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LICENSING & REGULATORY COMMITTEE AGENDA

Date: Friday, 15 November 2024

Time: 10.00 am

Venue: The Council Chamber, Moorlands House, Stockwell Street, Leek

7 November 2024

1. Apologies for absence, if any.
2. Minutes of the previous meeting (**Pages 3 - 4**)
3. Declarations of interest, if any.
4. Urgent items of business, if any.
5. Gambling Policy - Consultation (**Pages 5 - 46**)
6. Staffordshire County Council Boundary Changes (**Pages 47 - 58**)
7. Street Trading Policy (**Pages 59 - 82**)
8. Enforcement Update (**Pages 83 - 88**)
9. Animal Licensing Policy (**Pages 89 - 112**)

MARK TRILLO EXECUTIVE DIRECTOR AND MONITORING OFFICER

Membership of Licensing & Regulatory Committee

Councillor K Hoptroff (Chair)	Councillor M Deaville (Vice-Chair)
Councillor P Barks	Councillor G Bentley
Councillor E Fallows	Councillor J Garvey
Councillor B Hughes	Councillor I Plant
Councillor L Swindlehurst	Councillor M Worthington
Councillor A Church	Councillor D Shaw

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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL **LICENSING & REGULATORY COMMITTEE MEETING**

Minutes

FRIDAY, 8 MARCH 2024

PRESENT: Councillor K Hoptroff (Chair)
Councillors P Barks, J Garvey, I Plant, L Swindlehurst and
M Worthington

APOLOGIES: Councillors M Deaville, E Wain and L Whitehouse

11 **MINUTES OF THE PREVIOUS MEETING**

RESOLVED:

That the minutes of the meeting on 24 November 2023 be approved.

12 **URGENT ITEMS OF BUSINESS, IF ANY.**

There were none.

13 **DECLARATIONS OF INTEREST, IF ANY.**

None were declared.

14 **POLLING DISTRICT AND POLLING PLACE REVIEW.**

The representation of the People Act 1983 required the Council to periodically review its polling places and polling stations. The Council's previous review was undertaken in 2019.

The report explained the findings of the current review and made recommendations in respect of proposed changes. Any changes to polling stations as a result of the review would not come into force until the Police, Fire and Crime Commissioner Elections on 2 May 2024.

RESOLVED:

- That the Committee noted the review undertaken and approved the proposals setting out changes to polling districts, polling places and polling stations as detailed at **Appendix A**, **Appendix B** and **Appendix C** of the report.
- That the revised arrangements take effect from 1 May 2024.

15 **STREET TRADING - DRAFT POLICY AND CONSULTATION.**

Licensing & Regulatory Committee - 8 March 2024

Members received a report which related to the revised Street Trading Policy 2024-2027 which has been updated and prepared for consultation.

Discussions were held concerning the current Street Trading Policy for locations throughout the District. The legal implications, enforcement and consultation processes were discussed.

Members suggested that all ice cream vans located throughout the District should be required to hold a street trading licence. Further information around this would be set out in a report at a future meeting.

RESOLVED:

- That the Committee approved the Policy for consultation in accordance with the timetable outlined at paragraph 8.2 of the report;
- That following the consultation period the Policy (together with a summary of key consultation comments) is brought back to the Licensing Committee in July 2024 for consideration. The final Policy will then be presented to Full Council for formal adoption at the next available meeting.

16 **ENFORCEMENT UPDATE.**

Members received an update in relation to the enforcement activity undertaken within the Licensing Section in the period since the last meeting of the Committee.

It was noted that the move to digital notifications had seen an improvement in the renewal for licences.

RESOLVED:

That the Committee noted the contents of the report.

The meeting closed at 10.25 am

_____Chairman_____Date

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Licensing & Regulatory Committee

15 November 2024

TITLE:	Gambling Policy - Consultation
PORTFOLIO HOLDER:	Councillor Cawley - Portfolio Holder for Communities
CONTACT OFFICER:	Alicia Patterson - Head of Environmental Health
WARDS INVOLVED:	ALL

Appendix 1 – Gambling Act 2005 – Draft Statement of Principles 2025-2028

1. Reason for the Report

- 1.1 The purpose of this report is to ensure that the Council complies with its legal obligations as set out by the Gambling Act 2005 which requires that the Council must consult and publish a revised Statement of Principles every 3 years.
- 1.2 A consultation is scheduled to start in November 2024 for a period of 8 weeks, once the consultation is completed the revised Statement will be brought back with any comments to the committee in early 2025, for members to recommend for Full Council approval.

2. Recommendation

- 2.1 That the Committee agrees to the consultation period of 8 weeks commencing in November 2024 on the Draft Statement of Principles.

3. Executive Summary

- 3.1 Section 349 of the Gambling Act 2005 requires that the Council, as Licensing Authority, prepares and publishes a Statement of Principles under the Gambling Act 2005 every three years. The Council's Statement of Principles is due for renewal in 2025. The Statement will last for a 3 year period but may be reviewed at any time prior to this by the authority.
- 3.2 It is a further requirement of the Act that a revised policy must be approved at a full meeting of the Council. Such approval cannot be granted until consultation has been undertaken with a range of statutory bodies defined by the Act.

3.3 The proposed draft Statement of Principles 2025-2028 is attached at Appendix 1. No substantive changes are proposed to the Statement at this stage, however, comments will be provided as part of the consultation exercise by statutory and other consultees which the Committee will consider at its next meeting.

4. How this report links to Corporate Priorities

4.1 Aim 1 Supporting our communities to create a healthier and safer Staffordshire Moorlands.

5. Alternative Options

5.1 No alternative option to the proposed consultation exercise, the Council has a duty to update and consult on the Gambling Policy. The Committee may propose changes to the proposed Statement.

6. Implications

6.1	<u>Community safety, including safeguarding and prevention of terrorism</u> Ensuring that gambling is sufficiently regulated and controlled will help to support community safety, safeguarding and the prevention of terrorism.
6.2	<u>Workforce</u> No Issues
6.3	<u>Equality and Diversity/Equality Impact Assessment</u> This report is an update on an existing policy with no issues identified at this stage.
6.4	<u>Financial Considerations</u> There are no financial considerations to the proposals.
6.5	<u>Legal</u> The Council has a legal duty to update and consult on this policy as detailed in the legislation.
6.6	<u>Climate Change and Sustainability</u> No Issues arising from this report
6.7	<u>Conservation and Enhancement of Biodiversity</u> No issues arising from this report

6.8	<u>Consultation</u> The Council has a duty to consult on this report and will do so formally.
6.9	<u>Risk Assessment</u> No Issues arising from this report.

Mr Mark Trillo
Executive Director (Governance & Regulatory Services)

Contact details

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STAFFORDSHIRE

MOORLANDS DISTRICT

COUNCIL

GAMBLING ACT 2005

**STATEMENT
OF PRINCIPLES
2025-2028**

Effective:-

**Gambling Act 2005
Statement of Principles**

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Important Note:

Any reference made to “Guidance issued to Licensing Authorities by the Gambling Commission” is the latest version which was published 01 April 2021 and last updated on **01 April 2023**.

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

Staffordshire Moorlands District Council is situated in the County of Staffordshire which contains nine Councils in total. The district has a substantial residential population split between the three main towns of Leek, Cheadle and Biddulph with the remainder spread over a large rural area, whose amenity the Council has a duty to protect. A third of the district lies in the Peak District National Park, one of Britain’s most visited national parks. Two thirds of the 95,800 people who live in the Staffordshire Moorlands reside in the market towns, while the rest live in or near the district’s many villages, of which the two main population centres are Werrington and Blythe Bridge. (Census data from 2021 is published at www.ons.gov.uk). The areas covered are shown in the map located on page 34.

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. **The previous Policy statement was published in 2022.**

Staffordshire Moorlands Council will consult widely upon this statement before finalising and publishing. A list of the consultees is provided below.

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

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

This Licensing Authority will consult with:

- The Chief Constable, Staffordshire Constabulary
- Staffordshire Safeguarding Board, Staffordshire County Council Social Services
- Staffordshire Fire & Rescue Service
- Staffordshire Youth Services
- Staffordshire County Council Trading Standards
- Trade associations as appropriate
- British Beer & Pub Association
- Association of British Bookmakers
- Staffordshire Moorlands District Council elected Members
- All Parish and Town Councils in SMDC
- Neighbouring local authorities
- Current Licence holders.
- Representatives of current licence holders.
- National Charities concerned with the social impact of gambling.
- National bodies representing the gambling trade.
- Members of the Public and Representatives of persons who hold Small Society Lottery Registrations in Staffordshire Moorlands (via the website)

The consultation took place between 22 November 2024 and 03 January 2025. This licensing authority followed the Cabinet Office Guidance on Consultation Principles first published in July 2012 and last updated in March 2018.

The full list of comments made will be made available upon request to: The Licensing Section, Staffordshire Moorlands District Council, Moorlands House, Stockwell Street, Leek, Staffordshire Moorlands. ST13 6HQ.

This policy will be approved at a meeting of the Full Council after consultation. Copies will be available for inspection on the website at www.staffsmoorlands.gov.uk

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

Licensing Department – Regulatory Services
Staffordshire Moorlands District Council, Moorlands House, Stockwell Street,
Leek, Staffordshire. ST13 6HQ
E-mail: licensing-1@staffsmoorlands.gov.uk

It should be noted that this statement of 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 statement of principles, 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, 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
- 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 local authorities, this authority designates the Staffordshire Area Child Protection Committee, Staffordshire County Council for this purpose.

Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are as follows:

- The Licensing Authority (Staffordshire Moorlands District Council)
- The Gambling Commission
- The Chief Officer of Police for Staffordshire
- Staffordshire Fire & Rescue Service
- Local Planning Authority (Staffordshire Moorlands District Council)

- Environmental Health Pollution Section, Staffordshire Moorlands District Council
- Staffordshire Area Child Protection Services, Staffordshire County Council Social Services
- HM Revenue and Customs
- Director of Health and Care for Staffordshire County Council
- Any other person prescribed in regulations by the Secretary of State

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.staffsmoorlands.gov.uk

5. Interested parties

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

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

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

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

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 8.12 and 8.15, as listed below.

Persons living close to premises

The factors that licensing authorities should take into account when determining what 'sufficiently close to the premises' means (in each case) may include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment)

- the circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.

Persons with business interests

The factors which this licensing authority will take into account when determining what “business interest that might be affected” may include:
 the size of the premises
 the ‘catchment’ area of the premises (that is, how far people travel to visit the premises)
 whether the person making the representation has business interests in that catchment area that might be affected.

This licensing authority will also consider the Gambling Commission’s Guidance that ““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 Sub-Committee dealing with the licence application. If there are any doubts, then please contact the licensing department.

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 2018 and the commensurate General Data Protection Regulations will not be contravened. The licensing authority will also have regard to any Guidance
 Staffordshire Moorlands District Council

issued by the Gambling Commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

The Council has a duty to protect the public funds it administers and to this end, may use the information provided for the prevention and detection of fraud. It may also share information with other bodies responsible for auditing or administering public funds for these purposes, e.g. National Fraud Initiative

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 local 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 local 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 programme, based on.

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- 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 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences, large society lotteries, remote gambling through websites and the

National Lottery. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This licensing authority will keep abreast of developments in regard to the Regulators Compliance Code and the principles of the Legislative and Regulatory Reform Act 2006.

Bearing in mind the principle of transparency, the licensing authority's enforcement/compliance protocols/written agreements will be 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) or 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* (for tracks)
- 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

PART B PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

Premises licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is 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 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
- in accordance with any relevant code of practice issued by the Gambling Commission

The Gambling Commission's Licence Conditions and Code of Practice (LCCP) which were revised and published on 31 October 2020, requires operators to consider local risks from the provision of gambling at their premises.

Part II of the LCCP provides:

1 Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.

2 Licensees must review (and update as necessary) their local risk assessments:

- a** to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- b** when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- c** when applying for a variation of a premises licence; and
- d** in any case, undertakes a local risk assessment when applying for a new premises licence.

Part II also provides:

1 Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

The Licensing Authority must provide guidance to operators on what it considers should be included in the risk assessments and identify any local risks to be considered prior to making an application. The guidance will be

appended to the Statement of Principles and may be amended from time to time subject to approval by the Licensing Committee.

