association  
British Institute of Inn Keeping  
Business in Sport and Leisure  
Casino Operators Association  
Chief Constable, South Yorkshire Police  
Chief Fire Officers, South Yorkshire Fire and Rescue Service  
Clerks to Parish Councils  
Club and Institute Union (CIU)  
GAMCARE  
GAM-ANON  
Gambling Commission  
Harry's Game Amusements  
LG Regulation (formerly LACORS)  
Ladbrokes  
Leisuretime Amusements  
Nobles Amusements  
Picken Racing  
Racecourse Services Executive  
Responsibility in Gambling Trust  
RIDO (Rotherham Investment and Development Office)  
RMBC Neighbourhood Enforcement Manager  
RMBC Head of Planning and Transportation  
RMBC Safeguarding Manager – Child Protection  
RMBC Equalities and Diversity Manager  
RMBC Access Liaison Officer  
RMBC Town Centre Manager  
RMBC Ward Councillors  
Barnsley and Rotherham Chamber of Commerce  
Rotherham PCT  
Safer Rotherham Partnership  
The Bingo Association  
The Institute of Licensing  
The Lotteries Council  
William Hill

Dr Denis McShane MP  
Rt Hon K Barron MP  
Mr J Healey MP

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	Cabinet
<b>2.</b>	<b>Date:</b>	6 April 2011
<b>3.</b>	<b>Title:</b>	Proposed Changes to Planning Board
<b>4.</b>	<b>Programme Area:</b>	Environment and Development Service

**5. Summary**

Proposed changes to membership of planning Board to accommodate requirements of implementing Development Management.

**6. Recommendation:**

**That Cabinet approve:**

**a) Planning Board to be made up of 2 Members per Area Assembly (and an allocated substitute) and changes be implemented in May 2011**

**b) The implementation of Development Management.**

**c) An enhanced Planning Board Member Training Programme, developed in conjunction with the Member's Training and Development Panel, including code of practise**

## **7. Proposals and Details**

### **Introduction to Development Management**

The principle behind the move to Development Management is to further modernise the Planning Service and to make sure that we are offering a problem-solving approach to planning in addition to more familiar development control activities.

In order to fulfil this role we need to further develop our abilities to:

- facilitate development opportunities
- influence development proposals to achieve quality outcomes and
- solve problems to deliver sustainable development

Achieving our objectives for development management will require the Planning Service to be more proactive and delivery focused, whilst being better aligned with other strategic functions, including plan-making. We have already adopted aspects of development management in our planning services through, for example, a significant increase in pre-application discussions, an increased role for members would allow us to further develop this service.

### **Role of Planning Board Members**

As part of development management, Planning Board Members are encouraged to fulfil their roles as local authority representatives and civic leaders in the planning system and this includes involvement in the pre-application phase of development.

#### Pre-application involvement

Councils who have introduced pre application engagement for Planning Board Members have found that:

- A clear member protocol is essential.
- Comprehensive training is required to ensure that Board Members are well informed

In further developing the role as strategic leaders for the authority Board members would move away from their traditional roles as “ward councillors” and as a Board take a strategic view relating to the key priorities of the Council.

There is evidence from Planning Advisory Service research that a traditional, large Planning Board tends to be less separated from its constituency role, has a greater tendency to depart from planning policy as members do not feel that they have a special role in determining applications for the wider Council.

Conversely members of a smaller Board are much more likely to take impartial decisions based on material planning considerations being more streamlined with a more strategic focus.



Rotherham's Planning Board was initially established to be made up of representatives from each ward and therefore consideration has been given to moving away from this arrangement in order to facilitate these aims.

It was also suggested by Planning Board members that the profile of planning could be raised with a commitment to both attendance and training by board members to ensure consistency in decision making. There is the potential to implement this proposal and move away from the historical ward representation at Board in May when number of board members are due to stand down. The proposal is therefore that Planning Board be made up of 14 members – 2 from each Area Assembly area with provision for a substitute from each area as necessary.

### Potential Impact of Localism Bill

In a letter to all Council's on in January 2011 Local Government Minister, Grant Shapps has stated that provisions within the Localism Bill (Clause 13) will free councillors from restrictions that prevent them from championing local issues ("pre-determination"). Councillors are expected to be able to publicise their views on issues, indicate their voting intentions and to engage fully with their local communities without this affecting their participation in the council's formal decision making. In addition, councillors should be able to engage with planning applicants to educate themselves about their proposals. Of course, councillors will still need to be open minded at the point of decision in the sense of listening to all of the arguments, and weighing them against their preferred outcome, before actually voting.

This view has been strengthened in announcements around the budget proposals stating that councillors, planners, developers, businesses and local communities must find more ways to work more effectively and resolve conflicts in planning

Clause 102 of the localism bill has also introduced a new requirement for prospective developers to consult local communities before submitting planning applications for very large developments. This is intended to give local people a chance to comment on proposed developments which may have an impact on them, and to collaborate on issues such as design at an early stage in the process. While most major applications are already subject to extensive pre-application consultation, developers will be required to have regard to any opinions raised during this consultation when deciding whether to make any changes before submitting their planning applications.

