



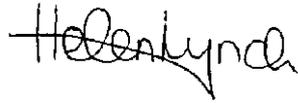
## **Local Government Act 1972**

**I Hereby Give You Notice** that an **Ordinary Meeting** of the **Durham County Council** will be held in the **Council Chamber - County Hall, Durham** on **Wednesday 5 December 2018 at 10.00 a.m.** to transact the following business:-

1. To confirm the minutes of the meeting held on 31 October 2018 (Pages 3 - 12)
2. To receive any declarations of interest from Members
3. Chairman's Announcements
4. Leader's Report
5. Questions from Area Action Partnerships
6. Questions from the Public
7. Petitions
8. Report from the Cabinet (Pages 13 - 32)
9. Mid-Year Review Report on Treasury Management for the period to 30 September 2018 - Report of Corporate Director of Resources (Pages 33 - 42)
10. West Rainton Community Governance Review - Final Recommendations - Report of Head of Legal and Democratic Services (Pages 43 - 66)
11. Review of the Council's Statement of Gambling Policy - Report of Corporate Director of Regeneration and Local Services (Pages 67 - 164)
12. Motions on Notice
13. Questions from Members

**And** pursuant to the provisions of the above-named act, **I Hereby Summon You** to attend the said meeting

Dated this 27th day of November 2018

A handwritten signature in black ink that reads "Helen Lynch". The signature is written in a cursive style with a horizontal line through the middle of the word.

Helen Lynch  
Head of Legal and Democratic Services

**To: All Members of the County Council**

**DURHAM COUNTY COUNCIL**

At an Ordinary Meeting of the County Council held in the Council Chamber - County Hall, Durham on **Wednesday 31 October 2018 at 10.00 am.**

**Present:**

**Councillor J Lethbridge (Chairman)**

Councillors E Adam, J Allen, J Atkinson, P Atkinson, B Avery, A Bainbridge, B Bainbridge, A Batey, A Bell, D Bell, E Bell, J Bell, R Bell, H Bennett, J Blakey, G Bleasdale, P Brookes, D Brown, J Brown, L Brown, C Carr, J Chaplow, J Clare, J Clark, M Clarke, I Cochrane, J Considine, K Corrigan (Vice-Chairman), P Crathorne, R Crute, G Darkes, M Davinson, S Dunn, D Freeman, A Gardner, J Grant, O Gunn, D Hall, C Hampson, K Hawley, T Henderson, S Henig, D Hicks, A Hopgood, K Hopper, L Hovvells, P Howell, E Huntington, S Iveson, I Jewell, O Johnson, P Jopling, C Kay, B Kellett, L Kennedy, A Laing, K Liddell, H Liddle, J Maitland, J Makepeace, R Manchester, C Marshall, L Marshall, C Martin, E Mavin, S McDonnell, M McGaun, M McKeon, I McLean, A Napier, J Nicholson, A Patterson, L Pounder, S Quinn, A Reed, G Richardson, S Robinson, J Rowlandson, A Savory, E Scott, P Sexton, K Shaw, A Shield, J Shuttleworth, A Simpson, H Smith, T Smith, W Stelling, B Stephens, A Surtees, P Taylor, O Temple, K Thompson, F Tinsley, T Tucker, J Turnbull, A Watson, M Wilkes, A Willis, C Wilson, M Wilson, S Wilson, D Wood and S Zair

Apologies for absence were received from Councillors L Boyd, J Charlton, N Grayson, S Hugill, L Maddison, L Mavin, O Milburn, S Morrison, H Nicholson, P Oliver, R Ormerod, C Potts, M Simmons, J Stephenson, D Stoker, L Taylor and R Yorke

Prior to the commencement of the meeting the Chairman of the County Council with great sadness reported the deaths of:

- former Durham County Councillor, Wear Valley District Councillor and West Auckland Parish Councillor Andrew (Andy) Turner. Andy was a Wear Valley District Councillor from 1999-2003 and served on Durham County Council from 2008-2017 representing the West Auckland Division and Evenwood Division over two terms of office.
- former Durham City Councillor Robert (Bob) Wynn. Bob served on Durham City Council for 10 years from May 1999 to 2009 representing the Elvet Ward and Crossgate and Framwelgate Ward and served as Mayor of the City of Durham in 2007-08.

The Council stood for a moments silence as a mark of respect.

**1 Minutes**

The minutes of the meeting held on 19 September 2018 were confirmed by the Council as a correct record and signed by the Chairman.

Councillor Shuttleworth informed Council that he had made a statement on the work of the Audit Committee report which was considered at Council on 19 September 2018 and requested that the minutes be amended to reference his comments. The Head of Legal and Democratic Services advised Council that she would resolve the issue outside of the meeting.

## **2 Declarations of Interest**

There were no declarations of interest in relation to any item of business on the agenda.

## **3 Chairman's Announcements**

The Chairman referred Council to the beauty of the County, which was made more welcoming for residents and visitors alike by the abundance of flower displays in many towns and villages. These included work by the Council, Parish Councils, community groups, businesses and many more.