The Council will expect the local risk assessment to include the below considerations as a minimum:

- The location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather.
- The demographics of the area in relation to vulnerable groups.
- Whether the premises is in an area subject to high levels of crime and/or disorder.
- How vulnerable people, including those with gambling dependencies are protected;
- Any information held regarding self-exclusions and incidences of underage gambling.
- Gaming trends that reflect pay day or benefit payments.
- Known problems in the area such as problems arising from street drinkers, individuals involved in areas such as ASB, drug dealing etc
- Areas or premises where children are known to congregate including bus stops, cafes etc.
- Areas or premises that may be frequented by vulnerable adults such as hospitals, residential care homes, medical facilities, addiction clinics, places where alcohol or drug dependant individuals may congregate.

In accordance with the Gambling Commission's Guidance to local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority. (See section on Casinos)

(ii) Definition of "premises" - Premises are defined in the Act as "any place". Section 152 therefore prevents more than one premises licence applying to any place, but a single building can 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 subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in its Guidance to Licensing Authorities that

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

Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

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

- Do the premises have a separate registration for business rates?
- Are neighbouring premises owned by the same person as that premises subject to the Gambling Act requirements?
- 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
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

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

Betting Shops

- Access must be from a street or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of 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

(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: -

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

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

(iv) **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. As per the Gambling Commission's Guidance for 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 that 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.

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 building 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 local 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 such 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 has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences. There is however, more of a role with regard to track gambling which is explained in more detail in the 'tracks' section – see page 20.

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

This licensing authority has noted the Gambling Commission's Guidance for local authorities states 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, use of 'Challenge 25' principles etc.

As regards the term "vulnerable persons" it is noted that neither the Gambling Commission nor the Council is seeking to offer a definition but will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs. The Council will consider this licensing objective on a case by case basis having regard to any guidance issued by the Gambling Commission. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision

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 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.

Conditions which the licensing authority cannot attach to premises licences 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, winnings or prizes

Door Supervisors - The Gambling Commission advises in Guidance for local 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.

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.
- 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.

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 will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures/ licence conditions may cover issues such as:

- CCTV
- Door supervisors
- 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 passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, at the meeting of the Full Council on 2nd December 2006. Potential licence applicants should take note that as a 'no casino' resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place. The detailed reasons for the resolution are attached at Appendix B.

5. Bingo premises

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

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 unusual circumstances in which the splitting of a pre-existing premise into two adjacent premises might be permitted, and in particular that it is not permissible to locate all of the gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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.

This licensing authority notes that the holder of a Bingo premise licence may make available for use a number of category B gaming Machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the

total number of gaming machines, which ever is the greater. A licence variation may be required if operators wishing to take advantage of this change in legislation need to make alterations to the structure/layout of the premises.

The holder of an a bingo premise licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B machines or 20% of the total number of gaming machines whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulation state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

6. Betting premises

Betting premises are premises such as bookmakers where various types of gambling are authorised to take place. The Act contains a single class of licence for betting premises. However, within this single class there are different types of premises which require licensing such as normal high street bookmakers, bookmakers located in self-contained facilities at racecourses as well as the general betting premises licences that track operators will require

Betting machines – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines and the nature and circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises the Council, amongst other things, will 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.

7. Tracks

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

This authority will therefore expect the premises licence applicants 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
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as Gamcare

This list is neither 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.

The Council will also consider the special implications of betting machines that may arise at a track due to the size of the premises and the possibility that machines may be scattered around the site making it more difficult for the track operator to comply with the law and prevent children from betting on the machines.

The Council agrees with the Commission's view that it is preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This ensures that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises

The Council will consider any Gambling Commission guidance about the application of conditions regarding rules being displayed. The Council may require the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that the rules are displayed in the race card or made available in leaflet form from the track office.

Track applications and plans

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

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

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

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

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.

8. Travelling Fairs

Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit provided that certain conditions are met and this provision continues in similar fashion under the new Act

Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair.

The Council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair

The Council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year, 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. The Council will work with its neighbouring authorities to ensure that land which crosses its 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 have 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; for the licensing authority to decide whether the review is valid. 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 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 or Scottish Ministers (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.

The term “Unlicensed Family Entertainment Centre” is one defined in the Act and refers to premises which provide Category D gaming machines along with various other amusements such as computer games and penny pushers. The premises are “unlicensed” in that they do not require a premises licence but do require a permit to be able to provide category D machines. It should not be confused with a “Licensed Family Entertainment Centre” which does require a premises licence because it contains both category C and D gaming machines.

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. Licensing authorities might wish to consider asking applicants to demonstrate:

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

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

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”. “Such matters” will be decided on a case by case basis with regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and an expectation that the applicant will demonstrate there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

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.

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.

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 propose to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles that it proposes to apply, which is that 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)).

There are conditions in the Gambling Act 2005 with which the permit holder must comply, however 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 or a Club Gaming Machines 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. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

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. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming 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.

Before granting the permit, the Council will need to satisfy itself that the premises meet the requirements of a members' club and that the majority of members are over 18 years of age.

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 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.

A summary of gaming machine categories and entitlements can be found at Appendix B of the Guidance issued to Licensing Authorities by the Gambling Commission, <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensingauthorities>.

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” 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.

7. Small Society Lotteries

The Act creates two principal classes of lotteries - licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries, there are four sub classes, one of which is small society lotteries

A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These may be administered by the Council for small societies who have a principal office in the area and wish to run such a lottery

A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less

To be ‘non-commercial’, a society must be established and conducted:

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

The other types of exempt lotteries are 'incidental non-commercial lotteries', 'private lotteries' and 'customer lotteries'

The licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. The authority considers that the following list, although not exhaustive, could affect the risk status of the operator:

- Submission of late returns (returns must be submitted no later than 3 months after the date on which the lottery was held)
- Submission of incomplete or incorrect returns.
- Breaches of limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- By, or on behalf of, a charity or for charitable purposes
- To enable participation in or support of, sporting, athletic or cultural activities.

If charities or community groups need further help or advice then they can contact the Council's Licensing Team.

Appendix 1: TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

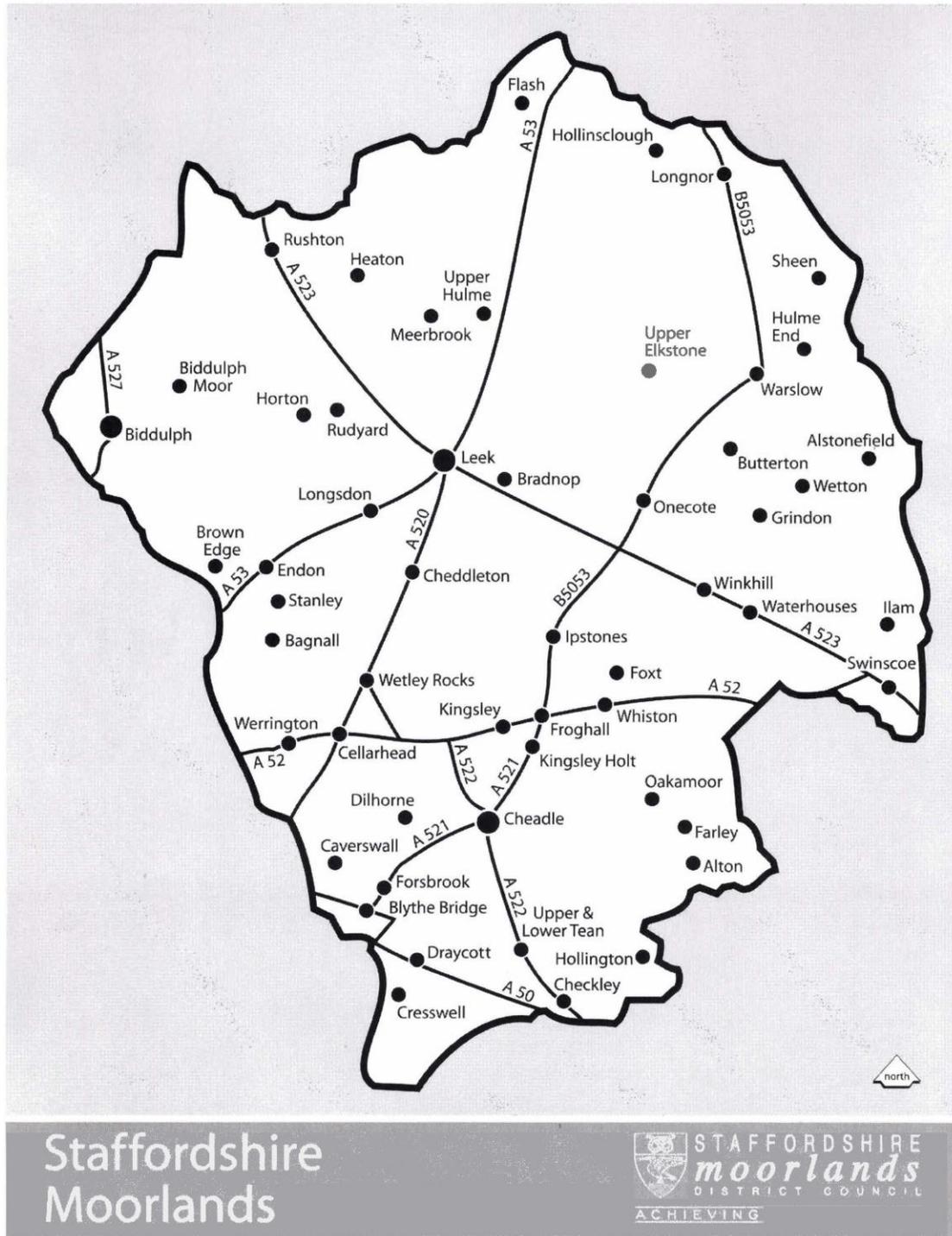
MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Licensing & Regulatory Committee)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Small Society Lotteries		Where refusal or revocation is recommended	Authority to grant or cancel Small Society registrations

Appendix 2: No Casino Resolution

The following are the reasons for the adoption by the Council of a 'No Casinos' resolution as approved by the Council at its meeting of December 2nd, 2006.

1. There are no Casinos in the District at present, so a precedent is not being set. The decision could be reversed in three years time but it would place the applicant in a position to justify why a Casino Licence should be issued.
2. On-line gambling is available through the Internet.
3. Casino gambling is available in the cities and should be discouraged in a predominantly rural district, because it would bring in people from outside who may cause significant community safety problems.
4. The main reason for a Casino, except for the purpose of gambling, is to provide a social setting for meals, refreshments, drinking and entertainment with other like-minded people. However, it is considered that there are sufficient alternative venues, which provided these facilities.
5. The purpose of this resolution is not only to prevent people from gambling and possibly running into debt, but also to discourage the issuing of Casino Licences for private profit, rather than the common good.

Appendix 3: Map of the Staffordshire Moorlands District



**Staffordshire
Moorlands**



Appendix 4: Licensing Authority's Guidance to Operators with Regards to Local Area Risk Assessments

Local Gambling Risk Assessment - SAMPLE

Premises Name:	Premises Licence Number (If Applicable):
Premises Address:	
Post Code:	
Category of gambling premises licence:	
Name of person completing the assessment:	
Date original assessment carried out:	

This risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

Complete **a) - c)** with areas that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises having regard to Local Area, Gambling Operation and premises design.

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



b) Ensuring that gambling is conducted in a fair and open way



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

d) Control measures (based on the information above for a) – c), state the control measures you will put in place, e.g. systems, design and physical)

Describe the steps you intend to take to promote the three licensing objectives:

ACTIONS FOLLOWING ASSESSMENT

AREA e.g. local area, gambling operation, premises design	PERSON/DEPT TASKED	DATE TASKED	DATE TASK COMPLETED

Signed:	Date:
PRINT NAME:	

For further guidance on completing this assessment or when this assessment must be reviewed please refer to Gambling Commission Guidance on Undertaking Gambling Local Area Risk Assessments
<https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/local-area-risk-assessments>

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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Licensing and Regulatory Committee

15 November 2024

TITLE:	Staffordshire County Council Boundary Changes
PORTFOLIO HOLDER:	Councillor Mike Gledhill – Council Leader
CONTACT OFFICER:	Paul Rushworth – Corporate Services Manager (Legal and Elections) and Deputy Monitoring Officer Marion Hancock – Senior Elections Officer
WARDS INVOLVED:	Biddulph North, Biddulph South & Endon Leek South and Leek Rural County Divisions

**Appendices Attached – Appendix A LEEK SOUTH DIVISION
Appendix B CHURNET VALLEY DIVISION
Appendix C LEEK RURAL DIVISION
Appendix D BIDDULPH SOUTH & ENDON DIVISION**

1. Reason for the Report

- 1.1 The Local Government Boundary Commission for England (LGBCE) is required to review the electoral boundaries of every council periodically. It has recently conducted a review of Staffordshire County Council. The County Council's previous boundary review was completed in 2012.
- 1.2 This report explains the outcome of the recent review and makes recommendations in respect of the proposed changes. The changes will come into force at the next scheduled County Council elections on 1 May 2025.

