

# Public Document Pack



## Regulatory Committee

Wednesday, 16 September 2015 6.30 p.m.  
Council Chamber, Runcorn Town Hall

A handwritten signature in black ink, appearing to read 'David W R', written over a faint rectangular stamp.

**Chief Executive**

### **COMMITTEE MEMBERSHIP**

Councillor Kath Loftus (Chairman)
Councillor Pamela Wallace (Vice-Chairman)
Councillor Mike Fry
Councillor Pauline Hignett
Councillor Harry Howard
Councillor Darren Lea
Councillor Alan Lowe
Councillor Tony McDermott
Councillor Stef Nelson
Councillor Gareth Stockton
Councillor Andrea Wall

*Please contact Gill Ferguson on 0151 511 8059 or e-mail [gill.ferguson@halton.gov.uk](mailto:gill.ferguson@halton.gov.uk) for further information.  
The next meeting of the Committee is on Wednesday, 11 November 2015*

**ITEMS TO BE DEALT WITH  
IN THE PRESENCE OF THE PRESS AND PUBLIC**

**Part I**

<b>Item No.</b>	<b>Page No.</b>
<b>1. MINUTES</b>	
<b>2. DECLARATION OF INTEREST</b>	
<p>Members are reminded of their responsibility to declare any Disclosable Pecuniary Interest or Other Disclosable Interest which they have in any item of business on the agenda, no later than when that item is reached or as soon as the interest becomes apparent and, with Disclosable Pecuniary interests, to leave the meeting during any discussion or voting on the item.</p>	
<b>3. LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY</b>	<b>1 - 35</b>
<b>4. GAMBLING ACT 2005- STATEMENT OF GAMBLING POLICY</b>	<b>36 - 54</b>

***In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.***

**REPORT TO:** Regulatory Committee

**DATE:** 16 September 2015

**REPORTING OFFICER:** Strategic Director Policy & Resources

**PORTFOLIO:** Resources

**SUBJECT:** Licensing Act 2003 Statement of Licensing Policy

**WARDS:** Boroughwide

### 1. PURPOSE OF REPORT

To approve a draft Statement of Licensing Policy for recommendation to the Council for adoption.

### 2. RECOMMENDED: That:-

- (1) Having considered the responses to the consultation exercise undertaken by the Council the draft Statement of Licensing Policy approved by the Committee be recommended to full Council for adoption.
- (2) An appropriate form of wording for the Council resolution would be:  
“The Council:
  - (1) adopts the Statement of Licensing Policy attached to the report to come into effect immediately following the expiry of the current Policy; and
  - (2) directs that the OD-LD publishes the Statement in accordance with section 5 Licensing Act 2003.”

### 3. SUPPORTING INFORMATION

- 3.1 At its meeting held on 17 June 2015 the Committee considered a report on the Statement of Licensing Policy which must be adopted by the Council to replace the current policy which will expire in January 2016. The current Statement of Licensing Policy is due to expire at midnight on 6th January 2016 and the new Statement of Licensing Policy must be in place on 7th January 2016. Full details are set out at Minute [ ] and agenda item 4 to the meeting.
- 3.2 The Committee authorised the Operational Director Legal and Democratic Services (OD-LD) to undertake a consultation exercise in respect of the Council’s Statement of Licensing Policy in accordance with section 5 Licensing Act 2003.
- 3.3 The consultation exercise was completed at the end of July 2015. A number of responses were received as detailed in Appendix 1 to this report. The comments by the Licensing Section on the responses are also set out in Appendix 1.

- 3.4 The responses which are recommended for incorporation within the Statement of Licensing Policy have in incorporated within the amended draft Statement contained in Appendix 2.
- 3.5 The appropriate Council meeting to consider this matter will be held on 14<sup>th</sup> October 2015.

#### **4. POLICY IMPLICATIONS**

- 4.1 Once it comes into effect, the Statement of Licensing Policy will be used in accordance with the Licensing Act 2003.

#### **5. OTHER IMPLICATIONS**

- 5.1 There are no other implications arising out of this report.

#### **6 IMPLICATIONS FOR THE COUNCILS PRIORITIES**

##### **6.1 Children and Young People in Halton**

The Council's Statement of Licensing Policy operates under a separate statutory code but since it involves licensable activities it is designed to contribute to licensing objective of the protection of children from harm.

##### **6.2 Employment Learning and Skills in Halton**

N/A

##### **6.3 A healthy Halton**

Health is not a licensing objective but to the extent that health impacts on the licensing objectives health issues may be taken into consideration. Nevertheless, it is recognised that Halton faces particular challenges around alcohol use. Halton has Local Alcohol Area Status and an adopted local Alcohol Reduction Strategy. Given this, it is intended to produce a voluntary code of good practice which would be reported to the Committee for consideration.

##### **6.4 A Safer Halton**

The Council's Statement of Licensing Policy operates under a separate statutory code but since it involves licensable activities it is designed to contribute to licensing objective of the promoting public safety

##### **6.5 Halton's Urban Renewal**

N/A

#### **7 RISK ANALYSIS**

N/A

#### **8 EQUALITY AND DIVERSITY ISSUES**

N/A

#### **9. LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972**

This report is based on the Licensing Act 2003 and the Statutory Guidance issued under Section 182 of that Act. See also the Council's existing Statement of Licensing Policy.

## Statement of Licensing Policy 2016 - responses to consultation

The consultation period closed on 31<sup>st</sup> July 2015. Responses were received from:

1. Helen Mason Halton Trading Standards (30<sup>th</sup> July).
2. Julie Pace – Runcorn Resident (30<sup>th</sup> July).
3. Deana Perchard – Halton Trading Standards (31<sup>st</sup> July).
4. Eileen O'Meara – Director of Public Health Halton Borough Council (31<sup>st</sup> July).
5. Katie Garnett – Halton Environmental Protection (31<sup>st</sup> July).

The full text of the responses is set out in this Appendix.

**Responses 1, 2 and 5** were very short and **responses 3 and 4** were much more detailed in nature.

**Response 1** simply referred to Canterbury's adopted Statement and preferred its style and layout. There were no comments on the substance of this Council's draft policy.

**Response 2** asks questions rather than makes policy suggestions. The answer to the questions is that all policy must be evidence based. The central point raised is that the writer feels that the Council should write more into the Statement to allow the licensing committee to be able to reject more licences. This is clearly not the function of the Statement.

**Response 5** is that the Police may wish to liaise with Environmental Health regarding Closure Orders for premises that are excessively noisy. Whilst this is to be encouraged the Statement is not the place to raise this issue.

**Response 3** makes 7 points in an email and 40 points embedded into the draft Statement. A number of these relate to typographical and formatting issues and have been picked up without being included in the table below.