The Chairman had recently attended the Northumbria in Bloom finals where many settlements achieved the highest standard of gold, and others achieved best in class. Ovington in the south of the County achieved Gold and Best New Entry in its first year of taking part in the competition.

Durham City also scooped gold and was category winner, also judged to be the best in Northumbria overall.

Additionally Durham City also won the Best Small City Category in the national Britain in Bloom finals and its fourth national gold in a row.

Several members of the Councils team that helped to achieve these results were in attendance and the Chairman presented them with the awards. The Chairman also invited Council to place on record its congratulations and thanks to those involved.

## **4 Leader's Report**

The Leader informed Council that the Council was prepared for winter, with new replacement gritters and 42,000 tonnes of salt to keep County Durham's roads moving. As in previous years, the Council was supporting the NHS winter wellness messaging and the flu vaccination campaign with staff being offered free vaccination if they came into contact with vulnerable adults and children as part of their jobs.

World Mental Health Day took place on 10 October and that Council and partners signed the 'Time to Change' pledge at the County Durham Partnership's annual event held on the same day. The pledge demonstrated the Council's commitment to introducing positive changes to how it thought and acted about mental health in the workplace.

The Partnership event attracted 200 participants from community groups across the County and featured key speakers who highlighted innovative approaches to supporting people with mental health needs and the importance of promoting mental health awareness. Delegates received an update on successful projects and were encouraged to share ideas on how to empower communities to become more resilient. Discussions were also held on themes including children and young people, men's wellbeing and tackling stigma and discrimination.

The Council had also signed the 'Dying to Work' pledge with trade union representatives before the Cabinet meeting on 17 October 2018, as part of the TUC campaign for greater employment security for terminally ill workers. Signatories included representatives from the Regional TUC, GMB, Unison and Unite.

The Council had again provided free healthy snacks for children during the half term holiday. Aimed at tackling holiday hunger and child poverty, the programme ran from all of the Council's leisure centres with swimming pools.

Durham Book festival, which took place in October, attracted several thousand visitors to a wide variety of events, of which the leader had attended a number, and 3,000 people engaged with the Big Read.

Planning was underway for next year's tenth anniversary Lumiere and a sponsorship launch event would take place in November when the Heron installation would be lit up at its permanent location in the River Wear as a third Lumiere legacy piece permanently on display in Durham.

As part of the Council's Inward Investment campaign the Council's marketing programme, Celebrate Durham, continued with poster and digital display campaigns featuring Lumiere, including at Newcastle International Airport and along the East Coast Main Line at King's Cross, Leeds, York and Edinburgh Waverley stations.

The Leader referred to the Armistice centenary which took place in a few days' time and marked 100 years since the First World War Armistice on 11 November 1918. A number of events were taking place.

The Council was working with the Northern Echo to produce a commemorative edition to be published on Sunday 11 November. 'Hope', a sound and light installation, would be in Millennium Place, Durham to coincide with the centenary from 9 to 15 November. Alongside 'Hope' a special performance of the Durham Hymns would take place in the Cathedral on Sunday 11 November.

The musical play, 'The Muddy Choir' would be performed at the Gala Theatre on 1 November while the BBC were shortly to undertake some filming in Witton park to feature the story of the Fighting Bradfords in one of their centenary pieces.

In addition a host of community commemorations were taking place across County Durham. An information section had been set up on the Council's website and would be live from 1 November.

Referring to funding, a Cambridge University study had named County Durham among the worst areas in the country affected by austerity. According to the findings of this independent study the county had seen spending levels slashed by approximately one third between 2010 and 2017.

This week's Chancellor's Budget had seen some additional resources in some areas, although details in terms of how much would be allocated to County Durham was awaited. However, claims that austerity was over appeared to be wide of the mark. Since 2010 the Council had needed to cut its budget by more than £220 million anticipated that reductions in the revenue support grant would continue in the forthcoming 2019/20 financial year. Thereafter the situation remained uncertain, partly as a consequence of the government's Fair Funding review which had yet to report and which could seek to redistribute funding to wealthier areas in the south.

In face of this uncertainty the Council, alongside all north east councils, was proactively campaigning for genuinely fairer funding on the basis of need. The Council was also warning about the potential impact of a change in the way Public Health grant was allocated, which could see County Durham as the worst affected local authority in the country, losing almost £20 million, while areas in the south, without anything like the health needs, could gain by almost as much. The Council had started to lobby to save the public health budget and would ask everyone to join in this.

Councillor Gunn, Portfolio Holder for Children and Young People's Services had written to the governing bodies of all schools and academies in the County to share the Council's concerns about the financial pressures they were currently facing as a result of the government's lack of investment, which would not be ended by the purchase of a couple of whiteboards, a suggested use for the very small additional sums given to schools in the Budget.

## **5 Questions from Area Action Partnerships**

Questions had been received from Four Together Area Action Partnership and Greater Aycliffe and Middridge Area Action Partnership relating to the following:

- How the County Council was working with the bus operators to extend their current offer and how residents could feed in their concerns to ensure that local transport met local need;
- What were the County Council's next plans for the Great Aycliffe Economy and what GAMP could do to assist?