2. Recommendation

- 2.1 It is recommended that the Committee:
 - i) Notes the outcome of the review and the changes to divisional boundaries, polling districts, polling places and polling stations.
 - ii) Approves that the revised arrangements will take effect from 1 December 2024.

3. Executive Summary

- 3.1 The Local Government Boundary Commission for England (LGBCE) has

recently carried out a formal electoral review of Staffordshire County Council to ensure that the Electoral Divisions in the County are the most appropriate to help ensure that the Council carries out its responsibilities effectively and to provide that the number of electors represented by each councillor is broadly consistent.

3.2 The review has considered information gathered from a consultation period which took place over a 10 week period from August 2023 to October 2023. The final recommendations were published on 15th May 2024 and will now be enacted under the Staffordshire (Electoral Changes) Order 2024.

3.3 The outcome of the review has resulted in required changes to the Electoral Divisions in which some of the electorate in the District will vote in future elections. The details of these divisional changes are outlined in the Appendices attached.

4. How this report links to Corporate Priorities

4.1 The proposals within the report help to support the environment by enabling residents to vote at suitable accessible facilities in the interests of the democratic process.

5. Alternative Options

5.1 The options for proposed changes are found within the report and appendices. The changes are proposed after the Staffordshire County Council's review.

6. Implications

6.1	<u>Community safety, including safeguarding and prevention of terrorism</u> No implications
6.2	<u>Workforce</u> No implications
6.3	<u>Equality and Diversity/Equality Impact Assessment</u> This report has been prepared in accordance with the Council's Diversity and Equality Policies
6.4	<u>Financial Considerations</u> None directly
6.5	<u>Legal</u>

	The Local Government Boundary Commission for England (LGBCE) has conducted a review of Staffordshire County Council and they are required to review the electoral arrangements of every council in England from time to time. The proposals are due to be enacted under the Staffordshire (Electoral Changes) Order 2024
6.6	<u>Climate Change and Sustainability</u> No implications
6.7	<u>Conservation and Enhancement of Biodiversity</u> No implications
6.8	<u>Consultation</u> A full consultation exercise has been undertaken ahead of analysing the options which are found in the appendices.
6.9	<u>Risk Assessment</u> All buildings have been risk assessed

Mark Trillo
Executive Director (Governance & Commissioning)

**Web Links and
Background Papers**

Contact details

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7. Detail

- 7.1 Staffordshire Moorlands District Council's area is split into 7 divisions, each represented by 1 councillor, to represent the district at Staffordshire County Council. A review of the County's electoral boundaries has recently been carried out by the Local Government Boundary Commission for England (LGBCE), with the aim to create 'electoral equality', whereby the number of electors per councillor is as even as possible across the County area. The objective of the review is to enable the County Council to govern its area most effectively.
- 7.2 The LGBCE review considered all relevant information in relation to electoral arrangements at the County, and the feedback gathered from a public consultation period which took place over a 10 week period from August 2023 to October 2023. The final recommendations were published on 15th May 2024

and will now be enacted under the Staffordshire (Electoral Changes) Order 2024 to take effect at the next County elections scheduled for May 2025.

- 7.3 The changes to the divisional boundaries resulting from the review have meant that some residents in Staffordshire Moorlands will now vote in different divisions, as detailed below:

Some electors in polling district JJJ, currently Leek South Division, move into a new polling district JJ Biddulph South & Endon Division – see **Appendix A**

Electors from polling districts JJJA and KKKA, currently Leek South Division, move into Biddulph South & Endon Division – see **Appendix B**

Electors from polling district HH, currently Leek Rural Division, move into Biddulph South & Endon Division – see **Appendix C**

Some electors from polling district UU, currently Biddulph South & Endon Division, move into new polling district YYA Biddulph North Division – see **Appendix D**

- 7.4 The electoral services team at the Council has worked to change the divisional boundaries on our mapping systems. The team will now write to all affected electors to notify them of the changes.
- 7.5 As a separate issue it is proposed to use the Scout Hut at Fowlchurch Road, Leek as a temporary replacement polling station because the existing polling station at Brough Park Leisure Centre is unavailable while the Leisure centre is being refurbished. The ward members and the County Councillor have been consulted about the proposed change. The new polling station is considered appropriate for the conduct of the poll having regard for the need to ensure a effective voter experience.

STAFFORDSHIRE COUNTY COUNCIL REVIEW**LEEK SOUTH DIVISION (JJJ)****REPORT**

Current Polling Place	St Marys Catholic Primary School
Polling District	JJJ – will include Leek South Division, Leek South District Ward and new Leek South East Town Ward. The polling district will be split to form new polling district JJ. JJ will move to Biddulph South & Endon division, Leek South District Ward and will form a new Leek South West Town Ward
Polling Station	Electors from JJJ will continue to vote at St Mary's Catholic Primary School Electors from new polling district JJ will move to vote at Longsdon Memorial Hall which is currently already used as a Polling Station
Proposal for Change	Longsdon Memorial Hall is deemed a suitable venue
Reasons for Change	Received as part of the review

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STAFFORDSHIRE COUNTY COUNCIL REVIEW**CHURNET VALLEY DIVISION (JJJA and KKKA)****REPORT**

Current Polling Place	Birchall Sports Pavilion
Polling Districts	Electors from polling districts JJJA and KKKA – currently in Churnet Valley division have now been moved into Leek South division
Polling Station	Birchall Sports Pavilion
Proposals for Change	Voting to continue at Birchall Sports Pavilion
Reasons for Change	Received as part of the review

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STAFFORDSHIRE COUNTY COUNCIL REVIEW**LEEK RURAL DIVISION (HH)****REPORT**

Current Polling Place	Longsdon Memorial Hall
Polling Districts	Electors currently in polling district HH - Leek Rural division to move to Biddulph South and Endon division
Polling Station	Longsdon Memorial Hall
Proposals for Change	Voting to continue at Longsdon Memorial Hall
Reasons for Change	Received as part of the review

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STAFFORDSHIRE COUNTY COUNCIL REVIEW**BIDDULPH SOUTH & ENDON DIVISION (UU)****REPORT**

Current Polling Place	Biddulph High School
Polling Districts	Some electors from polling district UU Biddulph South & Endon Division move into new polling district YYA Biddulph North division
Polling Station	Biddulph Moor Village Hall which is already used as a Polling Station
Proposals for Change	Biddulph Moor Village Hall is deemed a suitable venue
Reasons for Change	Received as part of the review

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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Licensing & Regulatory Committee

15 November 2024

TITLE:	Street Trading Policy
PORTFOLIO HOLDER:	Councillor Bill Cawley - Portfolio Holder for Communities
CONTACT OFFICER:	Alicia Patterson - Head of Environmental Health
WARDS INVOLVED:	ALL WARDS

Appendix 1 – Proposed Street Trading Policy

Appendix 2 – Consultation Response

1. Reason for the Report

- 1.1 The report confirms the consultation responses received to the Draft Street Trading Policy 2024-2027 and recommends approval of the revised Policy.

2. Recommendation

- 2.1 That the Committee notes the consultation response received (appendix 2).
- 2.2 That the Committee accepts the amendments proposed in red of the attached Draft Street Trading Policy (Appendix 1).
- 2.3 That the Committee **RECOMMENDS** approval of the amended Street Trading Policy 2024-2027 to Full Council.

3. Executive Summary

- 3.1 The Council re-designated Derby Street in Leek, in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and introduced a Street Trading Consent Policy to provide a transparent framework for the decision making process, and to ensure that the system operates within constitutional arrangements.
- 3.2 It is a requirement that licensing authorities regularly review and update policies to reflect changes in legislation, local circumstances and safeguarding issues.

3.3 A consultation exercise regarding a revised Policy was carried out between 23rd April 2024 to 10th June 2024, including specific consultation with existing street traders as well as the public. A proposed amendment to the Policy in response to the comments received after consultation is highlighted in red in Appendix 1.

4. **How this report links to Corporate Priorities**

4.1 Aim 1 Help create a safer and healthier environment for our communities to live and work.

Aim 4 – Protect and improve the environment.

5. **Alternative Options**

5.1 To amend the draft Policy as proposed together with any further amendments. (Recommended)

5.2 To note the consultation responses received and not to amend the Policy. (Not recommended)

6. **Implications**

6.1	<u>Community safety, including safeguarding and prevention of terrorism</u> The successful implementation of the Street Trading Policy should have a positive impact on community safety and assist in the reduction of crime
6.2	<u>Workforce</u> None
6.3	<u>Equality and Diversity/Equality Impact Assessment</u> This report has been prepared in accordance with the Council's Diversity and Equality Policies
6.4	<u>Financial Considerations</u> The failure of the Council to review and consult on our policies on a regular basis may result in a judicial review proceedings being brought against the Council. Traders will be financially impacted due to the emission changes Proposed in the revised Policy and will need to fund conversions on their vehicles.
6.5	<u>Legal</u> Staffordshire Moorlands District Council has adopted Section 4 of the Local Government Miscellaneous Provisions Act 1982, as a result all street trading in Staffordshire Moorlands requires a Street Trading Consent. Responsibility for street trading matters within the

	Council sits with the Licensing Committee and the Environmental Health service.
6.6	<u>Climate Change and Sustainability</u> The Policy seeks to ensure that street vendors are responsible and where possible reduce waste and plastic use.
6.7	<u>Conservation and Enhancement of Biodiversity</u> No Matters arising from this report
6.8	<u>Consultation</u> A consultation has been carried out
6.9	<u>Risk Assessment</u> No Matters arising from this report

Mr Mark Trillo
Executive Director (Governance & Regulatory Services)

**Web Links and
Background Papers**

Contact details

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7. Detail

7.1 Street trading means the selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment (this can include private land). Staffordshire Moorlands District Council ("the Council") has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") which means that consent is required before trading in certain places.

7.2 For the purpose of clarification the Committee may wish to note that the following are not street trading for the purposes of this Policy: a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871; b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order; c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980; d) trading as a news vendor; e) trading which – (i) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop; (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop; f) selling things, or offering or exposing them for sale, as a roundsman; g) the use for trading under Part VIIA of the highways Act 1980

of an object or structure placed on, in or over a highway; h) the operation of facilities for recreation or refreshment under Part VIIA of the highways Act 1980; i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions Act 1916.). The reference to trading as a news vendor in (d) is a reference to trading where: (a) the only articles sold or exposed or offered for sale are newspapers or periodicals; and (b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not: (i) exceed one metre in length or width or two metres in height; (ii) occupy a ground area exceeding 0.25 square metres; or (iii) stand on the carriageway of a street.

- 7.3 A consultation exercise was undertaken on a revised Street Trading Policy. A copy of the proposed revised Policy was made available to view on the Staffordshire Moorlands Council website, in addition a hard copy was available at the One Stop Shop reception in leek. All existing street trading vendors and event organisers were individually consulted on the proposals.
- 7.4 The Council has received one response to the consultation exercise, which is attached at appendix 2. The revised Policy, attached at Appendix 1, has a proposed amendment in red, in response to the consultation response received by the Council. The revised Policy is proposed for recommendation for approval to Full Council.

Staffordshire Moorlands District Council

Draft Street Trading Policy 2024-2027



INDEX	
Purpose	
What is Street Trading	
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Purpose

The aim of the statement of street trading consent policy (“the policy”) is to provide a consistent and transparent approach to the method of providing street trading consents within the Staffordshire Moorlands area.

To achieve this aim, the Council is committed to partnership working with Staffordshire Constabulary, Staffordshire County Council, the trade, and local fixed premises businesses.

The policy sets out how we intend to manage the street trading consent function and how we will ensure the process is fair. It confirms the fee structure for the service, with all such fees based on a cost recovery basis.