**Table for Response 3**

Representation	Summary	Recommendation
Email	Explain requirements for the applicant to publish notices etc.	This is not the function of the Licensing Statement, but the information is contained in the pack sent to applicants
Email	Explain where the public may find copies of licences	This is more a comment about practice rather than something which should be contained in the Licensing Statement

		itself.
Email	Publish conditions on the Council's website	As above.
Email	Do wider consultation	The consultation exercise complies with the legal requirements.
Email	Draft Statement not easy to read	The format is the same as with earlier Statements and no problems have been reported.
		.
The following refer to the paragraph numbers in the consultation draft	#####	#####
22	Why emphasise text?	The emphasis is important since many people mistakenly think that other policies necessarily apply when taking decisions under the Licensing Act 2003.
25	Where can the mandatory conditions be found?	The Statement must be read with the Statutory Guidance. The latter deals with this point.
46 (bullets 2, 4 and 6)	Can examples be given	Any examples would be historic.
46 (bullet 8)	Is this a police function?	Historically 'Yes' but the text has been amended to include the changes made by the Anti-Social Behaviour, Crime and Policing Act 2014.
47	Can examples be given?	See 46 above
50	Delete 2 <sup>nd</sup> sentence and replace with: "At the moment the Council sees no need to adopt such a policy".	Agreed and added
		.
55	Too legalistic	This is taken verbatim from the Statutory Guidance and should be retained.

55	Where can the mandatory conditions be found?	The Statement must be read with the Statutory Guidance. The latter deals with this point.
56	Refer to Guidance Notes on Home Deliveries	It is recommend that this is retained as drafted. See instead the Respondent 4 comments on this which are accepted.
60	Requests reference to Trading Standards	Agreed and added
65	Too long to be read easily	It is felt that the length is appropriate.
74	Add: "It is also an offence for an over 18 to purchase alcohol for an under 18 – this is called proxy purchasing."	Agreed and added.
74	Is the reference to proof of age a mandatory condition?	This is not the intention. The text has been altered to make it clear that conditions may be required going beyond the mandatory minimum requirements
74	Add: "Trading Standards regulate the sale of alcohol to under 18s and can provide advice and materials relating to the prevention of underage sales. They can also provide free staff training.	Agreed and added.
81	This section appears randomly structured and without flow.	This is taken almost verbatim from the Statutory Guidance, and need to be retained.
83	Does Trading Standards deal with the Portman Group Code of Practice?	Any responsible authority may comment on any matter but it expected that Trading Standards would take the lead on this point.
85	Operating schedules do not often state proposals regarding safer forms of	This is simply an observation on practice.



	glasses etc.	
88	Should risk assessments be a policy duty of an applicant's?	The police provide advice when it is requested.
98	If operating schedules do not set out good door supervisor systems will applications be refused?	This is not a comment on the text but on practice. It is for responsible authorities to address applications on their merits and respond accordingly.
99	Will applications be rejected if operating schedules fail to demonstrate Equality Act issues taken into account?	This is not a comment on the text but on practice. It is for responsible authorities to address applications on their merits and respond accordingly.
120	What does last sentence mean to the applicant?	The Statement is not just addressed to applicants.
123	Where can the pools of conditions be found?	The Council does not rely on pools of conditions.
127	Remove underlined sentence.	The existing text reflects paragraph 13.17 of the Statutory Guidance and should be retained.
129	The same point is made earlier under cultural activities	The point is repeated in a different context.
130	As per 129	As per 129
Appendix A	Note correct Directorate	The latest Directorate changes for September 2015 have been incorporated
Appendix A	Substitute Public Health for Primary Care Trust & Local Health Boards	This has been updated
Appendix A	Delete "Consumer Protection"	Should be weights and measures authority

**Response 4** makes 7 general points and 26 specific points relating to the draft Statement. A number of these are concerned with formatting and have not been included in the table below.

**Table for Response 4**

<b>Representation</b>	<b>Summary</b>	<b>Recommendation</b>
General point 2	Other consultation groups should be added	The consultation exercise complies with the legal requirements.
General point 3	Welcome reference to Alcohol Strategy	Noted
General point 5	Should be a reference to the Voluntary Code	Any voluntary code which may be recognised by the Council by definition would not be part of the Statement.
General point 6	Should explain applicant's requirements to publish notices/adverts and explain where copy licences can be obtained.	This is not the function of the Licensing Statement but the information is contained in the pack sent out to applicants.
General point 7	Should publish copy licences on the Council's website	This is a comment on practice rather than a matter to be contained in the Licensing Statement
The following refer to the paragraph numbers in the consultation draft	#####	#####
16	Policy numbers confusing	The text has been clarified.
24 and 25	This is an opportunity to outline our vision and objectives related to licensed premises in Halton.	These paragraphs are taken verbatim from the Statutory Guidance and it is felt that they should be retained.
27	Should be "Sustainable Communities Strategy".	Agreed and added.
34 and 46	Duplication	The repetition is appropriate and is consistent with the Statutory Guidance.
38	Confusing	This is taken verbatim from the Statutory Guidance and should be retained.

40	Add sentence that the need for a cumulative impact policy will be reviewed and policy statement amended if evidence becomes available.	Agreed and added plus consequential amendment to paragraph 41.
45	Amend to say the Council does not currently have a Late Night Levy in place however this may be reviewed.	Agreed and added as per paragraph 40.
51	Add text as per Warrington Statement regarding off-licences.	It is felt that this suggestion should not be accepted. An applicant cannot 'prove a negative'. An operating schedule must simply comply with section 17(4) Licensing Act 2003.
56	Add text re alcohol delivery services	Agreed and added.
57	Change heading from "Children" to "The protection of children from harm".	Agreed and added.
60	Add text re use of health data	Agreed and added. This is verbatim from the Statutory Guidance.
73 and 74	Clearly specify what licence holders are expected to do to prevent underage sales.	This is not considered appropriate in the Statement. It is for the responsible authorities to assess operating schedules on this.
73	Add text re challenge 25	The mandatory condition on age verification is a minimum standard and may be increased in appropriated circumstances. The proposed wording proposes a default condition for all cases and this is not permitted.
96	Add recommendation that the Council recommends licensees to take part in Local Pub Watch and Arc Angel schemes.	Agreed and added at paragraph 97 but only by way of encouragement.
125	Expand reference to	The existing text is fully

	“Enforcement”.	compliant with the Statutory Guidance paragraphs 13.16 and 13.17.and should be retained.
139	Add reference to the newly developed Voluntary code.	Any voluntary code which may be recognised by the Council by definition would not be part of the Statement, so it is not considered appropriate that a reference be added.
145	Expand and explain the monitoring and review process.	Section 5 Licensing Act 2003 is non-prescriptive on this issue and a detailed policy is not appropriate, so it is felt that the proposed change should not be incorporated.
Appendix A	Change reference to PCT	Agreed and deleted.
The following refer to matters not covered in the consultation draft	#####	#####
Matter 1	Illegal drugs	Agreed - added after paragraph 93
Matter 2	References to illegality of serving alcohol to drunks	Agreed – added after paragraph 93 with text improvements.