Lee Copeland, Four Together AAP Coordinator and Brian Riley, Greater Aycliffe and Middridge AAP Coordinator were in attendance to ask their questions. Councillor C Marshall, Portfolio Holder for Economic Regeneration thanked both Area Action Partnerships for their questions and provided responses to both.

## **6 Questions from the Public**

A public question had been received asking the precise plans for traffic in the centre of Durham City should the proposed northern and western relief roads be built and

what evidence there was that building these new roads would have the effect of reducing overall traffic, pollution etc. in the broader Durham City area.

In the absence of the member of the public the Head of Legal and Democratic Services informed the Council that the questioner would receive a written response to the question and both the question and the response would be published on the Council's website following the meeting.

## **7 Petitions**

There were no petitions for consideration.

## **8 Report from the Cabinet**

The Leader of the Council provided the Council with an update of business considered by Cabinet on 12 September 2018 (for copy see file of Minutes).

Councillor Hopgood asked whether the Leader could confirm if there would be any increase in the financial contribution that Durham paid as a result of the changes to the North East Combined Authority (NECA) following the creation of a new North of Tyne Mayoral Authority, and if so when and how Members would be consulted on the proposals.

Councillor Henig, Leader of the Council replied that changes to the NECA were in the process of taking place and were expected to be formalised within the next few weeks.

Councillor Hopgood asked whether Members would be advised of any additional costs and if so, when.

Councillor Henig replied that any budget proposals for the NECA costs would be subject to the normal budget process which would include the scrutiny process.

## **9 Modern Slavery Charter**

The Council considered a report of the Corporate Director of Adult and Health Services which presented a Modern Slavery Charter and sought agreement to the Charter (for copy see file of Minutes).

**Moved** by Councillor Hovvels, **Seconded** by Councillor J Brown and

**Resolved:**

That the Modern Slavery Charter be approved and placed on the Council's website.

## 10 Co-opted Members to the Audit Committee

The Council considered a report of the Corporate Director of Resources which sought approval on the appointment of co-opted Members to the Audit Committee (for copy see file of Minutes).

**Moved** by Councillor E Bell, **Seconded** by Councillor Rowlandson and

**Resolved:**

That the appointment of the current co-opted members of the Audit Committee be extended until 30 April 2023.

## 11 Local Council Tax Reduction Scheme 2019/20

The Council considered a report of the Corporate Director of Resources which sought approval for the continuation of the Local Council Tax Reduction Scheme (LCTRS) for a further year into 2019/20 (for copy see file of Minutes).

In **Moving** the report, Councillor Napier, Deputy Leader and Cabinet Portfolio Holder for Finance, informed the Council that despite many years of ongoing austerity the Council had been able to protect the most vulnerable people it served.

The LCTRS was unchanged and ensured that the Council continued to be one of the few councils to continue to offer the same level of benefit as was the case under the old council tax benefit rules. This was despite Government cutting funding for the scheme every year since 2011, when it was cut by 10% before being handed to local government, which was a £4.6m hit to the Council.

These continued to be unprecedented times, with a government paralysed by Brexit with significant risk and uncertainty surrounding future economic prospects and future local government funding.

The decade of imposed austerity continued to hit the Council, but also hit the most vulnerable residents hard. Local people who had seen cuts to their benefits and allowances by a government that did not understand. A government that continued to roll out the Universal Credit scheme despite the bank of evidence which showed how the scheme was not working for vulnerable people, putting people who need the most in an even more vulnerable position.

Cabinet was satisfied that the Council could continue to protect the 34,000 low income households across the County to help them make ends meet by awarding them up to 100% council tax support for 2019/20. Durham was one of only two councils in the region, and one of a dwindling number of councils across the country which continued to grant up to 100% support for working age council tax payers in receipt of low income. Evidence showed that in areas where the LCTRS was not maintained council tax collection rates decreased and the issuing of summons increased. Bailiffs then became involved and this led to the most vulnerable spiralling into debt.

As more local council tax support claimants were in receipt of Universal Credit, where the level of their income could change frequently meaning there could be many changes to their entitlement, changes to the LCTRS may need to be made and officers had been asked to consider this.

In **Seconding** approval of the Scheme Councillor J Brown, Portfolio Holder for Social Inclusion informed the Council that she was proud that the County Council, which had worked hard to protect the Scheme, was one of a few Councils to continue to support such a Scheme. There was evidence that in areas which had drawn back from such level of support families were pushed further into the poverty trap.

**Resolved:**

- (a) That the current Local Council Tax Reduction Scheme be continued into 2019/20, which would retain the same level of support to all working age council tax payers on low incomes;
- (b) That the extension to the Scheme be initially for a further year only and be kept under continuous review with a further decision on the Scheme to apply in 2020/21 to be considered by Cabinet in spring/summer 2019 and Full Council by 11 March 2020.

## **12 Annual Report of the Standards Committee 2017/2018**

The Council noted a report of the Head of Legal and Democratic Services which presented the Annual Report of the Standards Committee for 2017/18 and set out the future direction the Committee intended to take during 2018/19 (for copy see file of Minutes).