The Council has an overall aim to improve the quality of life in the Staffordshire Moorlands. The Council has four main aims around which it has centred its ambitions for the community. These aims are to: -

- Provide Quality Services in Partnership with Communities.
- Meet Financial Challenges and Provide Value for Money
- Support Economic Development and Regeneration
- Protect and Improve the Environment

The policy recognises the importance of street trading to the District of Staffordshire Moorlands and that it can add to the vibrancy and vitality whilst not adding to nuisance and crime and disorder or cause other problems.

This policy will be the subject of monitoring and review after three years.

This policy will be applied in a manner which is consistent with the Council’s equalities policies.

What is Street Trading?

Street trading means the selling, exposing, or offering for sale any article in a street. The term 'street' includes any road, footway, or other area to which the public have access without payment (this can include private land).

Staffordshire Moorlands District Council (“the Council”) has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) which means that consent is required before trading in certain places. Other locations have prohibitions on street trading at any time.

This policy does not include activities such as placing goods for sale on the street from a shop, street café’s operating from a fixed premise or the siting of “A” Boards on the street as this is not within the remit of the above legislation (providing the same products/merchandise that the shop sells are being sold outside).

Exemptions from the need to obtain a Consent.

Some types of trade are legally exempt from the need to obtain a street trading consent. These include:

- A person trading under the authority of a pedlars’ certificate granted under the Pedlars Act 1871
- Trade carried out by rounds men e.g., milkmen.
- Trade carried on at a petrol filling station.
- Market created by statute or grant.
- Trading as a newsvendor.
- Trading in and around shops
- Charity collections.

Emissions

The Council's Climate Change Plan aims to ensure that all key Council strategies and policies support the Council's commitment to Carbon Zero by 2030. It is appropriate, therefore, that the Street Trading Policy supports this aim and to integrate climate change.

Reductions in the emissions from street trading vehicles will also contribute towards the Council's obligations with regards to air quality management in the Borough.

The following criteria will be implemented.

At first application – Vehicles must meet or exceed Euro 6 (Diesel) Euro 4 (Petrol) emissions standards are they will not be deemed suitable for licensing.

At renewal – From 01/04/2026 Street trading licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 6 emissions standards (Diesel) Euro 4 (Petrol) emissions standards.

Where vehicles do not meet the relevant emissions criteria, the proprietor may:

- Have the vehicle adapted/modified to meet the standard and provide evidence of this;
- Change the fuel that is used to a cleaner alternative, such as bio diesel;
- Replace the vehicle with one that meets the emission standard.

Application Process – New Annual Consent.

- ✓ Applications must be made on the application form provided by the Council.
- ✓ All applicants must be aged 17 or over.
- ✓ The Applicant shall provide photographic ID and evidence of their right to reside and work in the UK
- ✓ Basic Disclosure obtained from the Disclosure and Barring Service (no older than 3 months on first application), and yearly on renewal.
- ✓ Map of location of intended trading with position of van, unit or stall marked on.
- ✓ A copy of the applicant's current Public Liability Insurance (minimum of £5,000,000 cover) will be required prior to the commencement of trading.
- ✓ Photograph of the trading unit.
- ✓ Size and dimensions of the unit including any support unit or equipment which must be a moveable structure and cannot be sited for more than 28 days in one period (unless planning permission has been granted by the Authority for a permanent structure)
- ✓ Proposed food businesses must be registered under the Food Regulations with the Local Authority where their vehicle is based and provide evidence that they are registered. The Authority has an expectation of 4 stars or higher.
- ✓ If the business is based in the Staffordshire Moorlands, and they are not currently registered with Staffordshire Moorlands, they should register with the Council.
- ✓ 2 passport photographs of the applicant.
- ✓ DVLA Licence to demonstrate capacity to tow a vehicle.
- ✓ Completed declaration form of convictions (please see conviction guidelines for further information)
- ✓ Copy of planning permission if to be sited for more than 28 days (without moving) or a permanent structure.
- ✓ The Applicant must provide evidence of a Commercial Waste Removal Contract Including Oil if relevant.

Consultation with interested parties (Annual Consents only).

On receipt of an application for an annual consent, the Council may consult with all or selected parties (where applicable) from the list below: -

- ✓ Occupiers of premises in the vicinity of the proposed trading location.
- ✓ The Town or Parish council.
- ✓ Staffordshire Police.
- ✓ The Highway Authority at Staffordshire County Council
- ✓ Ward members.
- ✓ Other relevant council departments.
- ✓ Any other body deemed appropriate.

The application will also be displayed on the Council's website.

Applications will be considered within the time limits set in Appendix 1 where possible.

Once a decision has been made on the application, the applicant will be notified in writing, if the applicant is successful then the 1st instalment of the fee (annual consents only) is required prior to the commencement of trading and the consent being issued.

Identification Plates

For annual consents only, the Council will issue one identification plate which is included in the initial fee. The plate will need to be secured to the rear of the unit/van and remain in situ at all times whilst the Consent is valid. If lost or stolen a replacement plate can be requested from the Council but will incur additional charges.

Renewal Applications for Annual Street Trading Consents.

- ✓ Applications must be made on the application form provided by the Council.
(Please note applications will not be accepted if the agreed payment plan for the previous annual consent is in arrears).
- ✓ Renewal applications must be submitted no later than one month prior to the expiry of the current consent.
- ✓ Completed declaration form of convictions (please see conviction guidelines for further information)
- ✓ A copy of the applicant's current Public Liability Insurance (minimum of 5,000,000 will be required prior to the commencement of trading.
- ✓ Basic Disclosure obtained from the Disclosure and Barring Service (no older than 3 months).

Application Process – Daily Consent.

- ✓ Applications must be made on the application form provided by the Council.
- ✓ All applicants must be aged 17 or over.
- ✓ Application fee.
- ✓ Map of location of intended trading with position of van, unit or stall marked on.
- ✓ Photograph of the trading unit.
- ✓ A copy of the applicant's current Public Liability Insurance (minimum of 5,000,000.
- ✓ DVLA Licence to demonstrate capacity to tow a vehicle.
- ✓ Completed declaration form of convictions (please see conviction guidelines for further information)
- ✓ Landowners consent to trade from the location.
- ✓ Proposed food businesses must be registered under the Food Regulations with the Local Authority where their vehicle is based and provide evidence that they are registered. The Authority

- has an expectation of 4 stars or higher.
- ✓ If the business is based in the Staffordshire Moorlands, and they are not currently registered with Staffordshire Moorlands, they should register with the Council.

Please note failure to provide the necessary documents within the specified timescales may result in the consent not being issued.

Consideration of Applications

The Council will consider each individual application on its merits and in most cases grant a street trading consent unless, in its opinion:

- ❖ *There is not enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street.*
- ❖ *There are already enough traders trading in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade.*
- ❖ *There is undue concentration of traders trading in the street in which the applicant desires to trade.*
- ❖ *The consent, if granted, will result in nuisance to members of the public, residents, and local businesses due to the likely noise, smell, litter, disturbance, or other problems which will be caused by granting the consent.*
- ❖ *The size, nature, or appearance of the proposed stall (and any associated equipment) is inappropriate for the proposed location in terms of amenity or public or highway safety.*
- ❖ *The proposed trading hours are outside the usual business hours of shops in the vicinity.*
- ❖ *Previous convictions for relevant offences (dishonesty, Food Safety, Health and Safety, Licensing, or other related issues)*
- ❖ *Failure on a previous occasion to pay street trading consent fees within the agreed timescales.*
- ❖ *Having received relevant representation(s) and the application is referred to the Licensing Sub-Committee for determination and subsequently refused.*

Transfer/Amendments

- Street trading consents are non-transferable.
- No amendments (e.g. date changes/location/type of stall or van) may be made without prior written consent of the Licensing Authority
- Any consent which is valid but is no longer required should be surrendered to the Authority in writing.

Variations

Variations requests must be submitted in writing for an officers decision, this will be granted on a case by case basis once any impact on other businesses has been considered.

Variations of street trading consent can be made for the following purposes.

- Change of vehicle/unit
- Change of hours
- Days of trading
- Change of items to be sold

Fee Structure

The fee structure is available on the Council's website and is updated and reviewed annually.

Fee Structure (Christmas Trees)

A one-off fee will be payable to cover the duration of the seasonal period this fee is per pitch/location.

Charitable Organisations.

If a pitch is required for a charity event and all the profit from the pitch or unit will be donated to charity, then a Charitable Street Trading Consent can be applied for.

There will be no charge for this consent.

Please note that your organisation will need to be registered with the Charity Commission, be CIC registered, or demonstrate that it is entirely charitable in nature, to qualify for this consent, and you will need to supply a detailed account of donations to registered charities within six weeks of the event.

Any trader seeking a consent for Street Trading should also seek advice from the Council if further permissions are necessary e.g. Temporary Event Notifications etc.

Guidelines relating to the relevance of convictions.

General Policy

It should be advised that the Council will take relevant prior convictions into account when it decides whether to grant a street trading consent.

Each case will be decided on its own merits.

The Council will assess whether an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent.

In considering the previous convictions of the applicant, the Council will consider the following:

- ❖ Whether the conviction is relevant.
- ❖ The seriousness of the offence
- ❖ The length of time since the offence occurred.
- ❖ Whether there is a pattern of offending behaviour
- ❖ Whether that person's circumstances have changed since the offence occurred and
- ❖ The circumstances surround the offence and the explanation offered by that person.

Offence Types

The following is a description of the Council's general approach to certain categories of offences.

Dishonesty

The holders of a street trading consent and their assistants must be persons who can be trusted. It is easy for a dishonest tradesman or assistant to take advantage of the public

Members of the public using a street trading outlet expect the holder and his/her assistant to be honest and trustworthy.

For these reasons a serious view will be taken on any conviction involving dishonesty. In general, an application for the grant or renewal of a street trading consent is unlikely to be granted a street trading consent where the application is made within 3 to 5 years of a conviction or the date of release from jail depending upon the nature and seriousness of the offence.

Violence

As street traders and their assistants have close contact with the public, a robust approach will be taken with applications that have convictions for violence. In cases where the commission of an offence involves loss of life, a street trading consent will normally be refused. In other cases, a period of 3 – 10 years free of conviction from the date of conviction or the date of release from jail where a custodial sentence has been imposed, depending upon the nature and seriousness of the offence will generally be required before an application is likely to be considered favourably.

Drugs

Where an applicant has a conviction for an offence that relates to the supply or importation or possession of drugs and the date of the conviction or the release from jail, where a custodial sentence has been imposed, is less than 5 to 10 years before the date of the application, an application will normally be refused. After 5 years from a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a suitable person to hold a street trading consent will be taken into consideration.

Sexual and indecency offences

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a street trading consent. Where an applicant has a

conviction for a sexual offence such as indecent exposure, they will normally be refused a street trading until they can show a substantial period usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a suitable person to hold a street trading consent. In cases where the Council considers that information shows an applicant is not a suitable person, it will normally require a period of not less than 5 years free of such incidents from the date on which the incident occurred or, if more than one from the date of the last incident.

Conditions - general

Conditions will be imposed as the Council considers reasonably necessary and relevant in any particular case. The usual conditions to be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality are as follows: -

1. The place in which the consent holder is permitted to trade.
2. The day(s) and times at which the consent holder is permitted to trade.
3. A description of the types of articles in which they are permitted to trade.
4. The nature, size, and type of stall stand etc which is to be used.
5. That the street trading consent notice issued by the Council must be conspicuously displayed on the stall.
6. If food is to be sold, that there are satisfactory handwashing facilities in line with the food premise registration.
7. Any employees under the age of 17 must be supervised at all times.
8. That the trader is not to trade from the stall unless he holds and maintains sufficient public liability cover (currently 5,000,000)
9. Restrictions on the means the trader may use to attract custom to their stall (could include restrictions on the use of A Boards/amplified music etc)
10. That a suitable receptacle for litter must be provided and removed daily at the close of trading.
11. That the location must be kept in a clean and tidy condition at the end of trading hours each day.
12. That the stall must be removed each day at the end of trading hours unless agreement in writing is obtained from High Peak Borough Council.
13. That the trader must comply with any reasonable request of a police officer or authorised officer of the Council.