**This Statement of Licensing Policy was adopted by Halton  
Borough Council on  
[14<sup>th</sup> October] 2015**

LICENSING ACT 2003

HALTON BOROUGH COUNCIL

STATEMENT OF LICENSING POLICY

**1. Introduction**

2. The Licensing Act 2003 (“the Act”) requires Licensing Authorities, in our case Halton Borough Council (“the Council”), to provide a Statement of Licensing Policy (“the Policy”) before it can make any decisions on licence applications.

3. The Policy is set out in this document. It details the general principles that the Council will take into account when making its licensing decisions. In drawing up the Policy the Council is required to have regard to Government Guidance (“the Guidance”) produced under Section 182 of the Act. If the Policy departs from the Guidance the Council must be able to justify its decision should there be a legal challenge. This Council believes that the Policy is consistent with the Guidance as well as with the provisions of the Act.

4. The aim of the Policy is to promote the four licensing objectives set out in the Act, namely:-

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

5. The Council wish to promote these objectives whilst still encouraging a vibrant and sustainable entertainment and leisure industry. The Council recognises both the needs of local residents for a safe and healthy environment in which to work and live and the importance of safe and well-run entertainment and leisure facilities to the area.

6. The Policy aims to provide guidance to applicants, responsible authorities and interested parties on the general approach to licensing in the area. Although each and every application will be dealt with separately and on its own individual merits, the Council in writing this Policy is offering guidance on the wider considerations that will be taken into account.

7. The Policy comes into force on 7<sup>th</sup> February 2016 and will apply for the five year period commencing on that date subject to any

amendments or reviews which may be undertaken during that period. The Policy is intended for the guidance of the Council's Regulatory Committee (which has responsibility for the Council's licensing functions) as well as to assist applicants in presenting their application. It is not intended to limit the power or fetter the discretion of the Regulatory Committee who will listen to, and determine on its own individual merits, any application placed before it.

## **8. Scope of the Policy**

9. The Policy covers applications, reviews, transfers and variations of licences for the following licensable activities:

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

## **10. Licensing Objectives**

11. The Council will carry out its functions under the Act with a view to promoting the licensing objectives, namely;

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

12. No one objective is considered to be of any more importance than any other.

13. In carrying out its functions the Council will also have regard to this Policy and to the Guidance as issued by the Secretary of State under section 182 of the Act from time to time.

14. Individual applicants will be required to address the licensing objectives and address the issues of the needs of the local community, the way in which the premises is to operate, the size, location and type of premises, and any entertainment which is to be provided.

15. The Council's vision as set out within the *Corporate Plan 2011-2016* and within Halton's fifteen year Sustainable Community Strategy 2011–2026 is that:

“Halton will be a thriving and vibrant Borough where people can learn and develop their skills; enjoy a good quality of life with good health; a high quality, modern urban environment; the opportunity for all to fulfil their potential; greater wealth and equality, sustained by a thriving business community; and safer, stronger and more attractive neighbourhoods”.

16. The Council has identified strategic priorities and key themes that are set out in its Corporate Plan 2011-2016 and within its fifteen year Sustainable Community Strategy 2011 – 2026. These are:

- A Healthy Halton
- Employment, Learning and Skills in Halton
- A Safer Halton
- Halton's Children and Young People
- Environment and Regeneration in Halton
- Corporate Effectiveness & Business Efficiency

17. Locally due to the high levels of alcohol-related harm Halton experiences the *Halton Health and Wellbeing Strategy 2013-2016* includes the reduction in the harm from alcohol as a priority area.

18. The strategy identified a number of issues which may be affected by the licensing regime in Halton including:

- A significant proportion of cases of domestic violence are alcohol related
- Alcohol related crime and alcohol related violent crimes are worse in Halton than for both the North West and England as a whole
- Alcohol specific admissions (both among adults and those aged under 18) are much higher than the national and regional averages.

19. In addition due to the high levels of alcohol-related harm Halton was one of only twenty areas in the country to be awarded the status of being a "Local Alcohol Action Area" (LAAA). This award provided support from the Home Office and Public Health England during 2014/15 related to addressing the harm from alcohol across three areas – health, crime and anti-social behaviour, and diversifying the night time economy.

20. Working in collaboration a local alcohol strategy has been developed and agreed. The *Halton Alcohol Strategy: Reducing alcohol-related harm across the life course, 2014-2019* makes the case that the impact of drinking on public health and community safety in Halton is so great that radical steps are needed to change our relationship with alcohol.

21. The vision of the strategy is to:

"Enable people in Halton to have a sensible relationship with alcohol that promotes good health and wellbeing and ensures Halton is a safe place to live".

22. In order to achieve this vision and minimise the harm from alcohol in Halton the strategy will seek to deliver three interlinked outcomes:

1. Reduce alcohol-related health harms
2. Reduce alcohol-related crime, antisocial behaviour and domestic abuse
3. Establish a diverse, vibrant and safe night-time economy.

22. So far as is consistent with the licensing objectives, the Council will carry out its licensing functions with a view to promoting these priorities and themes (including priorities and themes which may be adopted from time to time).

23. The Council will encourage the provision of a wide range of entertainment activities within the Halton area including promotion of live music, dance and so on, in the interests of broadening cultural opportunities within the local community.

#### **24. General principles**

25. If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

#### **26. Integrating Strategies**

27. The Council's core plans and strategies are set out in the Corporate Plan and the Sustainable Communities Strategy.

28. The Council will secure the proper integration of its licensing Policy with its core plans and strategies as well as its local crime prevention, planning, transport, tourism, equal opportunities, race equality schemes, and cultural strategies and any other plans introduced for the management of town centres and the night-time economy (as to which, see below).

29. This will be achieved by ensuring that the Council's Regulatory Committee receive appropriate reports on all relevant strategies, plans and policies. Many of these strategies are not directly related to the promotion of the four licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

30. Many licensable activities take place at night-time: when much of the rest of the economy has closed down. It follows that licensable activities can contribute a very significant element of the night-time economy, particularly within town centres. Emerging Town Centre Strategies for Widnes and Runcorn will contribute to the development of the night-time economy and assist the Council in exercising its licensing functions.

32. This statement sets out the Council's general approach to the making of licensing decisions. It does not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.



33. Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, the Council will focus its attention on the premises being used for licensable activities and the vicinity of those premises.

34. In addressing this matter, the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

### **35 The need for licensed premises**

36. There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for the Council in discharging its licensing functions. “Need” is a matter for planning committees and for the market.

### **37. The cumulative impact of a concentration of licensed premises**

38. “Cumulative impact” is not mentioned specifically in the Act but means in the Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises in that part of the Council’s area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Council to consider in developing its licensing Policy statement.

39. The Council will not impose any arbitrary quotas on numbers of licensed premises, nor will it impose any restriction or limitation on trading hours in a particular area.

40. The Council considers that there are presently no areas within the Borough of Halton which can be considered to be causing cumulative impact on one or more of the licensing objectives. **However, the position will be reviewed should evidence be produced to justify a change in policy.**

41. **It should be noted that** the absence of a special Policy does not prevent the Council or any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

42. Notwithstanding what is set out in this statement about other mechanisms for controlling cumulative impact, applicants will be expected to demonstrate (where appropriate) how their proposals are consistent with dealing with crime and disorder and nuisance in the vicinity of their premises. Attention should be paid to their proposals in respect of hours of operation and the management of their premises generally. Regard should be had to issues such as taxis and transportation and the pattern of licensed premises and food premises in the vicinity, and, not least, the distribution of residential premises in the vicinity.

#### **43. Other mechanisms for controlling cumulative effect**

**44. Early Morning Restriction Order (EMRO) - Police Reform & Social Responsibility Act 2011.** An early morning restriction order (EMRO) is a power in the Licensing Act 2003 that will enable licensing authorities to restrict the sale of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6 a.m. if they consider this appropriate for the promotion of the licensing objectives. The Council is not currently considering introducing an EMRO.

**45 Late Night Levy.- Police Reform & Social Responsibility Act 2011.** The late night levy (“the levy”) will enable licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. It will be a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority’s area. However, the licensing authority will also choose the period during which the levy applies every night between midnight and 6am and decide what exemptions and reductions should apply from a list set out in regulation. The Council is not currently considering introducing a Late Night Levy **but the position will be reviewed should evidence be produced to justify a change in policy.**

46. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres. Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. The general public needs to be made aware that there is a much broader strategy for addressing these problems than the licensing regime of the Act. There are other mechanisms both within and

outside the licensing regime that are available for addressing such issues. For example:

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;
- closure notices and orders under the Anti-Social Behaviour, Crime and Policing Act 2014; and
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

47. These can be supplemented by other local initiatives that similarly address these problems.

### **48. Licensing hours**

49. With regard to licensing hours, consideration will be given to the individual merits of an application.

- The Council recognises that, in certain circumstances, longer licensing hours with regard to the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- The Council also wants to ensure that licensing hours should not inhibit the development of a thriving and safe evening and night-time local economy.

50. The term “zoning” is used in the Guidance to refer to the setting of fixed trading hours within a designated area. **At the moment the Council sees no need to adopt such a policy.** The Council has followed the advice in the Guidance and will not be adopting such a Policy within the Borough. However, stricter conditions with regard to noise control will be expected in areas which have denser residential accommodation, but this will not limit opening hours without regard to the individual merits of any application.

### **51. Shops stores and supermarkets**

52. With regard to shops, stores and supermarkets, the norm will be for such premises to be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is

open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

### **53. Mobile, remote, internet and other delivery sales**

54. The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house), unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.

55. The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.

56. Persons who run premises providing 'alcohol delivery services' should notify the Council that they are operating such a service in their operating schedule. This ensures that the Council can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact the Council for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required. **Steps must be in place to ensure that any designated premises supervisor and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold to persons underage.**

### **57. Protection of children from harm**

58. The Body the Council judges to be competent to act as the responsible authority in relation to the protection of children from harm is Halton Borough Council **People and Economy Directorate**: contact details are set out in **Appendix A**.

59. The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Council must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

60. The Council will give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health **and Trading Standards** may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers **and the impacts of parental drinking on children.**

61. The Council considers that children and family groups in general should be encouraged to be present in places subject to premises licences unless the environment in those premises (by nature of the activities carried on) is unsuitable. As a general principle, the presence of children and family groups is felt to have a positive influence on the atmosphere within such premises and to produce a more balanced age range within the premises.

62. The Council will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. The Council will not attempt to anticipate every issue of concern that could arise in respect of children with regard to individual premises and as such, general rules will be avoided. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

63. The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice.

64. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. Accordingly, between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does

not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the Act.

65. The fact that the Act may effectively bar children under 16 unaccompanied by an adult from premises where the consumption of alcohol is the exclusive or primary activity does not mean that the Act automatically permits unaccompanied children under the age of 18 to have free access to other premises or to the same premises even if they are accompanied or to premises where the consumption of alcohol is not involved.

66. Subject only to the provisions of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Act includes on the one hand, no presumption of giving children access or on the other hand, no presumption of preventing their access to licensed premises. Each application and the circumstances obtaining at each premises will be considered on its own merits.

67. Certain areas need to be highlighted that will give rise to particular concern in respect of children. For example, these will include premises:

- where entertainment or services of an adult or sexual nature are commonly provided;
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

68. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. The Council, applicants, and responsible authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table- or poledancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

69. **Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:**

- limitations on the hours when children may be present;
- limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- limitations on the parts of premises to which children might be given access;



- age limitations (below 18);
- requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of those people under 18 from the premises when any licensable activities are taking place.

70. Conditions requiring the admission of children to any premises cannot be attached to licences or certificates.

71. Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Council, these volunteered prohibitions and restrictions will become conditions attaching to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the Council in these circumstances.

72. In connection with the protection of children from harm, the responsible authorities include a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised by the licensing authority for that area as being competent to advise it on such matters. The Council is a unitary authority and competent in this area. Applications will therefore not need to be copied to any other competent authority in this area: the Council will liaise where appropriate with its own social services department.

### **73. Proof of Age**

74. It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. **It is also an offence for an over 18 to purchase alcohol for an under 18 – this is called proxy purchasing.** To prevent such crimes, it may be necessary to require a **condition** to be applied at certain licensed premises **going beyond the mandatory minimum requirements** requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. **Trading Standards regulate the sale of alcohol to under 18s and can provide advice and materials relating to the prevention of underage sales. They can also provide free staff training.**

### **75. Responsible authorities**

76. A full list of the responsible authorities in the area and appropriate contact details are set out at **Appendix A**.

77. The inclusion of the health service as a responsible authority under the Licensing Act 2003, which occurred in 2012, enables health bodies to have a say in alcohol licensing. The Licensing and Public Health teams work together within the council to ensure that the health impacts of alcohol licensing are considered.