Councillor Kellett, Chair of the Standards Committee informed the Council that the Standards Committee had continued to promote the principles and values of good governance within the Council and across the County. The Members of the Standards Committee were committed and dedicated to ensuring that high standards of conduct were maintained by all local elected Members.

Councillor Kellett thanked the Monitoring Officer, staff and Independent Persons for their support during the year.

## **13 Motions on Notice**

In accordance with a Notice of Motion it was **Moved** by Councillor Wilkes and **Seconded** by Councillor Zair:

*This Council confirms its absolute opposition to the closure of Ward 6 of Bishop Auckland Hospital, and calls upon the Secretary of State to intervene and halt County Durham and Darlington NHS Foundation Trust's plan.*

Councillor L Hovvels, Portfolio Holder for Adult and Health Services **Moved** the following amendment, **Seconded** by Councillor A Laing:

*This Council confirms its support for the campaign led by Helen Goodman MP and local people in relation to the closure of Ward 6 of Bishop Auckland Hospital, planned by the County Durham and Darlington NHS Foundation Trust. It notes that the matter is due to be considered by the Adults, Wellbeing and Health Overview and Scrutiny Committee on 15 November, and calls on scrutiny to provide a thorough examination of what has been carried out and to investigate further how services can be retained.*

Upon a vote being taken the Amendment was **carried** and therefore became the Substantive Motion.

Councillor M Wilkes **Moved** the following amendment, **Seconded** by Councillor S Zair:

*This Council confirms its support for the campaign led by Helen Goodman MP and local people in relation to the closure of Ward 6 of Bishop Auckland Hospital, planned by the County Durham and Darlington NHS Foundation Trust. It notes that the matter is due to be considered by the Adults, Wellbeing and Health Overview and Scrutiny Committee on 15 November, and calls on scrutiny to provide a thorough examination of what has been carried out and to investigate further how services can be retained and if the Trust fails to halt its closure plans following the Scrutiny meeting, this Council agrees to refer this matter to the Secretary of State.*

Upon a vote being taken the Amendment was **lost**.

Upon a further vote being taken the Substantive Motion was **carried**.

## **14 Questions from Members**

### **Councillor A Watson**

Future Funding for Maintained Nursery Schools Durham County Council was in the Forefront of Early Years education and created Nursery Schools in the 1960's most of which are rated outstanding by Ofsted. Government has stated that when the existing system of supplementary payments for Maintained Nursery School provision is merged into The Early Years single Funding Formula, Local Authorities will still be permitted to provide a higher level of Funding for Maintained Nursery Schools. What assurances can the Portfolio Holder give Members that County Durham will indeed continue to provide the Enhanced Supplement?

Councillor O Gunn, Portfolio Holder for Children and Young People's Services thanked Councillor Watson for his question.

The Department for Education's 2016 document, 'Early years National funding formula', did indeed include the suggestion that local authorities were allowed to continue providing a higher level of funding to maintained nursery schools, but it also required local authorities to set a universal base rate which was the same for all types of provider. So the expectation would be that, although a higher level of funding was permitted prior to the setting of a universal base rate, in due course all providers would be paid at the same rate.

Currently the government provided local authorities with supplementary funding for maintained nurseries. The purpose of a universal rate was to ensure that no Councils unfairly differentiated the funding rates that they paid to different types of providers, a level playing-field for those from the maintained sector and those from the private/voluntary sector was important, particularly so in regard to 30 hours delivery, the majority of which was provided by the private and voluntary sector.

However, the Government's supplementary funding was only guaranteed until the end of the financial year 2019/20. The expectation of the Department for Education was that the Council would by then have set a universal rate from the funding available through the Early Years National Funding Formula, paying all types of providers at the same level.

In the meantime the Department for Education was undertaking a national review of the funding of maintained nursery schools where it was expected Government direction would follow.

Councillor Watson asked the following supplementary question

Does the Portfolio Holder appreciate that if the Enhanced Supplement is not paid then Maintained Nursery Schools in order to set their Budgets for 2019-20, will have little alternative but to make many TA's redundant, indeed some could struggle to prevent closure.

Councillor Gunn replied that she could only repeat what she had previously said regarding funding. Government had been lobbied for increased education funding at all levels. The Council would always give as much as it could but was restricted because the government did not realise the funding crisis in all education provision.

### **Councillor D Freeman**

Can the Portfolio Holder confirm that as in previous years that the Council will again be supporting our shopping centres with 'Free after 3.00' parking during December in its own car parks across County Durham and on street in Durham City?

Councillor C Marshall, Portfolio Holder for Regeneration thanked Councillor Freeman for his question and confirmed that the Council would be supporting shopping centres with 'Free after 3.00' parking during December in its own car parks across County Durham and on street in Durham City.

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**County Council**

**5 December 2018**

**Report from the Cabinet**



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**Purpose of the Report**

To provide information to the Council on issues considered by the Cabinet on 17 October and 14 November 2018 to enable Members to ask related questions.