Further involvement of local communities is to be developed through Neighbourhood Planning which is a new right being introduced by the Localism Bill allowing communities to create a vision of what their local area should look like and define development that will automatically have planning permission through Neighbourhood Development Orders and members are seen to be central to this work explaining, leading and helping their local community.

In addition the recent Central Government Budget and Growth review sets out requirements that the planning system does everything possible to support economic growth and sustainable development, helping to re-build Britain's economy and have issued a statement that it will simplify and speed up the planning process.

Councils are to be required to co-operate across LPA boundaries on issues across the Local Economic Partnership (LEP) areas on planning issues such as transport, housing, infrastructure etc.

These initiatives clearly allow members to take a much more active role in the development process and pave the way for a move to achieve the aims of the Localism Bill generally and Development Management.

#### Training

A Board made up of a core group of members who have the opportunity to undertake further training and development in order that they are in an informed position, in relation to relevant issues and material planning considerations, would assist to achieve the aims of Development Management.

This could be achieved by building on the existing Member's Development Charter and making a number of internal training sessions available at times where the maximum number of Members can attend.

#### Code of Practice

The Members Code of Practice could be reviewed as part of the changes to Board - establishing an enhanced member role in providing pre-application advice or could be delayed until the aspirations of the government in relation to removing "pre-determination" for members and the localism bill are clearer.

#### Conclusion

The aim is to build a good, strong Planning Board with a core group of members. This, together with involvement at a pre-application stage, would provide an enhanced service for developers and assist with the Council's regeneration priorities.

The benefits of implementation can be summarised as:

- reducing uncertainty for developers - and would therefore support the aim of Rotherham to be **"a good place to do business"**
- providing a full and more useful pre-application service
- More focussed meetings and fully justified decision making.

### **8. Finance**

There are no direct financial implications arising from the report

### **9. Risks and Uncertainties**

The proposals reduce the risk to the Local Planning Authority of potential legal challenge by increasing the role for members in the planning process in accordance with government advice and putting in place appropriate measures to accommodate the requirements of the Localism Bill.

## **10. Policy and Performance Agenda Implications**

The proposals will assist with the aim of the Local Planning Authority to ensure Rotherham is a “good place to do business” and ensure that planning decisions, and the role of Planning Board Members to contribute to the making of decisions which assist to support the regeneration policies of the Council, are made in a timely manner.

## **11. Background Papers and Consultation**

PAS: Approaches to the role of councillors in development management  
Planning Advisory Service Website

Localism Bill

[www.communities.gov.uk/localgovernment/decentralisation/localismbill/](http://www.communities.gov.uk/localgovernment/decentralisation/localismbill/)

Bronwen Peace

Planning Manager

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<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>CABINET</b>
<b>2.</b>	<b>Date:</b>	<b>6<sup>TH</sup> APRIL, 2011</b>
<b>3.</b>	<b>Title:</b>	<b>MINUTES OF A MEETING OF THE LOCAL DEVELOPMENT FRAMEWORK (LDF) MEMBERS' STEERING GROUP HELD ON 18<sup>TH</sup> MARCH, 2011</b>
<b>4.</b>	<b>Programme Area:</b>	<b>ENVIRONMENT AND DEVELOPMENT SERVICES</b>

**5. Summary**

In accordance with Minute No. B29 of the meeting of the Cabinet held on 11<sup>th</sup> August, 2004, minutes of the Local Development Framework Members' Steering Group are submitted to the Cabinet.

A copy of the minutes of the LDF Members' Steering Group held on 18th March, 2011 is therefore attached.

**6. Recommendation:-**

**That progress to date and the emerging issues be noted, and the minutes be received.**

## **7. Proposals and Details**

The Council is required to review the Unitary Development Plan and to produce a Local Development Framework (LDF) under the Planning and Compulsory Purchase Act 2004.

The proposed policy change of the new Coalition Government should be noted re: the Localism Bill and implications for the LDF.

## **8. Finance**

The resource and funding implications as the LDF work progresses should be noted.

## **9. Risks and Uncertainties**

- Failure to comply with the Regulations.
- Consultation and responses to consultation.
- Aspirations of the community.
- Changing Government policy and funding regimes

## **10. Policy and Performance Agenda Implications**

There are local, sub-region and regional implications. The Local Development Scheme will form the spatial dimension of the Council's Community Strategy.

## **11. Background Papers and Consultation**

Minutes of, and reports to, the Local Development Framework Members' Steering Group.

Attachments:-

- A copy of the minutes of the meeting held on 18<sup>th</sup> March, 2011.

**Contact Name : Karl Battersby, Strategic Director,  
Environment and Development Services  
Ext 3801  
[karl.battersby@rotherham.gov.uk](mailto:karl.battersby@rotherham.gov.uk)**

**ROTHERHAM LOCAL DEVELOPMENT FRAMEWORK STEERING GROUP**  
**Friday, 18th March, 2011**

Present:- Councillor Smith (in the Chair); Councillors Doyle, J. Hamilton, Jack, Pickering, St. John, Sharman, Whelbourn and Whysall.

together with:-

Andy Duncan	Strategic Policy Team Leader
Ryan Shepherd	Senior Planner
Ken MacDonald	Solicitor, Legal Services
Sumera Shabir	Law Clerk
Bronwen Peace	Planning Manager

**7. INTRODUCTIONS/APOLOGIES**

The Chairman welcomed those present and introductions were made.