78. As there is not a specific licensing objective related directly to health within the current legislation, health bodies, when making a representation, are most likely to relate such representations to the objectives on public safety and protecting children from harm. This is likely to include the prevention of accidents, injuries and other immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning. Anonymised data can be collected about incidents relating to specific premises or areas when representations are made.

79. Health bodies hold valuable information which may not be recorded by other agencies, including analysis of data on attendance at emergency departments and the use of ambulance services following alcohol related incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises.

80. The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies.

### **81 The Portman Group code of Practice on the Naming Packaging and promotion of alcoholic drinks**

82. The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with.

83. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. The Council commends the Code and applicants will be expected to state how they intend to apply the Code.

### **84. Plastic containers and toughened glass**

85. The Council has concerns about the dangers of bottles and glasses being used as weapons. It believes that the use of safer



forms of glasses can help to reduce injuries and will expect applicants to state in their operating schedule what proposals they have to minimise such injuries through the use of safer forms of glasses, bottles and other means.

86. Consideration will therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries. Location and style of the venue, the activities carried on there, and the hours of operation, would be particularly important in assessing whether a condition is necessary: for example, the use of glass containers on the terraces of outdoor sports grounds may be of concern.

### **87. CCTV**

88. The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

### **89. Children and cinemas**

90. In the case of premises giving film exhibitions, the Council will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the Council itself. The Council has no current plans to adopt its own system of classification.

91. The Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 - the British Board of Film Classification is the only body which has been so designated – or by the licensing authority itself.

### **92. Crime prevention**

93. Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras in certain premises. Conditions will, where appropriate, also reflect the input of the local Crime and Disorder Reduction Partnership.

### **XX Drugs**

*The Council recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises but it is recognised that conditions may need to be attached to the licences for certain venues if representations are received. The aim will be to endeavour to reduce the availability, sale, and consumption of illegal drugs and to create a safer environment for those who may have taken them. Any conditions will take into account the relevant guidance and advice from appropriate bodies.*

*The Council expects licensees of all venues to take all reasonable steps to:*

- *Prevent the entry of drugs into licensed premises*
- *Prevent drugs changing hands within the premises*
- *Understand the signs of drug misuse in people so that practical steps can be taken to deal with any instances that occur*
- *Have appropriately trained staff to deal with drug related incidents.*

*The Council expects licensees to permit the access and use of drug dogs within the public and staff areas of the premises upon request of the Council and/or police involved in such an initiative.*

*The increasing prominence and dangers that can occur from Novel (New) Psychotic Substances (Legal Highs) is recognised and the Council would encourage all venues to include suitable steps within their Drugs Policy to deal with legal highs. The Council will consider whether it would be appropriate to impose a condition in order to promote one or more of the statutory licensing objectives where there is evidence to do so.*

### **XX The control of excessive Alcohol consumption**

*It is an offence under the Licensing Act 2003 to sell to, or obtain alcohol for, a person who is drunk on licensed premises.*

*In practical terms this includes:*

- *Selling an alcoholic drink to someone who you know is drunk*
- *Buying an alcoholic drink for someone who you know is drunk*

*The Council expects all premises licence holders to take steps to control excessive consumption and drunkenness on relevant alcohol licensed premises. All serving staff should be trained in recognising the signs of drunkenness, how to refuse service and the premises duty of care. The premise should display prominent signage at point of sale that it is an offence to sell alcohol to anyone who is drunk.*

*This will reduce the risk of anti-social behaviour occurring both on and away from the premises after customers have departed. Premises licence holders are expected to be able to demonstrate a*

*general duty of care to customers using their premises and others affected by their activities.*

#### **94. Capacity limits**

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

#### **96. Good Management**

97. Certain kinds of physical environment within places subject to premises licences (such as an over preponderance of vertical drinking) are generally thought to be less conducive to avoiding crime and disorder. Good management and adequate staff training are vital. Where appropriate the provision of food in addition to alcohol can have a beneficial effect. Where food is provided it is good practice (but not mandatory under the licensing system) to have regard to current practice on healthy eating. **The Council encourages premises licence holders to take an active part in local Pub Watch and Arc Angel schemes.**

98. Another aspect of good management in relation to door supervision is to have proper systems in place to comply with the Private Security Industry Act 2001 and to think about how good door supervision systems can contribute to crime reduction both within and outside of premises. Applicants will be expected to have considered these and all relevant issues and to reflect these within their operating schedules

#### **99. Cultural strategies**

100. In connection with cultural strategies, the Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. Only necessary, proportionate and reasonable licensing conditions will be applied on such events. Where there is any indication that such events are being deterred by licensing requirements, the statement will be revisited with a view to investigating how the situation might be reversed.

101. The United Kingdom ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. Article 15 of the Covenant requires that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. It is therefore important that the principles underpinning ICESCR will be integrated, where possible, with the Council's approach to the licensing of regulated entertainment.

## 102. Transport

103. The Council proposes, through its Local Transport Plan, to develop protocols to be agreed between the local police and other partners that have due regard to the need to disperse people from town centres swiftly and safely to avoid concentrations which produce disorder and disturbance. Applicants will be expected to have considered this issue, and their operating schedule should reflect their proposals for how they might assist in this process.

## 104. Tourism, employment, planning and building control, and highways

105. The following matters should be noted in relation to tourism, employment, planning and building control, and highways:

- arrangements have been made for the Council's Regulatory Committee to receive, when appropriate, reports on the needs of the local tourist economy for the area to ensure that these are reflected in their considerations;
- the Council intends to keep the Regulatory Committee apprised of the employment situation in the area and the need for new investment and employment where appropriate;

106. Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Except in cases where planning permission is not required, applications for premises licences for permanent commercial premises should normally be from businesses with planning permission in place for the property concerned.

107. Licensing applications will not be a re-run of the planning application and should not cut across decisions taken by the Council's Development Control Committee or following appeals against decisions taken by that committee. Nevertheless, applicants should be aware that because the rules applicable and the range of matters to be taken into account are not identical, it is possible for planning permission to be granted and a licence application to be refused (and vice versa) in respect of the same premises. The same applies to the conditions which may be applied to planning permissions and premises licences.

108. Similarly, the granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.

109. Planning obligations under section 106 Town and Country Planning Act 1990 warrant special mention. The Council as licensing authority can neither demand that a planning obligation be entered into nor be party to a planning obligation. However, applicants are free to enter into such agreements with the Council as planning authority if they so wish. Such agreements could

potentially deal with a wide range of matters such as contributions to town centre policing and litter control.