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**17 October 2018**

- Item 1 Mainstream Primary and Secondary Formula Funding 2019-20 and Transfer to High Needs Block [Key Decision: CORP/R/18/06]
- Item 2 Draft Children and Young People's Strategy
- Item 3 Selective Licensing in County Durham
- Item 4 Director of Public Health Annual Report

**14 November 2018**

- Item 5 Council Tax Base 2019/20 and Forecast Surplus on the Council Tax Collection Fund as at 31 March 2019 [Key Decision: CORP/R/18/02]
- Item 6 Review of School Provision – Future options for Wellfield School as part of the Education Review in County Durham [Key Decision: CYPS/02/18]
- Item 7 Forecast of Revenue and Capital Outturn 2018/19 – Period to 30 September 2018
- Item 8 Speed Management Strategy
- Item 9 Future options for schools in the Horden area, as part of the Education Review in County Durham

**1. Mainstream Primary and Secondary Formula Funding 2019-20 and Transfer to High Needs Block**  
**Key Decision: CORP/R/18/06**  
**Deputy Leader of the Council, and Cabinet Portfolio Holder–**  
**Councillors Alan Napier and Olwyn Gunn**  
**Contact – Paul Darby 03000 261930**

We have considered a joint report of the Corporate Director of Children and Young People's Services and Corporate Director of Resources which set out the Council's approach to setting a funding formula for mainstream primary and secondary schools for 2019/20, which would apply to maintained schools from 1 April 2019 and academies from 1 September 2019.

The report provided details of the options available in terms of the mainstream primary and secondary school funding formula for 2019-20, in light of the National Funding Formula announcements made by Government in July 2018, together with details of the ongoing consultation with individual schools and through the Schools Forum across the autumn 2018. The report also set out proposals to apply to the Secretary of State for Education for permission to transfer funding from the schools block to supplement High Needs funding in response to the significant budget pressures being experienced in this area. This transfer would impact on the funding formula for mainstream primary and secondary schools for 2019/20 and full details of the forecast impact on individual schools was included within the report.

The main source of funding for mainstream primary and secondary schools and academies is the local schools funding formula. Each local authority currently sets its own formula, within the restrictions imposed by the Department for Education (DfE), after consultation with schools and the Schools Forum. The DfE had previously announced that local formulas would be replaced by the National Funding Formula (NFF) from 2020-21, however, in July 2018, the DfE announced that this has been postponed and local authorities will continue to set local formulas for 2020-21.

The DfE has cited the progress made by local authorities in aligning local formulas to the NFF as the main reason for this decision.

The DfE has expressed confidence that in the light of the progress made to date, local authorities will continue to increase the alignment between local formulas and the NFF in 2020-21 without the need for a statutory deadline of convergence in that year. In setting the funding formula for mainstream primary and secondary schools for the current financial year, the Council took the decision to use a transitional formula, intended to smooth the transition from the local formula in place in 2017/18 to the NFF allocations for individual schools over three years (2018/19 to 2020/21), with the plan to converge in 2020/21. The strategy agreed last year would see continuing the transition in

2019-20, which would have been the last year a local formula would have needed to be set if the replacement of local formulas had not been delayed.

When setting the Local Formula for 2019-20, the final decision rests with the Council but it must consult schools and the Schools Forum and must apply for permission to transfer funding to or from the High Needs Funding Block. Officers have been working on options for the mainstream primary and secondary schools funding formula for a number of months and the timetable for decision making was included in the report. The report also set out a number of options including the following:

Option 1: Accelerate the pace of change and move to implement the NFF as closely as possible from 2019-20

Option 2: Continue with the strategy implemented with effect from 2018/19: a transitional formula which moves schools to a NFF based allocation from 2020/21

Option 3: Continue with a transitional formula approach, but at a slower rate than currently planned i.e. aim for a NFF equivalent formula from 2021/22 instead of 2020/21

Option 4: Retain the 2018/19 formula factors and halt the transition to the NFF in 2019/20

An evaluation of the individual options was included in the report. All options would be affected by a potential transfer of funding to High Needs. The High Needs Block of the Dedicated Support Grant (DSG) funds provision for pupils and students with Special Educational Needs, including those in mainstream education, special schools and out-of-county placements. The report included a comparison of options based on a High Needs Block (HNB) transfer at the maximum permissible amount for each option.

Appendix 2 of the report showed the estimated funding for each option by school and compared this to the 2018-19 funding levels currently received. The change in pupil numbers for each school was also provided in this appendix for reference as overall reductions in pupil numbers on roll year on year will inevitably result in reductions in overall funding regardless of the impact of the changes to the formula factors. Appendix 3 showed the impact of the High Needs Block transfer for each school.

The final decision on the 2019-20 funding formula for mainstream primary and secondary schools will be made by Cabinet in December, following further consultation with schools and the Schools Forum.

In the meantime, Cabinet was recommended to consider the proposals to seek permission from the Secretary of State to transfer funding from the schools block to the High Needs Block and to consider the options available

and provide comments on its recommended option, for feedback to the Schools Forum at its meeting on 5 November 2018.