14. That the trader must produce to a police officer or authorised officer of the Council a copy of the consent on demand. (as per condition e).
15. Trader must retain their registration with their local Environmental Health Service for Food Hygiene purposes.
16. Operators must cease trading immediately upon expiry of a consent or when payments (as per individual written agreements) are overdue or when asked to do so by an officer of the Council or police officer.
17. The trader may be prohibited from trading at certain times due to other extenuating circumstances.
18. The trader is responsible for advising the Council of any change of name or address.
19. Single Use Plastics – The trader (as a responsible Food Business Operator) should adhere to all regulations including those enforced by Trading Standards, and other government agencies.
On 1st October 2023 businesses are no longer able to supply, sell or offer certain single-use plastic items: plates, bowls, trays, containers, cutlery, balloon sticks.

Also, businesses must not supply ready-to-consume food and drink in polystyrene containers.

Full guidance on the single-use plastics ban on the GOV.UK website

Conditions – Ice Cream Vans

1. May only trade at the locations stated on the consent.
2. May only trade during the dates and times specified on the consent.
3. Must not trade within 200 metres of any schools.
4. May only sell the goods described on the consent.
5. May only use the vehicle specified on the consent.
6. Must display the Street Trading Consent and its conditions conspicuously on the vehicle.
7. Must provide satisfactory hand washing facilities if food is sold.
8. Must hold and maintain sufficient public liability insurance cover (currently £5,000,000).
9. Must refrain from the use of signage that is not an integral part of the vehicle, including fly posting and A boards.
10. Where food is sold, must provide a suitable receptacle for litter, and dispose of such litter with the business's trade waste and the location must be left in a reasonably clean and tidy condition at the end of the trading hours each day.
11. Must remove the vehicle each day at the end of trading hours unless agreement in writing is obtained from the Council.
12. Must comply with any reasonable request of a police officer or authorised officer of the Council.

13. Must produce to a police officer or authorised officer of the Council a copy of the consent on demand.
 14. Must maintain their registration with their local Environmental Health Service for Food Hygiene purposes if food is prepared, stored, or sold.
 15. Must cease trading immediately upon expiry of the consent or when payments (as per any individual written arrangements with the Council) are overdue.
 16. Shall not allow the vehicle to cause an obstruction to road users or to the occupiers of adjoining premises.
-

17. The consent holder shall not stop to trade so as to cause any interference with the normal flow of traffic.
18. The consent holder shall comply at all times with the Code of Guidance on Noise from Ice-Cream Van Chimes in England 2013
19. Must have a full driving licence.

Conditions – Special Events

As well as the usual conditions applying to a street trading consent, conditions may also be imposed where reasonably necessary to control and maintain access to the area by emergency services and access by other vehicles during the event, employment of marshals, provision of WC's and additional conditions relating to removal of debris/waste from the area.

Competing for Sites

If any application is received on a site where an existing consent has already been granted, or where there are competing applications for an application for renewal has been received, in all cases these will be determined by the Licensing Officer. Normally the Council will give priority to the first application or existing consent holder but there may be occasions when it is appropriate to deviate from that general approach where the Council considers it is appropriate.

Enforcement

Any enforcement action taken by the Council will be in accordance with the Council's Enforcement Policies and consideration will be given to the national Enforcement Concordat.

Failure to comply with the conditions may lead to suspension, revocation, or non-renewal of the consent.

Failure to make one agreed payment under any written agreement or invoice may result in revocation of a Consent.

Any person found trading without consent in a Consent Street or in a Prohibited Street will be subject to enforcement action by the Council and may be prosecuted.

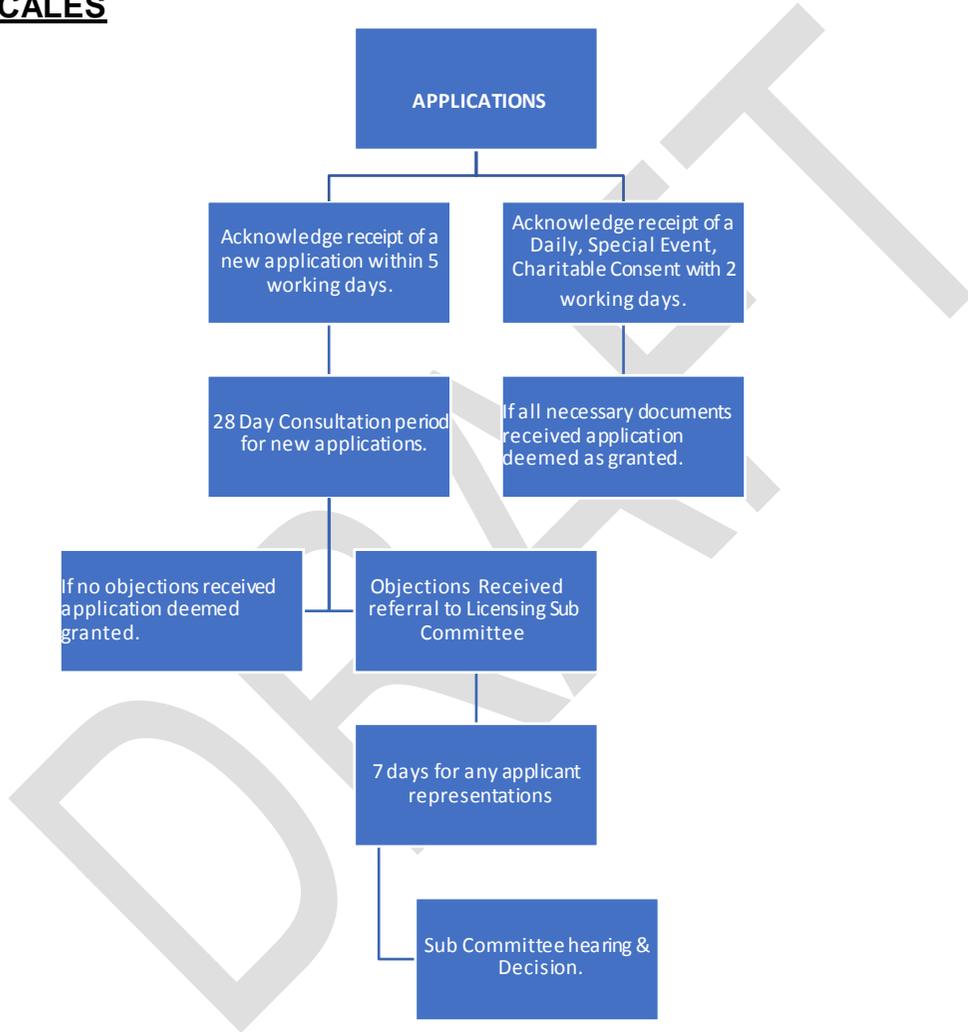
Administration, Exercise and Delegation of Functions

The powers and duties of the Council with regard to Street Trading Consent may be carried out by the Licensing Sub Committee or by officers acting under delegated authority. Since many of the functions are administrative or compliance monitoring based in nature, in the interests of speed, efficiency and cost-effectiveness, the Council supports the principle of delegating routine matters to officers. Appendix 1 sets out the delegation of functions and decisions.

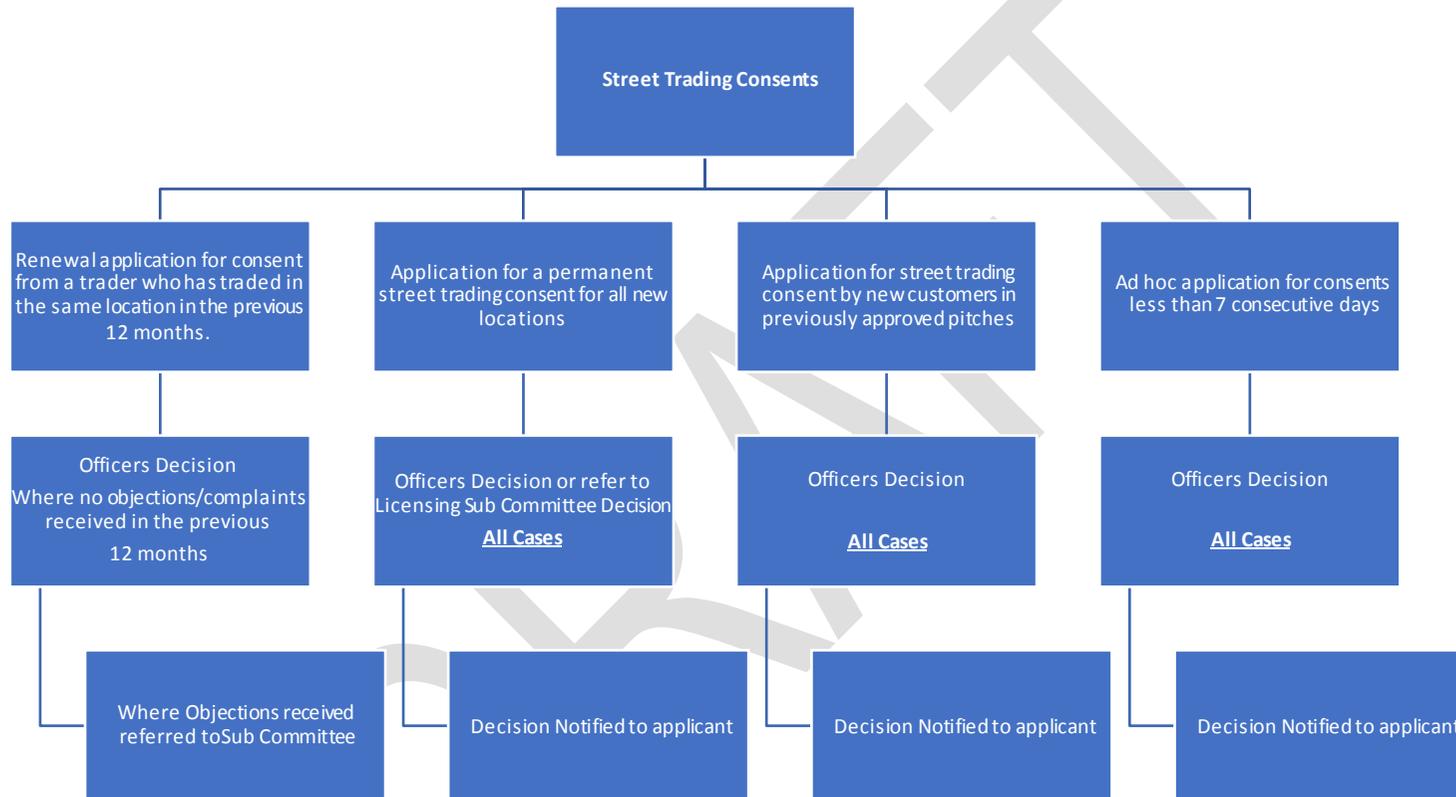
At the officers' discretion, any applications normally dealt with by officers may be passed up for Licensing Sub Committee determination.

All applications will normally be subject to delegated authority decisions where no objections have been received. Where relevant representations are received these will be determined by the Licensing Sub-Committee.

APPENDIX 1 - TIMESCALES



APPENDIX 2 - DELEGATIONS



Appendix 2

Street Trader – Ice Cream Van Derby Street

Consultation Response

I believe the consultation ends very soon in respect to air pollution on vehicles which I fully agree with as for me I know it will be about 5.5 k to have my van converted , the questions are (1)will there be a electric hook up available (I understand the safety issue) and how would the finance work if using electric ,(2) the alternative which is not an option is to spend 150-160k on a new van that meets the criteria of Europe 6 on diesel emissions, like I said I fully understand the serious issue of air pollution and hopefully we can work together especially on the electric hook up even if I have to move elsewhere.

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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Licensing & Regulatory Committee

15 November 2024

TITLE:	Enforcement Update
PORTFOLIO HOLDER:	Councillor Cawley - Portfolio Holder for Communities
CONTACT OFFICER:	Alicia E Patterson Head of Environmental Health
WARDS INVOLVED:	ALL

1. Reason for the Report

- 1.1 To update members in relation to the enforcement activity undertaken within the Licensing Section in the period since the last meeting of the Committee.

2. Recommendation

- 2.1 That the Committee notes the contents of the report.

3. Executive Summary

- 3.1 In the period from the last meeting the Licensing Service has engaged in a number of enforcement actions. These activities have involved reactive responses to complaints and intelligence received from the public and partner agencies as well as proactive compliance checks. It is pleasing to report that the Licensing Section has noted a good level of compliance with the applicable legislation overall.
- 3.2 Officers seek to encourage licence holders to conduct their activity in a safe manner, maintain good standards and to comply with the law. Officers have to exercise considerable discretion when approaching individual licence holders. Licensees are often anxious to comply with the law and for such cases the officer's role will be to provide guidance and advice. However, in carrying out their functions officers are authorised with a wide range of powers and may, for example, require entry at all reasonable times or require the production of certain documents.