110. Proper integration will be assured by the Regulatory Committee, where appropriate, providing regular reports to the Development Control Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This will enable the Development Control Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

111. The Council's Local Transport Plan is the mechanism by which the Council will work in partnership with all appropriate bodies to deliver effective local transport strategies. Effective strategies will include provision of night-time and evening services, where this is appropriate to the local situation.

112. Where applicants seek premises licences in respect of pavement cafes and the like, they will have to have satisfied the Council (as Highway Authority) of the appropriateness and legality of any proposal prior to any application to the Licensing Authority.

### **113. Promotion of Equality**

114. The Council recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons with different protected characteristics.

115. Local authorities are also required under the 2010 Act, to discharge the public sector equality duties. The Council is required by the Equality Act 2010 to publish information at least annually to demonstrate its compliance with the equality duty. Applicants will be expected to demonstrate that they have taken this issue into account.

### **116. Duplication**

117. The Council will avoid duplication with other regulatory regimes so far as possible. For example, legislation governing health and safety at work and fire safety will place a range of general duties on the self-employed, employers and operators of venues both in respect of employees and of the general public when on the premises in question. Similarly, many aspects of fire safety will be covered by existing and future legislation.

118. Conditions in respect of public safety will only be attached to premises licences and club premises certificates that are "necessary" for the promotion of that licensing objective and if already provided for in other legislation, they cannot be considered necessary in the context of licensing law. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities, particularly regulated

entertainment, at specific premises and tailored conditions may be necessary. It should be borne in mind that an alteration is “material” for the purposes of the Building Regulations if it has the potential to affect structural stability, fire safety or access.

119. The Council appreciates that regulations under which a fire safety inspection would normally be carried out do not apply to ships/boats unless they are in dry dock. The safety regime for passenger vessels is enforced under the Merchant Shipping Acts by the Maritime and Coastguard Agency who operate a passenger ship certification scheme. Accordingly, it will not normally be necessary to duplicate the controls imposed through the certification scheme.

120. Certain health and safety issues can be taken into account despite apparent duplication. For example, applicants will be expected to consider the appropriate types of drinking containers (i.e glass or plastic) within premises or parts of premises. This example can only be considered under the crime and disorder heading.

### **121. Standardised conditions**

122. The Guidance states that a key concept underscoring the Act is for conditions to be attached to licences and certificates which are tailored to the individual style and characteristics of the premises and events concerned. This can be important to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. The Guidance states that standardised conditions should therefore be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case. The Council will apply the general principles relating to conditions as set out in the Guidance.

123. The Guidance states that it is acceptable for licensing authorities to draw attention in their statements of Policy to pools of conditions from which necessary and proportionate conditions may be drawn in particular circumstances. The Council considers that standardised wording of conditions (but not universally applied block conditions) are acceptable when dealing with the same or very similar situations.

124. There will be circumstances where no additional conditions may be necessary where existing legislation and regulation already effectively promote the licensing objectives. Where conditions are imposed they will focus on matters within the control of applicants/licence holders.

### **125. Enforcement**

126. The Council has established a protocol with the local police on enforcement issues.

127. In particular, this protocol is intended to provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The Act does not require inspections to take place save at the discretion of those charged with this role. The principle of risk assessment and targeting should prevail and inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

### **128. Live music, dancing and theatre**

129. The Council recognises that as part of implementing the Council's cultural strategies, proper account should be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities. Concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly the cultural benefits for children.

130. In determining what s should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Council will be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature. It is noted that the absence of cultural provision in any area can itself lead to the young people being diverted into anti-social activities that damage communities and the young people involved themselves.

131. To ensure that cultural diversity thrives, the Council will have a Policy of seeking premises licences where appropriate for public spaces within the community in their own name. This could include, for example, village greens, market squares, promenades, community halls, Council owned art centres and similar public areas. Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give a performance in these places. They would still require the permission of the Council as the premises licence holder for any regulated entertainment that it was proposed should take place in these areas.

132. It should be noted that when one part of the Council seeks a premises licence of this kind from the Council in its capacity of licensing authority, the Regulatory Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the Committee. Those making representations genuinely aggrieved by a positive decision in favour of the Council application by the Council in its capacity of licensing authority would be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.

## **133. Live Music Act 2012 - Live music in licensed venues**

134. Live music is no longer considered to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- when it is unamplified and takes place between 8am and 11pm; and
- when it is amplified and takes place in the presence of an audience of 200 persons or less and is provided between 8am and 11pm.

135. The premises must be open for the sale of alcohol during the time that the live music is provided for the exemption(s) to take effect.

136. Any condition attached to the Premises Licence relating to live music will cease to have effect in respect of the live music when offered between 8am and 11pm, unless such conditions have been reinstated by the Licensing Authority as part of a Review Hearing.

## **137. Live music in venues which are not licensed**

138. Unamplified, live music has been deregulated between 8am and 11pm in all non-licensed venues.

However, unamplified, live music after 11pm and amplified live music in non-licensed venues will still require formal authorisation from the Licensing Authority by way of a Premises Licence, Club Premises Certificate or Temporary Event Notice (TEN).

## **139. Preparation of Operating Schedules**

140. Applicants are strongly advised to obtain proper professional advice in the preparation of operating schedules and in particular are strongly advised to seek advice from the police on matters relating to crime prevention (including CCTV) to ensure a proper link between Crime and Disorder Strategies and Alcohol Harm Reduction Strategies.

## **141. Contact Points**

**142. Appendix B** gives details of contact points where members of public can obtain advice about whether or not activities should be licensed.

## **143. Administration, exercise and delegation of functions**

144. The Council's Regulatory Committee (and Regulatory Sub-Committees) will carry out all of the Council's licensing functions under the Act except those relating to the making of statements of licensing Policy. A full delegation scheme is in place. The scheme of delegation relating to matters which **can** be dealt with by the Regulatory Sub-committee(s) and officers of the Council are set out at **Appendix C**. This follows the recommended delegation of functions set out in the Guidance **and is carried forward into the Council's Constitution. Whether delegated powers are exercised on**



any given occasion is a matter of practice adopted from time to time.