## **Decision**

We have:

- (a) Noted the indicative financial modelling that has been undertaken to date and the timetable for decision-making for the 2019-20 mainstream primary and secondary funding formula;
- (b) Authorised the Corporate Director of Resources and Corporate Director of Children and Young Peoples Services, in consultation with the relevant Cabinet members, to submit an application for a transfer of funding from the Schools Block of the Dedicated Schools Grant of the maximum permissible, without creating a negative ceiling;
- (c) In considering the options available in terms of the 2019-20 mainstream primary and secondary funding formula agreed to support option 2, and would feedback to the Schools Forum at its meeting on 5 November 2018.

## **2. Draft Children and Young People's Strategy Cabinet Portfolio Holder– Councillor Olwyn Gunn Contact – Jenny Haworth 03000 268071**

We have considered a report of the Corporate Director of Children and Young People's Services which presented the draft Children and Young People's Strategy 2018/19-2020/21.

The draft Children and Young People's Strategy (CYPS) 2018/19 - 2020/21 is a partnership strategy for all children and young people and their families in County Durham. The aim of this strategy is to provide focus and clarity on the priorities for improving services and life opportunities for children and young people. The document considers what life is currently like for children and young people in County Durham, based on feedback from children and young people and analysis of their needs.

Stage one of the consultation which looked at the proposed vision, aims and objectives, took place throughout May, June and July. This gave children and young people, management teams, Integrated Steering Group for Children (ISGC), partnerships (including the Children and Families Partnership and the Corporate Parenting Panel) and Children and Young People's Overview and Scrutiny the opportunity to provide feedback on the proposed vision, aims and objectives of the strategy. The draft vision for the Children and Young People's Service is: "County Durham will be a great place for children and

young people to grow up in and for County Durham to be a place where all children are healthy, happy and achieving their potential”.

Stage two of the consultation will give partners and stakeholders the opportunity to comment on the draft strategy before final sign off of the strategy by the Children and Families Partnership. It has been agreed that this strategy will be a blueprint for other partnership strategies which are due for review from April 2019, including the Joint Health and Wellbeing Strategy and Safer Durham Partnership Plan.

## **Decision**

We have received the draft Children and Young People’s Strategy.

### **3. Selective Licensing in County Durham Cabinet Portfolio Holder– Councillor Kevin Shaw Contact – Lynn Hall 03000 265728**

We have considered a report of the Corporate Director of Regeneration and Local Services which sought approval in principle to the undertaking of detailed preparatory work with the intention of submitting an application to the Secretary of State for Communities and Local Government for a county wide selective licensing designation. The results of those preparations would be submitted to Cabinet at a later date prior to any application being submitted.

The Housing Act 2004 gave local authorities the power to introduce selective licensing of privately rented homes in order to tackle problems in their areas that result from low housing demand and/or significant anti-social behaviour. Therefore, landlords who rent out properties in an area that is subject to selective licensing are required to obtain a licence from the local authority for each of their properties, in order to rent them out.

Selective licensing is a discretionary scheme for local authorities and covers privately rented properties. The Housing Act 2004 allows local housing authorities to designate areas for selective licensing to support the improvement of privately rented properties, providing certain conditions are met. In areas designated, landlords must apply for a licence if they wish to rent out a property, this includes landlords who rely on lettings agents to manage their properties on their behalf. This enables the council to check whether they are a “fit or proper person” to be a landlord or letting agent, as well as making other stipulations concerning management of the property and appropriate safety measures. The stipulations are listed in the licence conditions and the conditions are at the discretion of the local authority. Failure to do this could result in a fine. There are positive impacts for both tenants and landlords associated with selective licencing in problematic areas.

In April 2015 additional criteria were introduced which extended the conditions for designating an area to include: areas experiencing poor property conditions; an influx of migration; a high level of deprivation; and high levels of crime, thus enabling local authorities to make effective use of selective licensing to address specific problems in certain areas. Under the amendments introduced in 2015, should a local authority decide to make a designation that covers more than 20% of its geographical area or more than 20% of the private rented stock, an application to the Secretary of State will be required.

Selective licensing must be consistent with the Council's overall housing strategy and be co-ordinated with procedures for homelessness, empty homes, anti-social behaviour and housing market renewal activity. The authority must also demonstrate the role of other partners such as police and social services in ensuring the designation reaches its goal. A designation can run for a maximum of five years and the administration of the scheme can be funded from the licence fee.

In seeking to progress a selective licensing designation, local authorities must take reasonable steps to consult persons who are likely to be affected and consider any representations made in accordance with the consultation. Consultation should be widely publicised using various channels of communication. Once the consultation has been completed the results should then be published and made available to the local community, including a summary of the responses received and should demonstrate how these have either been acted on or not, giving reasons. If a designation does not require confirmation from the Secretary of State the local authority must consult for at least ten weeks. If however, confirmation is required, the suggestion is still to consult for at least ten weeks unless there are special reasons for not doing so. Any consultation will be completed before a further report and business case are presented to Cabinet.

Where a designation does not require confirmation from the Secretary of State, it cannot come into force until three months after it is approved by the council. Where it requires confirmation, it cannot come into force until three months after it has been confirmed by the Secretary of State.