- 3.3 If, on enquiry, officers find evidence that the law is being broken and enforcement is required, they can respond in various ways. They may instruct or warn by letter; revoke or suspend a licence; and, where the circumstances warrant it, they may formally caution or prosecute without prior warnings and without recourse to alternative sanctions. Officers will have due regard to the relevant Enforcement Policies when determining the most appropriate course of action.
- 3.4 Below is a summary of enforcement activity carried out during this period. The figures shown below include the contacts made with the Taxi Drivers and Operators, all contacts have been in relation to the renewal process. Licences to drive hackney carriages and private hire vehicles need to be renewed annually or three yearly.
- 3.5 The Council sends one reminder out to our drivers 60 days before their licence is due to expire, advising of any additional checks including DBS and Medical assessments, MOT requirements etc.

Staffordshire Moorlands	
Late TEN	14
Standard TEN	51
Road Closure Order	8
Vary DPS	17
Request to be removed as DPS	1
Time Limited Premises Licence	0
Full Variation	0
Grant Application	0
Minor Variation	1
Review of a Premises Licence	0
Surrender/Lapse of Premises Licence	2
Transfer	4
Change of Address - PLH	0
Change of Premises Name	1
Notice of Interest	0
Pavement Licence	4 (renewals)
Street Trading Consent – Annual	0
Street Trading Consent Events	0
Street Trading Consent Daily	0
Personal Licence New	15
Personal Licence Amended	12
Personal Licence Surrendered	1
Scrap Metal Site	0
Scrap Metal Collectors	0
House to House Collections	0
Street Collections	0
Small Society Lottery	0
Enforcement	

Staffordshire Moorlands	
Joint visits with Police	0
Attendance at Pub-watch	1
Appts with Premises Licence Holders (re Applications)	8
Licensing Enforcement Officer/Licensing Officer Inspections/Visits	The HOS will provide a verbal update to members
Joint visit with EHO (ongoing noise complaints)	1

3.6 CCTV in Taxis

The Licensing team and the Head of Service are continuing to work with the local taxi drivers and operators in relation to introducing either voluntary or mandatory CCTV in vehicles. To date, the Council has not received sufficient evidence to adopt a mandatory scheme, however, further work is continuing with the Police and other regulatory partners to establish where, or if, any issues are arising from the night time economy. The Council's officers continue to review the data protection issues which would arise from the introduction of a mandatory scheme.

3.7 A full review of the Hackney Carriage and Private Hire Vehicle policy is scheduled for early 2025.

4. How this report links to Corporate Priorities

4.1 The appropriate enforcement of licensing legislation in partnership with relevant agencies is a key tool in assuring the safety of our residents and visitors.

5. Alternative Options

5.1 There are no alternative options to consider.

6. Implications

6.1	<u>Community safety, including safeguarding and prevention of terrorism</u> Licensing and enforcement plays a crucial role in Community Safety, safeguarding and prevention of terrorism.
6.2	<u>Workforce</u> No Issues
6.3	<u>Equality and Diversity/Equality Impact Assessment</u> No Issues
6.4	<u>Financial Considerations</u> No Issues
6.5	<u>Legal</u> No Issues
6.6	<u>Climate Change and Sustainability</u> No issues
6.7	<u>Conservation and Enhancement of Biodiversity</u> No Issues

6.8	<u>Consultation</u> No Consultation
6.9	<u>Risk Assessment</u> No Issues

Mark Trillo
Executive Director (Governance & Regulatory Services)

Contact details

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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Licensing & Regulatory Committee

15 November 2024

TITLE:	Animal Licensing Policy
PORTFOLIO HOLDER:	Councillor Cawley - Portfolio Holder for Communities
CONTACT OFFICER:	Alicia Patterson - Head of Environmental Health
WARDS INVOLVED:	ALL

Appendix 1 – Draft Animal Licensing Policy

1. Reason for the Report

- 1.1 Animal Welfare requirements in the UK are spread over numerous pieces of legislation as listed in the proposed policy. The Council's responsibilities under animal welfare legislation are currently discharged via licences issued for various activities, and through the conditions applied to each individual licence.
- 1.2 The purpose of this report is to inform Members of the draft policy that is proposed to be used as a consultation document on the introduction of an Animal Licensing Policy for the Council.
- 1.3 This Policy will ensure that the Council carries out its animal licensing responsibilities in a fair, equitable and consistent manner.
- 1.4 It will help ensure that the public, councillors and those engaged in animal licensing activities understand what the law requires and how the Council will approach its enforcement duties.

2. **Recommendation**

- 2.1 That the Committee approves an 8 week consultation period on the proposed Animal Licensing Policy.

3. **Executive Summary**

- 3.1 The proposed draft Animal Licensing Policy at Appendix 1 has been prepared in pursuance of the Council's obligations under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 ("the Regulations") introduced on 1 October 2018 and associated legislation. If approved, the Council will review the policy every 3 years or at any other times were considered necessary, to reflect any significant changes in legislation or guidance.
- 3.2 The Council is the enforcing authority for activities relating to animal welfare that are subject to the above legislation. Licensing, compliance and enforcement will be the responsibility of the Council's Environmental Health team. When considering the granting of a licence relating to a licensable activity, the contents of the draft Policy (if approved), the current legislation and guidance notes must be considered. This information is freely available on Gov.uk website and is available on the Council's Animal Licensing website pages.
- 3.3 The licensing of activities involving animals aims to protect the public and to promote animal welfare.
- 3.4 The licensing process includes inspection of boarding establishments for cats and dogs, breeding dogs, selling animals as pets, hiring out of horses, and exhibiting animals. A risk-based process is applied and a "Star Rating" is given to each establishment based on the findings at the inspection visit. This will enable the public to make an informed choice when selecting which establishment to use.
- 3.5 The purpose of the risk-based inspection regime is to ensure that the operator is a fit and proper person; ensuring that any conditions applicable to the individual activity are being met; and that welfare standards and management controls are in place, and being maintained to ensure animals are protected from harm.
- 3.6 Guidance documents have been produced by DEFRA to assist local authority officers and business operators to interpret the legislation and what is required when applying the relevant conditions to their particular licensable activities. The guidance can be used by current licence holders or prospective licence holders.

4. **How this report links to Corporate Priorities**

4.1 Aim 1 – Supporting our communities to create a healthier and safer Staffordshire Moorlands

5. **Alternative Options**

5.1 That the Committee does not agree to the proposed Policy or amends the attached draft.

6. **Implications**

6.1	<p><u>Community safety, including safeguarding and prevention of terrorism</u></p> <p>A comprehensive policy regulating Animal Welfare across the district will assist with Community Safety, safeguarding and prevention of crime/fraud</p>
6.2	<p><u>Workforce</u></p> <p>The current SLA agreement which the Council has with Staffordshire County Council, supported by the Council’s own officers, are sufficient to administer this function.</p>
6.3	<p><u>Equality and Diversity/Equality Impact Assessment</u></p> <p>No issues identified at this time.</p>
6.4	<p><u>Financial Considerations</u></p> <p>Potential financial considerations for applicants/licensees in relation to the issue of Fixed Penalty Notices. None specifically for the Council from the proposed Policy.</p>
6.5	<p><u>Legal</u></p> <p>The Council is required to implement and update policies in relation to licensing, and ensure that the same comply with all relevant legislation and guidance.</p>
6.6	<p><u>Climate Change and Sustainability</u></p> <p>With the introduction of a policy the Council can ensure that all businesses are compliant with the current climate change and sustainability aims of the Council.</p>
6.7	<p><u>Conservation and Enhancement of Biodiversity</u></p> <p>Not Applicable</p>

6.8	<u>Consultation</u> An 8 week full consultation exercise is proposed.
6.9	<u>Risk Assessment</u> No issues identified.

Mr Mark Trillo
Executive Director (Governance & Regulatory Services)

**Web Links and
Background Papers**

<https://www.staffs Moorlands.gov.uk/Animal-Licensing>

All guidance documents should be read in conjunction with the relevant legislation such as:

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
<https://www.legislation.gov.uk/uksi/2018/486/contents>
- The Dangerous Wild Animals Act 1976 (as amended)
<https://www.legislation.gov.uk/ukpga/1976/38>
- Zoo Licensing Act 1981
<https://www.legislation.gov.uk/ukpga/1981/37>
- The Animal Welfare Act 2006
<https://www.legislation.gov.uk/ukpga/2006/45/contents>

Contact details

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7. Detail

- 7.1 The process for the licensing of animal welfare establishments includes not only the administrative process of the licence application and collection of the appropriate fee but also includes a physical inspection of the premises to verify compliance with welfare standards and management controls. The inspecting officer will complete a relevant inspection proforma and report. Following the inspection, a risk score and star rating will be allocated to the business and the duration of the licence period. All administration processes will be the responsibility of the Licensing Section.
- 7.2 Staffordshire Moorlands District Council works together with Staffordshire County Council in relation to animal licensing in the District. Staffordshire Moorlands District Council remains the issuing Authority for all licenses issued under the LAIA Regulations, Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981. Physical inspections and the provision of reports and recommendations for those establishments may be provided by Authorised Officers of either Staffordshire Moorlands District Council or Staffordshire County Council.
- 7.3 All enforcement activities will have due regard to the Animal Welfare legislative

framework, any relevant guidance documents issued by central government (e.g. DEFRA) and the Staffordshire Moorlands District Council Corporate Enforcement Policy.

- 7.4 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 introduced enforcement powers and measures that officers may use to secure compliance of some licensable activities, such as variations and suspensions of licences, but also provide safeguards to applicants and operators if they feel aggrieved by the process or decisions of the Council.
- 7.5 Wherever possible, the Council will adopt a graduated, educational approach to enforcement however, where necessary, it will take appropriate and proportionate action against non-compliant businesses.
- 7.6 Fixed Penalty Notices - The Animals (Penalty Notices) (England) Regulations 2023 came in to force from 1st January 2024 following the passing of the Animal Penalty (Notices Act) 2022 in April 2022. It provides for the use of Fixed Penalty notices for operators who are in breach of:

- Animal Welfare Act 2006 and any associated Regulations.
- Animal Health Act 1981
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981
- Wild Animals in Circuses Act 2019
- Retained European Union law relating to animals or animal products
- Dangerous Dogs Act 1991

The Council would only seek to use these notices in relation to those areas where it has enforcement powers and Authorised Officers, namely:

- Animal Welfare Act 2006 and any associated Regulations.
- Animal Health Act 1981
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981
- Dangerous Dogs Act 1991
- The Trade in Animals and Related Products Regulations 2011 (TARP)
- Animal By Products (Enforcement) (England) Regulations 2013

- 7.7 The Act does not create new offences. The introduction of Penalty Notices adds to the existing portfolio of enforcement measures available to the Council relating to the enforcement of animal health and welfare legislation, such as warning letters, statutory notices including suspension and revocation of

licenses.

- 7.8 The proposed draft Animal Licensing Policy at Appendix 1 has been prepared in pursuance of the Council's obligations under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 ("the Regulations") introduced on 1 October 2018 and associated legislation. If approved, the Council will review the policy every 3 years or at any other times were considered necessary, to reflect any significant changes in legislation or guidance. The proposed consultation exercise will include members of the Council, existing licence holders/businesses, our partner agencies including the County Council, Police, Fire and others with an interest in the policy.

Animal Licensing Policy 2024
Staffordshire Moorlands District Council

Date Adopted:

Author: Head of Environmental Health/Principal Officer

Version 1

Next Revision Date:

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1. Introduction

1.1 Background

Staffordshire Moorlands District Council (“The Council”) has a statutory responsibility for licensing all business operators, also known as licence holders, where the business activities, fall under the (Licensing of Activities Involving Animals) (England) Regulations 2018 (LAIA Regs), Dangerous Wild Animals Act 1976 and Zoo Licensing Act 1981.

This policy has been introduced in pursuant of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“the Regulations”) introduced on 1 October 2018. The Council will review the policy 3 years or at any other times were considered necessary, to reflect any significant changes in legislation or guidance.

The Council is the enforcing authority for activities relating to animal welfare that are subject to the above legislation. Licensing, compliance and enforcement will be the responsibility of the Authorities Environmental Health Team. When considering the granting of a license relating to a licensable activity, the contents of this policy, the current legislation and guidance notes must be considered. This information is freely available on Gov.uk website and is available on the Councils Animal Licensing website pages.