**145. Monitoring/Review**

146. The Council will carry out a review of the statement in accordance with the Guidance and the Act.

## APPENDIX A

## LIST OF RESPONSIBLE AUTHORITIES AND CONTACT DETAILS

List of Responsible Authorities (The Council's website should be consulted to check for alterations to contact details)

<p><b>Relevant Licensing Authority</b></p> <p>Licensing Section Halton Borough Council Municipal Building Kingsway Widnes WA8 7QF</p>	<p><b>Chief Officer of Police</b></p> <p>Chief Officer of Police Cheshire Constabulary Police Licensing Officer Widnes Police Station Kingsway Widnes WA8 7QJ</p>
<p><b>Fire and Rescue Authority</b></p> <p>Cheshire Fire and Rescue Authority Fire Station Winwick Road Warrington WA2 8HH</p>	<p><b>Public Health Authority</b></p> <p>Director of Public Health Halton Borough Council Community and Resources Directorate Town Hall Heath Road Runcorn WA7 5TD</p>
<p><b>Health and Safety Enforcing Authority<sup>1</sup></b></p> <p>Director of Public Health Halton Borough Council Community and Resources Directorate Town Hall Heath Road Runcorn WA7 5TD</p>	<p><b>Local Planning Authority</b></p> <p>Halton Borough Council Planning Department Municipal Building Kingsway Widnes WA8 7QF</p>
<p><b>Authority exercising functions in relation to minimising or preventing the risk of pollution of the environment or of harm to human health</b></p> <p>Director of Public Health Halton Borough Council Community and Resources Directorate</p>	<p><b>Recognised Child Protection Body</b></p> <p>Halton Borough Council People and Economy Directorate c/o Legal Services Municipal Building Kingsway Widnes WA8 7QF</p>

<sup>1</sup> In some cases this may be the Health & Safety Executive. If in doubt please contact the Council.

<p>Town Hall Heath Road Runcorn WA7 5TD</p>	
<p><b>Local Weights and Measures Authority</b></p> <p>Principal Trading Standards Officer Halton Borough Council Town Hall Heath Road Runcorn WA7 5TD</p>	
<p><b>NOTE</b></p> <p>If the premises are situated in one or more licensing authority areas, send the application and supporting documents to each additional licensing authority. Please check with the Licensing Section if you require further advice.</p>	

**Vessels**

Where applications relate to vessels additional responsible authorities will be involved (depending on the circumstances as set out below. Advice should be sought from the Licensing Authority regarding the relevant additional responsible authorities.

- 1) The navigation authority in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated when it is used for licensable activities
- 2) Environment Agency
- 3) British Waterways Board
- 4) The Secretary of State for Transport through the Maritime and Coastguard Agency

APPENDIX B

**CONTACT POINTS WHERE THE PUBLIC MAY OBTAIN ADVICE  
FROM THE COUNCIL**

Council Website [www.halton.gov.uk](http://www.halton.gov.uk)  
Email address: [legalservices@halton.gov.uk](mailto:legalservices@halton.gov.uk)  
Telephone: 0151 511 7879  
Postal Address:  
Halton Borough Council  
Licensing Section  
Legal Services  
Municipal Building  
Kingsway  
Widnes  
WA8 7QF

## APPENDIX C

## SCHEME OF DELEGATION

<b>Matters to be dealt with</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence	If a police objection	If no objection made
Application for a personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If relevant representation made	If no relevant representation made
Application for provisional statement	If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If relevant representation made	If no relevant representation made
Application to vary premises licence supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application for review of premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision on whether to consult other responsible authorities on minor variation applications		All cases
Determination of minor variation application		All cases

**REPORT TO:** Regulatory Committee  
**DATE:** 16 September 2015  
**REPORTING OFFICER:** Strategic Director Policy & Resources  
**PORTFOLIO:** Resources  
**SUBJECT:** Gambling Act 2005 - Statement of Gambling Policy  
**WARDS:** Boroughwide

### 1. PURPOSE OF REPORT

To approve a draft Statement of Gambling Policy for recommendation to the Council for adoption.

### 2. RECOMMENDED: That

- (1) Having undertaken a consultation exercise the draft Statement of Gambling Policy approved by the Committee be recommended to full Council for adoption.
- (2) An appropriate form of wording for the Council resolution would be: "The Council:
  - (1) adopts the Statement of Gambling Policy attached to the report to come into effect immediately following the expiry of the current Policy; and
  - (2) directs that the Operational Director-Legal and Democratic Services publishes the Statement in accordance with section 349 of the Gambling Act 2005 and the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006."

### 3. SUPPORTING INFORMATION

- 3.1 At its meeting held on 17 June 2015 the Committee considered a report on the Statement of Gambling Policy which must be adopted by the Council to replace the current policy which will expire in January 2016. The current Statement of Gambling Policy is due to expire at midnight on 30th January 2016 and the new Statement of Gambling Policy must be in place on 31st January 2016. Full details are set out at Minute REG 17 and agenda item 5 to the meeting.
- 3.2 The Committee authorised the Operational Director, Legal and Democratic Services (OD-LD) to undertake a consultation exercise in respect of the Council's Statement of Gambling Policy in accordance with section 349 Gambling Act 2005.
- 3.3 The consultation exercise was completed at the end of July 2015. No responses were received to the consultation exercise which indicates that there was general satisfaction with the draft Statement.
- 3.4 The original consultation draft Statement is therefore attached as Appendix 1.
- 3.5 The appropriate Council meeting to consider this matter will be held on 14<sup>th</sup> October 2015.

**4. POLICY IMPLICATIONS**

4.1 Once it comes into effect, the Statement of Gambling Policy will be used in accordance with the Gambling Act 2005.

**5. OTHER IMPLICATIONS**

5.1 There are no other implications arising out of this report.

**6 IMPLICATIONS FOR THE COUNCILS PRIORITIES**

**6.1 Children and Young People in Halton**

The Council's Statement of Gambling Policy operates under a separate statutory code but since it involves licensable activities it is designed to contribute to licensing objective of the protection of children from harm.

**6.2 Employment Learning and Skills in Halton**

N/A

**6.3 A Healthy Halton**

N/A

**6.4 A Safer Halton**

N/A

**6.5 Halton's Urban Renewal**

N/A

**7 RISK ANALYSIS**

N/A

**8 EQUALITY AND DIVERSITY ISSUES**

N/A

**9. LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972**

This report is based on the Gambling Act 2005. See also the Council's existing Statement of Gambling Policy.

**Halton Borough Council**  
**STATEMENT OF**  
**GAMBLING POLICY**  
**Gambling Act 2005**

Approved by Halton Borough  
 Council on 2015  
 (Minute )

Date coming into effect:  
 31<sup>st</sup> January 2016

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**PART A**

**1. The Licensing Objectives**

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

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

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

**2. Introduction**

Halton Borough Council (“the Council”) is situated in the County of Halton and is a Unitary Authority. Halton Borough comprises the towns of Widnes and Runcorn and surrounding villages of Hale, Daresbury, Moore, and Preston Brook. It is predominantly an urban area with a population of 125,773 (2011 Census).

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed 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 the any amended parts re-consulted upon. The statement must be then re-published.

The Council consulted upon this policy statement before finalising and publishing it. A list of the persons we consulted is provided below.