Previously there were three designations in operation across County Durham:

- Dean Bank, Ferryhill
- Chilton West, Chilton
- Wembley, Easington Colliery

All three areas were initially designated for licensing by the former district councils on the grounds of low housing demand and significantly high levels of anti-social behaviour. The designations formed part of a wider master plan for

the areas and had originally contained an element of housing renewal such as selective clearance and group repair alongside a multi-agency approach to managing the issues in the areas.

The Government announced in June 2018 that they will use independent commissioners to complete a review of how selective licensing is used and find out how well it is working. The commissioners will gather evidence from local authorities and bodies representing landlords, tenants and housing professionals and the findings will be published in Spring 2019.

The report proposed that selective licensing will be used in Durham as part of an overall solution to the challenges within the private rented stock. Other measures will continue and it is hoped that selective licensing will drive forward the improvement of the private rented stock.

Data collection will be required to provide a strong business case which will include migration, health and fire service data. The report included an evaluation of a range of options to consider including:

Option 1 – cease the current Selective Licensing designation in Wembley when it expires in June 19

Option 2 – Consider a designation for under 20% of the geographical area of county Durham or under 20% of the private rented sector stock

Option 3 - Consider a designation to cover all of the areas that prove a problem to the different agencies.

Option 4 - Consider a designation to cover 100% of the geography of Durham and 100% of all private rented sector stock.

The interim measures to be put in place before the submission of a business case were included in the report.

## **Decision**

We have:

- (a) Noted the contents of the report;
- (b) Authorised the Corporate Director for Regeneration and Local Services to consult relevant stakeholders on the proposal to introduce Selective Licensing across the county;

- (c) Requested the Corporate Director for Regeneration and Local Services to prepare a business case on the merits of Selective Licensing across the County and to report to a future meeting of the Cabinet;
- (d) Agreed to finance the interim measures to a total of £200,000 across financial years 2019/20 and 2020/21.

**4. Director of Public Health Annual Report  
Cabinet Portfolio Holder– Councillor Lucy Hovvels  
Contact – Amanda Healy 03000 264323**

We have considered a joint report of the Corporate Director of Adult and Health Services and the Director of Public Health which requested agreement to publish the 2018 annual report of the Director of Public Health for County Durham.

The 2018 report focuses on the new vision for the public's health in County Durham. The report shares the work that has been done in the last year to set out a new vision for the health and wellbeing of County Durham. This vision is built on some huge achievements over the last five years including a major reduction in smoking levels across County Durham.

The Public Health Vision emerged from the Sustainable Community Strategy as well as the Joint Strategic Needs Assessment, with the aim of improving and protecting the health and wellbeing of the people of County Durham and to reduce health inequalities.

The vision is based around a fictional family 'The Taylors' and describes the challenges the family face. However it is also very focussed on the 'assets' that the family have and how these can protect health and wellbeing. The reports sets out seven strategic priorities and then specific actions against each priority for the forthcoming year.

**Decision**

We have agreed to publish the 2018 annual report of the Director of Public Health, County Durham.

**5. Council Tax Base 2019/20 and Forecast Surplus on the Council Tax Collection Fund as at 31 March 2019 [Key Decision: CORP/R/18/02]  
Deputy Leader of the Council– Councillor Alan Napier  
Contact – Paul Darby 03000 261930**

We have considered a report of the Corporate Director of Resources which determined the Council's Tax Base for all domestic properties liable to pay council tax, and reported on the estimated collection fund surplus as at 31 March 2019, which will be distributed to the principal precepting authorities in 2019/20.

Regulations made under the Local Government Finance Act 1992 (The Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended)) require each billing authority to calculate its 'Council Tax Base' for the following financial year. The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 (SI 2012:2914) provides amended statutory guidance to incorporate the changes as a result of the introduction of the Council Tax Reduction Schemes (LCTRSs) from 1 April 2013. The Council Tax Base is a measure of the County Council's 'taxable capacity', for the purpose of setting its Council Tax. Legislation requires the Council to set out the formula for that calculation and that the tax base is formally approved by Cabinet.

On 11 July 2018 Cabinet resolved to recommend to Council continuation of the current LCTRS into 2019/20. Council, on 31 October 2018, subsequently approved the continuation of the current Local Council Tax Reduction Scheme into 2019/20, which retains the same level of support to all council tax payers as the previous Council Tax Benefit Scheme, which was abolished on 1 April 2013.

The extension to the LCTRS is initially for one more year and the Scheme will be kept under continuous review with a further decision to be considered by Cabinet in the summer of 2019 and Full Council by January 2020 with regards to proposals for 2020/21. There are no other discount changes impacting on the Tax Base for 2019/20.

All monies collected from Council Tax are paid into the Collection Fund. The Council collects monies on behalf of itself, the Police, Crime and Victims' Commissioner, the County Durham and Darlington Fire and Rescue Authority and local Town and Parish Councils in the County. Police and Fire are classified as major precepting bodies under Council Tax legislation, whereas Town and Parish Councils are classified as local precepting bodies.

Significant sums pass through the Collection Fund annually, a process which can result in a surplus or deficit on the Fund at the 31st March as the monies collected inevitably vary from those estimated.