1.2 Service Aims and Objectives

The licensing of activities involving animals aims to protect the public and to promote animal welfare.

The licensing process includes inspection of boarding establishments for cats and dogs, breeding dogs, selling animals as pets, hiring out of horses, and exhibiting animals. A risk-based process is applied and a “Star Rating” is given to each establishment based on the findings at the inspection visit. This will enable the public to make an informed choice when selecting which establishment to use.

The Purpose of the risk-based inspection is to ensure the operator is a fit and proper person; ensuring that any conditions applicable to the individual activity are being met, that welfare standards and management controls are in place, and being maintained to ensure animals are protected from harm.

1.3 Role of Animal Welfare Establishments - (Operators/Licence Holders)

The operators of the animal licensed establishments have an important role to play not only in the licensing process, but by maintaining and improving standards at their premises ensuring the highest level of animal welfare protection as possible.

The level of compliance with the relevant licence conditions has a direct impact on the “Star Rating” allocated to the establishment, and therefore, the operator. The “Star Rating” allocated to the premises and operator dictates the duration of the licence and the appropriate licensing fee.

The overall responsibility for ensuring that the correct licence has been applied for and kept up to date with the relevant local authority, falls to the licence holder or prospective licence holder, this includes the licence application, fee, and any supporting documents requested by the Council, Failure to supply such documents may delay the process and may result in the application being refused

The licence holder must apply to renew their licence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break.

Where the Authority's officers are unable to visit the applicant's/licensed holders premises before a licence has expired, and it can be reasonably justified that this is through no fault of the license holder/applicant, the Council may extend the licence until such time as an inspection can be carried out.

This temporary extension will cease to have effect once an inspection has been carried out. Any decision to renew or decline the issue of a licence will be based on the standards found at that inspection.

1.4 Best Practice Guidance

Guidance documents have been produced by DEFRA, to assist local authority officers and business operators to interpret the legislation and what is required when applying the relevant conditions to their particular licensable activities. The guidance can be used by current licence holders or prospective licence holders.

The links to current guidance may be accessed on the [Staffordshire Moorlands District Council Animal Licensing Pages](#)

All guidance documents should be read in conjunction with the relevant legislation such as:

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
<https://www.legislation.gov.uk/uksi/2018/486/contents>
- The Dangerous Wild Animals Act 1976 (as amended)
<https://www.legislation.gov.uk/ukpga/1976/38>
- Zoo Licensing Act 1981
<https://www.legislation.gov.uk/ukpga/1981/37>
- The Animal Welfare Act 2006
<https://www.legislation.gov.uk/ukpga/2006/45/contents>

1.5 Departure from policy

The Council in exercising its discretion in carrying out its regulatory functions, will have due regard to this policy.

Notwithstanding the existence of the policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits.

Where it is necessary for the Council to depart substantially from its policy, it will give the reasons for so doing and retain a record of the decision.

1.6 Organisational Arrangements

The process for the licensing of animal welfare establishments includes not only the administrative process of the licence application and collection of the appropriate fee but also includes a physical inspection of the premises to verify compliance with welfare standards and management controls. The inspecting officer will complete a relevant inspection proforma and report. Following the inspection, a risk score and star rating will be allocated to the business and the duration of the licence period.

All administration processes will be the responsibility of the Licensing Section.

Staffordshire Moorlands District Council works in conjunction with Staffordshire County Council. Staffordshire Moorlands remains the issuing Authority for all licenses issued under the LAIA Regulations, Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981. Physical inspections and the provision of reports and recommendations for those establishments may be provided by Authorised officers of Staffordshire Moorlands District Council or Staffordshire County Council.

1.7 Enforcement

All enforcement activities will have due regard to the Animal Welfare legislative framework, any relevant guidance documents issued by central government (e.g. DEFRA) and the Staffordshire Moorlands District Council, Enforcement Policy.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 introduced enforcement powers and measures that officers may use to secure compliance of some licensable activities, such as variations and suspensions of licences, but also provide safeguards to applicants and operators if they feel aggrieved by the process or decisions of the Council.

Wherever possible, the Council will adopt a graduated, education approach to enforcement however, where necessary it will take appropriate and proportionate action against non-compliant businesses.

1.8 Delegated Powers and Authorisations

Officers of the Council, are duly authorised under the Council's Scheme of Delegations, and are responsible for the day-to-day implementation of the Council's Animal Licensing Policy, and where applicable, the enforcement of the legislation and conditions relating to the licensable activities.

In accordance with the Council’s function and where necessary, a “listed veterinarian” authorised by Staffordshire Moorlands District Council will be duly appointed to undertake and assist with inspections and provide specialist advice and a report as required by the legislation.

1.9 Useful Definitions

Within the application of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (the “Regulations”) - A “licensable activity” means one of five activities involving animals: selling animals as pets, providing for or arranging for the provision of boarding for cats or dogs (includes boarding in kennels or catteries, home boarding for dogs and day care for dogs), hiring out horses, dog breeding and keeping or training animals for exhibition.

For the purposes of this Policy a “licensable activity” will also include activities involving animals and where such activities are licensable under the Dangerous Wild Animals Act 1976 (as amended) and the Zoo Licensing Act 1981

An “operator” means an individual who—

- (a) carries on, attempts to carry on or knowingly allows to be carried on a licensable activity, or*
- (b) where a licence has been granted or renewed, is the licence holder;*

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(c).

A “listed veterinarian” means a veterinarian who for the time being is listed as being authorised to carry out an inspection on the list of veterinarians drawn up by the Royal College of Veterinary Surgeons.

‘puppy’ means a dog aged less than 6 months.

‘breeding bitch’ means an unneutered female dog which is more than 6 months old.

‘pet’ an animal mainly or permanently, or intended to be mainly or permanently kept by a person for

- a) personal interest*
- b) companionship*
- c) ornamental purposes or*
- d) any combination of a) to c)*

1.10 Fees

Licensing fees are calculated on a cost recovery basis. Activities covered by the licensing fees set out in Regulation 13 of the 2018 Regulations are as follows:

A local authority may charge such fees as it considers necessary for—

- the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation,
- the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in sub-paragraph (a) including any inspection relating to that consideration,
- the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
- the reasonable anticipated costs of compliance with regulation 29.

The same principles will apply for fee calculation in relation to Dangerous Wild Animals and Zoo Licences.

In setting fees, all relevant guidance will be taken into consideration and the fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection.

Fees will be reviewed annually and published on the Council's website.

Where a vet has had to attend as part of the application or subsequent inspection these fees will be re-charged to the applicant/licence holder separately.

That any fee submitted for an application that is rejected or withdrawn be refunded minus any costs incurred by the Council in reviewing the application. Such costs will be based on the published hourly Officer rate for business advice/assistance.

There will be no refunds or partial refunds in the case of applications rejected or withdrawn after an inspection has been carried out.

The fees and charges are brought to the attention of the Licensing Committee and are published on the Fees and Charges [Fees and Charges](#) of Staffordshire Moorlands District Council.

2. Licensable Activities and Legislative Framework

2.1 Animal Welfare Act 2006

This Act is the primary piece of legislation controlling the welfare of animals in England and Wales and established set welfare standards must be maintained by all people who are responsible for an animal. It has consolidated animal welfare legislation in areas such as preventing unnecessary suffering, mutilation and animal fighting. The Act also places responsibilities on to numerous enforcement agencies.

The Act introduces a 'duty of care' on any person that is responsible for an animal to ensure that the needs of that animal are met. A person does not have to be the owner of the animal for the 'duty of care' to apply to them.

The Act creates an offence of failing to provide for the needs of an animal in a person's care and increases the penalties for animal abuse allowing the courts to disqualify a person from being in charge of animals. Any person disqualified under the Act will also be disqualified from holding a licence under any of the primary licensing Acts.

The Act permits the Department for the Environment, Food and Rural Affairs (Defra) to pass regulations that may repeal or amend any of the primary licensing Acts or to create new forms of licences.

Section 9 of the 2006 Act creates five overarching principles of animal welfare. The Act refers to these as the 'five needs' of all animals. It is the duty of any person responsible for an animal to ensure that each of these five needs are met.

- The need for a suitable environment;
- The need for a suitable diet;
- The need to be able to exhibit normal behaviour patterns;
- Any need to be housed with, or apart from, other animals; and
- The need to be protected from pain, suffering, injury and disease.

2.2 The Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018.

The Animal Welfare (Licensing of Activities Involving Animals) Regulations provides the legal framework for the following licensable activities:

- Dog Breeding
- Boarding of Dogs in Kennels
- Home Boarding of Dogs
- Dog Day Care
- Boarding of Cats
- Selling Animals as Pets
- Hiring of Horses
- Keeping or Training of Animals for Exhibition

Along with the regulations, guidance documents for each licensable activity have been published. All of which are available on the Staffordshire Moorlands District Council website along with further information and application forms.

<https://www.staffsmoorlands.gov.uk/Animal-Licensing>

2.3 Dangerous Wild Animals Act 1976.

The Dangerous Wild Animals Act 1976 defines all the species that require the owner to have a licence to keep such animals. The controls required to keep individual species will vary dependant on that species.

The licensing process will include veterinary inspection of the animals. The contents of the veterinary officer's report will inform the decision-making process when considering such applications.

Further information and application forms are published on the Council's Animal Licensing web pages.

<https://www.staffsmoorlands.gov.uk/article/2497/Dangerous-wild-animals-and-zoos>

2.4 Zoo Licensing Act 1981.

The Zoo Licensing Act 1981 specifically sets out the licensing process for Zoos. The licensing process will include extensive contributions by veterinary officers including veterinary inspection of the animals. The contents of the veterinary officer's report will inform the decision-making process when considering such applications.

Further information and application forms are published on the Council's Animal Licensing web pages.

<https://www.staffsmoorlands.gov.uk/article/2497/Dangerous-wild-animals-and-zoos>

2.5 Licensing Process

All licence applications include the following:

- Administration of licence and payment of fee
- Processing of licence application and an initial inspection of the premises
- Placing appropriate conditions on licence
- Issue of licence

The duration of the licence may be legislative specific; however, The Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 requires the inspection process to include the inspecting officers to produce a risk rating score and a star rating to every licensable activity. *See below*

The star rating allocated will have a direct impact on the duration of the licence and therefore the costs to the operator and the enforcement burden placed on the licence holder.

The enforcement of Animal Welfare licences will generally include an interim inspection of the business during the life of the licence, which may include a visit by the veterinary officer.

In addition, licenses issued for Hiring out of Horses are statutorily required to undergo an annual Veterinary inspection by a Council appointed 'listed vet'

Officers may also visit where the Council receives information or a complaint raising concern about animal welfare issues.

Applications made to the local Authority must be completed using the relevant Application forms available from the Council website or on request from the Licensing Section. Any application submitted that, upon review, is without the supporting documentation will be rejected.

There are a number of different areas that may affect or be affected by licence holders or potential licence holders under the primary licensing Acts and where necessary these will be considered by the Council in carrying out its functions under the Animal Welfare Act 2006.

Applicants are advised to seek the relevant planning permission (as applicable) before seeking a licence.

Each licence type has its own application process and requirements that the Council need to take into consideration before granting a licence. Details on how to apply for a licence can be viewed at. <https://www.staffsmoorlands.gov.uk/Animal-Licensing>

Each of the primary licensing Acts states clearly the criteria which the Council must be satisfied of before any licence is granted. Where the relevant licensing officer is not satisfied that the legal requirements are met, or when an inspector or the listed Veterinary surgeon has raised concerns that the legal requirements or standards are not met or unlikely to be met, the applicant will be notified. The applicant will have the opportunity to address these matters in the hope of satisfying the relevant criteria.

2.6 Persons who may not apply for a licence

The following persons may not apply for a licence in respect of any licensable activity—

a) a person listed as a disqualified person in paragraph 4 or any of paragraphs 6 to 17 of Schedule 8 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (LAIA Regs) where the time limit for any appeal against that disqualification has expired or where, if an appeal was made, that appeal was refused;

b) a person listed in any of paragraphs 1 to 3 and 5 of Schedule 8 of the 2018 Regulations as having held a licence which was revoked where the time limit for any appeal against that revocation has expired or where, if an appeal was made, that appeal was refused.