Apologies for absence were received from:-

Councillor Austen	Chair, Democratic Renewal Scrutiny Panel – member of the Steering Group
Councillor Dodson	Vice-Chair, Planning Board – member of the Steering Group
Councillor R. S. Russell	Cabinet Member for Town Centres – member of the Steering Group

**8. MINUTES OF THE PREVIOUS MEETING HELD ON 18TH FEBRUARY, 2011**

Consideration was given to the minutes of the previous meeting held on 18<sup>th</sup> February, 2011.

Resolved:- That the minutes of the previous meeting held on 18<sup>th</sup> February, 2011, be approved as a correct record.

**9. MATTERS ARISING**

There were no matters arising from the previous minutes.

**10. SETTLEMENT AND GROWTH STRATEGY FOR ROTHERHAM BOROUGH**

Consideration was given to a report, presented by the Strategic Policy Team Leader, relating to the emerging settlement and growth strategy for the Borough, based on capacity of preferred sites.

It was explained that the strategy had now been refined based on further work comparing settlement needs with capacity for growth and reflecting the proposed local housing target of 850 new homes a year.

Details of the overall requirement during the 15 year plan period were set out in the submitted report.

A summary of the variety of data considered was also set out in the report, and

issues highlighted by the emerging settlement and growth strategy were listed.

Maps accompanying the report illustrated:-

- (i) proposed settlement hierarchy – main urban area, principal settlement and local service centres
- (ii) proposed housing and employment land distribution (2012 to 2027)

and tables within the report set out details of:-

- (i) settlement profile
- (ii) settlement ranking and needs assessment
- (iii) settlement housing and employment land distribution (2012 to 2027)

Members present raised and discussed the following:-

- zero employment land in the South of the Borough
- no commitment to improve rail services and the need for rural bus services
- lack of availability at Thorpe Hesley and Swinton
- the need for a break down of information on a Ward basis
- % impact on the greenbelt

Resolved:- That the refined settlement and growth strategy for the Borough be supported insofar as this Steering Group is concerned, for inclusion within the draft Core Strategy for public consultation.

## **11. LOCAL HOUSING TARGET**

Consideration was given to a report, presented by the Strategic Policy Team Leader, relating to the setting of a Local Housing Target.

In anticipation of the final revocation of Regional Spatial Strategies, along with 'top down' housing targets, the report explained how Rotherham had determined a realistic local housing target to the end of the Local Development Framework period in 2027.

Reference was made to the various sources of evidence that had been explored and reported on in a previous report to steering group members in July 2010.

The submitted report summarised the findings and the reasoning behind the level of the proposed local housing target of 850 per year for Rotherham.

Members referred to the effect of an ageing population.

Resolved:- That the contents of the report be noted.

## **12. DRAFT CORE STRATEGY POLICIES**

Consideration was given to a report, presented by the Senior Planner, relating

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to the continued drafting of strategic policies for the LDF Core Strategy.

It was explained that the version that had been released to the consultants commissioned to carry out sustainability appraisal was attached to the submitted report for Members' information and comment.

It was pointed out that a final version would be brought to Members, as part of the draft Core Strategy document as a whole, for approval prior to consultation.

Members present referred to:-

- Churches Historic Environment work
- Member involvement in developing these policies
- informing the Members' Training and Development Panel
- CS16 Housing Mix and Affordability – new proposals would need review

Resolved:- That the content of the Draft Core Strategy policies be noted.

**13. SOUTH YORKSHIRE RESIDENTIAL DESIGN GUIDE**

Consideration was given to a report, presented by the Strategic Policy Team Leader, the purpose of which was to feed back the key findings of the public consultation on the South Yorkshire Residential Design Guide and the resulting changes made to the document.

It was explained that it was intended to use the document as a best practice guide pending future consideration of its adoption (all or in part) as a Supplementary Planning Document.

It was reported that the draft South Yorkshire Residential Design Guide was discussed at a seminar on 15th July, 2010. Also the Guide was approved for use as best practice guidance by Cabinet Member for Regeneration & Environment on 21st February 2011.

The content of the Cabinet Member report and proposed use of the Guide were noted by the Planning Board held on 24th February, 2011.

The document was available via the Council's website.

Resolved:- That the contents of the report and the proposed use of the Guide be noted.

**14. ANY OTHER BUSINESS**

There were no further items of business.

**15. DATE, TIME AND VENUE OF NEXT MEETING**

Resolved:- That the next meeting of the Local Development Framework Members' Steering Group be held on FRIDAY, 15<sup>TH</sup> APRIL, 2011 at 10.00 a.m.  
– Town Hall, Moorgate Street, Rotherham.



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