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

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

List of persons this authority consulted:

- Cheshire Constabulary
- Halton Borough Council Children & Enterprise Directorate
- Halton Borough Council Communities Directorate
- The Bingo Association
- Association of British Bookmakers
- British Amusement Catering Association
- Responsibility in Gambling Trust (U.K.)
- GamCare
- The general public through local advertisement and the Council’s website
- Cashino Unit 29-33a Forest Walk Halton Lea Runcorn

It should be noted that this policy statement 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 this licensing policy statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the policy statement.

### **4. Competent authority for protection of children from harm**

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 etc

The Council designates the Halton Borough Council Children & Enterprise Directorate for this purpose.

The contact details of all the Responsible Bodies under the Gambling Act 2005 are available from Legal Services Licensing Section.

### **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 authorities 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. The Council 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 local authorities. Note that decisions on Premises Licences must be “in accordance” with Gambling Commission Guidance.

The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and tenants' associations. This authority will not however generally view these bodies as

interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested parties can be persons who are democratically elected such as Councillors and MP's. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorities activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department (*insert contact details*).

## **6. Exchange of Information**

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

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

Issues of confidentiality will be assessed on a case by case basis since the interests of data subjects must be balanced against the public interest. The fundamental principle which the licensing authority must adhere to is that it must act in the public interest. Data subjects can access information via the licensing authority's contact details set out below.

## **7. Inspection and criminal proceedings**

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 for local authorities and as per the Gambling Commission's Guidance for local authorities, it 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

This licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme.

The licensing authority's Community Safety Team carries out inspections – often jointly with Gambling Commission enforcement staff.

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 Operator and Personal Licences. It is also worth noting that 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 authority also understands that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

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

### **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) of the use of two or fewer gaming machines
- Grant *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

## **PART B PREMISES LICENCES**

### **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.

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

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

*Definition of "premises"* - Premises is defined in the Act as "any place". It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Gambling Commission states in its Guidance for local authorities, it will always be a question of fact in the circumstances. The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

This licensing authority will also take note of the Gambling Commission's Guidance to local authorities that: Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

*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 can. As per the Gambling Commission's Guidance for local 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 policy 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 the concerns can be overcome.

*Duplication with other regulatory regimes* - This authority will seek 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 or building consent, in its consideration of it. This authority 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.

*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 of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.

**Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission in its Guidance for local authorities has stated that generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. This licensing authority also notes, however, that the Gambling Commission also states in relating to the licensing tracks the licensing authorities' role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. This licensing authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission Guidance to local authorities states that the objective talks of protecting children from being "harmed or exploited by gambling, but in practice that often means preventing them from taking part in or being in close proximity to gambling.

This licensing authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos. It is understood that a Code for casinos must:

- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person ("the supervisor") who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. This licensing authority will consider this licensing objective on a case by case basis. 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 control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each 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.

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

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

*Door Supervisors* - The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Gambling Act 2005 has amended the Security Industry Act and that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority. This licensing authority may therefore has specific requirements for door supervisors working at casinos or bingo premises.

## **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 ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- Proof of age schemes

- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

### **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 that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operator 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**

The Council did not make an application for new casinos under the Gaming Act 1968 (prior to the deadline of 26<sup>th</sup> April 2006). Consequently 'Section 4. Casinos' is not directly relevant to this Statement but is included for the sake of completeness.

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



*Casinos and competitive bidding* - This licensing authority is aware that where a licensing authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations issued under the Gambling Act 2005 by the Secretary of State.

*Betting machines* - This licensing authority is aware that, as explained in the Gambling Commission's Guidance for local authorities: Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should 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 persons.

*Credit* - This licensing authority has noted that the Gambling Commission has stated in its Guidance for Local Authorities that section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, not make any payment in connection with the machines. Guidance on the further conditions that may apply in relation to such machines will be included in the next version of this guidance

## **5. Bingo premises**

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

- Licensing authorities will be able to find information about the restrictions that apply in the codes of practice that will be published on the Commission's website.
- Further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises.

Once this information is available, this licensing authority will consider its application to premises licences for bingo premises.

## **6. Betting premises**

*Betting machines* - It is noted that the Gambling Commission's Guidance for local authorities states: "Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should 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 persons."

*Credit* - It has also been noted that the Gambling Commission Guidance states: section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, nor make any payment in connection with the machines. It is also understood that the Gambling Commission will be placing restrictions and requirements on Operating Licences for betting premises as regards credit and this licensing authority will consider the guidance when it is available.

### **7. Tracks**

This licensing authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- The location of gaming machines

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

*Betting machines* - Licensing authorities have a power under the Gambling Act 2005, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. The Gambling Commission's Guidance will be noted in that it states: In relation to betting premises away from tracks, the Commission is proposing that licensing authorities should take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining

the number of machines permitted. Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

This licensing authority also notes that, In the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

*Condition on rules being displayed* - The Gambling Commission has advised in its Guidance for local authorities that licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

## **8. Travelling Fairs**

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

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

It has been noted 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. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

This licensing authority notes the Guidance for the Gambling Commission which states that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence and that requiring the building to be complete ensures that the authority could, if necessary, inspect it fully.

In terms of representations about premises licence applications, following 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:

- (a) which could not have been raised by objectors at the provisional licence stage; or

- (b) which is in the authority's opinion reflect a change in the operator's circumstances.

This authority has noted the Gambling Commission's Guidance on not taking into account irrelevant matter: one example of an irrelevant matter would be the likelihood of the applicant obtaining planning or building regulations approval for the proposal.

#### **10. Reviews:**

Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

- 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

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

### **PART C**

#### **Permits / Temporary & Occasional Use Notice**

##### **1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 para 7)**

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

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

The 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 Family Entertainment Centre, and if the chief officer of police has been consulted on the application. Relevant considerations to take into account would include the applicant's suitability, such as any convictions that they may have that would make

them unsuitably to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about disorder.

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the statement of principles only applies to initial applications and not to renewals.

Statement of Principles = 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 BRC checks for staff, training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

## **2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))**

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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in site 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 help. As regards the protection of vulnerable persons this applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Adult Entertainment Centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

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

### **3. Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

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 not prepared a statement of principles. Should it decide to do so it will include details in a revised version of the policy statement.

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

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

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

### **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 Clubs 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 for local authorities 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.

The Guidance also makes it clear that before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18.

This Licensing Authority is aware 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.

It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's Guidance for local authorities states: Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced and that the grounds on which an application under the process may be refused are:

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

### **5. Temporary Use Notices**

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building / site.

### **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. The licensing authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **Part D**

### **Contact Details**

Please contact the licensing authority via the following email address and telephone number: Email - [legalservices@halton.gov.uk](mailto:legalservices@halton.gov.uk); Tel: 0151 511 7879