Any licence granted or renewed, or held by, a person mentioned in paragraph (1)(a) or (b) is automatically revoked.

Regulation 4 para (7) of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 also requires applicants to be **'fit and proper'**

*(7) In considering whether the licence conditions will be met, a local authority must take account of the applicant's conduct as the operator of the licensable activity to which the application for the grant or renewal relates, whether the applicant is a **fit and proper person** to be the operator of that activity and any other relevant circumstances.*

The term **'fit and proper'** is not defined in the legislation or guidance. For the purpose of this Policy, Staffordshire Moorlands District Council will consider a **'fit and proper person'** to be an individual who can demonstrate upon application that they have: -

- no relevant convictions.
- not been disqualified from holding a licence.
- the knowledge, experience, compliance history and ability to comply with licence conditions and safeguard the welfare of animals in their care.
- made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licence activity.

If on renewal, operating standards have fallen below the minimum required, and welfare issues relating to the care, treatment and management of animals in the applicant's care, have been identified by the inspector, then the Council may consider the applicant to NOT be **'fit and proper'** and a licence may not be renewed.

For applicants who have previously been trading unlicensed but have been identified as trading either through a complaint or intelligence, and where:

- there are no suspected or identified animal welfare issues relating to the care, treatment and management of animals in the applicants care and,
- providing the applicant has fully engaged in the licensing procedure and,
- regulatory enforcement for animal welfare offences under any of the relevant legislation is not under consideration

then the Council may accept the application and process accordingly.

The Council reserve the right to consider all relevant factors and submissions in each individual case and make a determination based on the circumstances at the time.

2.7 Decision making

Decisions will be made in accordance to relevant statute, inspections and guidance. Internal reviews of decisions will be undertaken by a delegated manager and appeals of decisions must be made in writing to the appropriate first tier tribunal.

2.8 Risk Scoring, Star Rating and Duration of Licences

For those activities falling under the LAIA Regulations the officer must assess the standards on animal welfare and the management controls in place including previous compliance. The process includes, ascertaining whether the business is meeting the minimum or higher standards, and whether some minor failing exists.

The officer completes a risk score matrix and the star rating will be determined from those findings. Where a veterinary inspection is required, the contents of the report will have a direct influence on the star rating allocated to that activity.

The star rating allocated will have a direct impact on the business, therefore it is in the interest of the operator to have and maintain the highest possible welfare standards and management controls in place.

The risk score matrix and the output of the scoring exercise is a procedural document and forms part of the Regulations to promote consistency.

Further information is available in the DEFRA document - Procedural guidance notes for local authorities which is available on the Staffordshire Moorlands District Council website.

2.9 Competent Officers

The Council must appoint suitably qualified and competent officers to undertake any inspections and enforcement activities in relation to animal welfare. This duty extends to the Council in respect of the appointment of suitably qualified and “listed” veterinary officers to undertake inspections of specified licensable activities.

2.10 Enforcement & Offences

Inspectors from the Council are appointed to fulfil duties and carry out licensing functions on its behalf. They may inspect the premises at all reasonable times. If the Council have any concerns about the welfare of the animals kept under the licence it may be that the Council instructs a vet to ascertain if the measures in place are acceptable.

It is an offence to breach any licence condition. It is also an offence not to comply with an inspector’s request in the process of taking a sample from an animal. Samples should be as non-invasive as possible however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals, the provision for sampling is primarily aimed at veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.

It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the 2018 Regulations. Committing either of these offences could result in an unlimited fine.

If a licence holder is not complying with their licence conditions the Council may take appropriate enforcement action. This may be to advise them that they no longer meet the licensing requirements and must cease the licensable activity or to prosecute them.

Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both. Section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

2.11 Grounds for suspension, variation without consent or revocation of a licence

A local authority may, without any requirement for the licence holder's consent, decide to suspend, vary or revoke a licence at any time on being satisfied that—

- (a) the licence conditions are not being complied with,
- (b) there has been a breach of the 2018 Regulations,
- (c) information supplied by the licence holder is false or misleading, or
- (d) it is necessary to protect the welfare of an animal.

2.12 Fixed Penalty Notices

[The Animals \(Penalty Notices\) \(England\) Regulations 2023](#) came in to force from 1st January 2024 following the passing of the [Animal Penalty \(Notices Act\) 2022](#) in April 2022. It provides for the use of Fixed Penalty notices for operators who are in breach of:

- Animal Welfare Act 2006 and any associated Regulations.
- Animal Health Act 1981
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981
- Wild Animals in Circuses Act 2019
- Retained European Union law relating to animals or animal products
- Dangerous Dogs Act 1991

As a lower tier authority Staffordshire Moorlands District Council would only seek to use these notices in relation to those areas where it has enforcement powers and authorised officers. Namely:

- Animal Welfare Act 2006 and any associated Regulations.
- Animal Health Act 1981
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981
- Dangerous Dogs Act 1991
- The Trade in Animals and Related Products Regulations (TARP) 2011
- The Animal By-Products (Enforcement) (England) Regulations 2013

The Act does not create new offences. The introduction of Penalty Notices adds to the existing portfolio of enforcement measures available to the Authority relating to the enforcement of animal health and welfare legislation, such as warning letters, statutory notices including suspension and revocation of licenses.

Penalty Notices provide a “middle ground” enforcement tool that sits between the existing measures referred to above and prosecution in the criminal courts. Penalty Notices, as stated, can be an alternative to prosecution and the risk of an individual obtaining a criminal record on conviction.

Penalty Notices give a person who is issued with such a Notice the opportunity to discharge any liability to conviction for the relevant offence by the payment of the amount specified in the Penalty Notice.

The amount specified in a Penalty Notice may not exceed whichever is the lesser figure of £5,000 or the maximum fine for which a person convicted of the relevant offence would be liable to pay on summary conviction. The amount of the Penalty Notice is determined by the council using a 'Calculator' provided by the Department of Food & Rural Affairs. This measures a combination of 'Harm' and 'Culpability' to derive a figure that is then subject to 'Mitigating' or 'Aggravating factors' which may lead to an increase or decrease of the original calculated figure.

The amount is reduced by 50% if the fine is paid within 14 days.

Penalty Notices can only be issued if the person responsible for issuing the Penalty Notice believes beyond reasonable doubt that a relevant offence has been committed by the person to be served with the Penalty Notice i.e the same test that would be applied were a criminal court be determining the matter.

As stated above, the maximum penalty notice amount will be whichever is the lower figure between:

- £5,000; or
- the maximum fine the offender could be liable to pay if convicted in the courts for the same offence

The Authority must consider the factors set out in section 4(2) of the Act in every case when determining the level of penalty to be imposed. The factors are:

- the seriousness of the conduct to which the proposed Notice relates (the "relevant conduct");
- the duration of the relevant conduct;
- any evidence of intention behind the relevant conduct;
- any evidence of previous acts or omissions by the person similar to the relevant conduct;
- any action taken by the person to eliminate or reduce any risk of harm resulting from the relevant conduct;
- any action taken by the person to remedy or mitigate any harm resulting from the relevant conduct;
- whether the person reported the relevant conduct to the enforcement authority or constable;
- the conduct of the person after the relevant conduct is drawn to their attention by the enforcement authority or constable.

In addition to the factors set out in section 4(2) of the Act and the statutory guidance published under the Act, the Authority should consider other matters which include: -

- the number of Penalty Notices received by a person within the last 3 years
- what offences the previous Notices were received for
- the nature and seriousness of the offence(s) being considered
- the nature and seriousness of the previous offences
- the offender's circumstances and whether there is an explanation for the repeat offending

Revenue raising is never the objective of the enforcement of the law. Indeed, sums received by the Authority from the Penalty Notices must be paid by the Authority into the “Consolidated Fund” which is the government’s general bank account with the Bank of England. Before paying sums to the Consolidated Fund, the Authority can deduct the costs of investigating the offence and issuing the Penalty Notice.

If the maximum fine an individual could be liable to pay if convicted for an animal health or welfare offence is £5,000 or more, the Authority will apply the tables set out in the [Statutory guidance on the use of Penalty Notices for Animal Health and Welfare Offences](#)

to determine the starting point and range of Penalty Notice amount to be applied.

There is no right of appeal against the service of a Penalty Notice. Payment of the penalty within the requisite time period removes an individual’s criminal liability. If payment is not made, then the individual can be prosecuted for the original offence and if convicted will be sentenced by the Court.

2.13 Powers of entry

An inspector may not enter any part of the premises which is used as a private dwelling unless 24 hours’ notice of the intended entry is given to the occupier, parts of the premises which are not a private dwelling may be entered by an inspector if the premises is specified in a licence as premises on which the carrying on of an activity to which a licence relates is being carried on.

A Justice of the Peace can issue a warrant authorising an inspector or a constable to enter a premises on the request of an inspector or constable using reasonable force, if necessary, in order to search for evidence of the commission of a relevant offence.

The justice will only issue a warrant if there are reasonable grounds for believing that a relevant offence has been committed on the premises, or that evidence of the commission of a relevant offence is to be found on the premises, and that section 52 of the Animal Welfare Act 2006 is satisfied in relation to the premises.

All other considerations from the Animal Welfare Act also apply.

3.0 Grievance Safeguarding Processes

The Council has in place a customer complaints and comments procedure which allows all users of the Council’s services to raise concern about the way they have been treated by the Council.

The business operator has recourse to the complaints procedure (including taking the matter to the Local Government Ombudsman where appropriate) if they consider that a council service has not been properly delivered and in accordance with its policy.

In addition, the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 contain a number of safeguarding measures where a business operator who is aggrieved by the process and to ensure business operators are treated appropriately.

3.1 Right to Appeal Star Rating

The business operator has the right to appeal the star rating allocated to their business through the licencing process.

The procedures on the right to appeal the star rating is available on the Staffordshire Moorlands District Council website, along with the appeal form.

3.2 Requesting a Star Rating Re-Score Visit

The business operator can request a re-score visit, where they have completed the work outlined in their inspection report.

There are no limits on the number of re-score visits a business operator can request, but there is a charge for each re-score visit.

The procedures on the requesting a re-score visit is available on the Staffordshire Moorlands District Council website, along with the request form.

3.3 Right to Appeal- Suspensions and Variations

Where the business operator is aggrieved by the decision of the Authority to vary or suspend an animal welfare licence, they have the right to appeal that decision, in the first instance to the Authority and secondly to a first-tier tribunal.

The procedures for varying or suspending a licence is available on the Staffordshire Moorlands District Council website.

3.4 Right to Appeal, First-tier Tribunal - Refusal, Suspensions, Variations and Revocations

Where the business operator is aggrieved by the decision of the Authority to refuse, revoke, suspends or varies an animal welfare licence, they have the right to appeal that decision a First-tier tribunal.

The procedures for refusing, revoking, varying or suspending a licence are available on the Staffordshire Moorlands District Council website.

3.5 Transfer of Licence in the case of the Death of the Licence Holder

If a licence holder dies, the procedure in regulation 12 of the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 applies. It allows the personal representative of the deceased to take on the licence provided that they inform the Authority within twenty-eight days of the death that they are now the operators of the licensable activity. The licence will then remain in place for three months from the death of the former holder or for the rest of the time it was due to remain in force if that time period is shorter. The new licence holder should then apply for a new licence one month before the expiry of this new period.

Additionally, The Authority can extend the three-month period by up to another three months if requested by the representative and if they believe this time is needed to wind up the estate of the former licence holder.

If the personal representative does not notify the Authority within 28 days of the death of the licence holder the licence will cease to have effect after those 28 days.

3.6 Register of Animal Welfare Establishments

The Authority holds a register of premises licensed under animal welfare legislation which is available on the Council's website.

The register will be amended to include the Star Rating allocated to premises licenced under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

3.7 Change of circumstances

The Authority has an expectation that licence holders will inform them should there be significant changes to how their business operates. For example, where a licence holder decides to employ a manager who will have responsibility for the day to day operating of the business, where this was not the case at the time of application.

The Authority must ensure that licence holders remain fit and proper during the life of a licence.

For this reason, licence holders must notify the Authority, in writing, within 72 hours, if any of the following occurs:

- They have any type of animal licence suspended or revoked
- They are convicted or receive warnings or cautions for serious offences (see above);
- Are arrested or charged with a serious offence (see above);
- Are subject to bail conditions which may affect the licence holder's ability to operate their business.

Failing to notify the Council will raise serious questions as to the integrity of the licence holder.

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