As the billing authority, the Council is required on an annual basis, by 15 January, to make a declaration of the estimated Collection Fund outturn position, and identify and apportion any surplus or deficit anticipated for the following financial year between the principal precepting authorities making a precept on the Fund so that they can factor this into the budget setting

processes. Quarterly updates are reported as part of the budgetary control reports to Cabinet. Last year, the Council declared a surplus of £5.483m, which was distributed in 2018/19 and used for budget setting in the current year.

The Council Tax Collection Fund is forecast to achieve a surplus of £1.716 million at 31 March 2019 and therefore the Council will be declaring a surplus for budget setting purposes and needs to apportion this between the major precepting bodies.

The estimated surplus for council tax will be shared between the County Council, the Fire Authority and Durham Police, Crime and Victims' Commissioner in proportion to the 2018/19 demands / precepts on the Fund. The £1.716 million will therefore be allocated as follows:

	<b>Forecast Surplus to be Distributed in 2019/20</b>
Durham County Council	£1.447m
Durham Police, Crime & Victims' Commissioner	£0.173m
Durham & Darlington Fire and Rescue Authority	£0.096m
<b>Total</b>	<b>£1.716m</b>

In continuing with the current LCTRS next year, members have committed to a full review of the Scheme in early summer of 2019, including options to move to a banded scheme in future years. This review will draw on experiences elsewhere and the impact of the wider welfare reforms in County Durham, including the impact of the roll out of Universal Credit, during the period 2013/14 to 2018/19 and put forward options for consideration by Cabinet in the summer next year, with a view to consultation on any changes for 2020/21 being in late Summer / Autumn of 2019 and a report being presented to Cabinet on the outcome of the consultation by December 2019. The 2020/21 LCTRS scheme will need to be endorsed by Council before 31 January 2020.

## **Decision**

We have:

- (a) approved the Council Tax Base for the financial year 2019/20 for the County, which has been calculated to be 139,738.8 Band D equivalent properties;

- (ib) noted the impact on individual Town and Parish Council Tax bases and Local Council Tax Reduction Scheme Grant allocations for the financial year 2018/19;
- (c) approved the declaration of a surplus on the Council Tax Collection Fund at 31 March 2019 of £1.716 million, to be distributed to the Council; the County Durham Fire and Rescue Authority; and the Durham Police and Crime Commissioner in accordance with Council Tax regulations.

**6. Review of School Provision – Future options for Wellfield School as part of the Education Review in County Durham [Key Decision: CYPS/02/18]  
Deputy Leader of the Council, and Cabinet Portfolio Holder–  
Councillors Alan Napier and Olwyn Gunn  
Contact – Phil Hodgson 03000 265842**

We have considered a joint report of the Corporate Director of Children and Young People’s Services and the Corporate Director of Resources which provided details of the work that has been undertaken as part of the review of education provision in County Durham which was agreed by Cabinet on 15 November 2017. The report made recommendations in relation to Wellfield School which also impacts Tanfield School at Stanley.

Significant financial difficulties are being experienced by a number of schools across the county as a result of reductions in admission numbers and school funding formula changes, which has necessitated some schools setting deficit budgets – mainly secondary schools. This is a particular concern because schools that have an inadequate OFSTED judgement have been required to become sponsored academies and if / when they do, any deficit balance that they are carrying becomes a cost to the local authority and is not transferred to the sponsoring academy.

Legislation prevents the Council from making contributions to or financially supporting individual schools. Funding for schools is provided primarily through the Dedicated Schools Grant. In November 2017, Cabinet considered a report which outlined the need for a strategy for school organisation. This involved reviewing educational provision in each local area across the county.

In terms of prioritising the planned reviews, the two schools with the most significant financial challenges / financial viability concerns were Wellfield School in Wingate and Wolsingham School and Sixth Form in Wolsingham. These schools and the schools in the surrounding pupil place planning areas were agreed as falling into the first phase of the strategic review of schools provision, together with a review of primary school provision in the Horden area.

The review of existing provision in the three initial review areas (Weardale, Wingate and Horden) has now been completed and proposals were developed for Cabinet consideration. Wellfield School is a community school in Wingate serving mainly deprived local wards / communities and is ringed by academies where the admissions arrangements are likely to continue to disadvantage some pupils with particular educational and social needs. In September 2012 the school failed an OFSTED Inspection and was judged as Inadequate. Over a period of 18 months the DfE could not find a sponsor academy and therefore the school remained a maintained school during this period. A re-inspection of the school in March 2014 judged the school as Good. Pupil numbers have risen as the reputation of the school continues to be restored. Wellfield School has no retained balances and up until 31 March 2018 had an in year and accumulating deficit balance, with pupil numbers falling significantly after the inspection of 2012, and then rising steadily in recent years. Pupil projections would indicate that the school will be able to set an in-year surplus budget in 2019/20 having been able to set a balanced in-year budget in 2018/19 for the first time in a number of years. The school is however unlikely to ever be in a position where it can afford to repay the deficit in full without this having an impact on the quality of provision of education. Therefore the current position is not sustainable.

Tanfield School is a relatively small secondary school in Tanfield which is near to Stanley. The school had the opportunity to be amalgamated with Greencroft Community School and Stanley School of Technology to become part of what is now North Durham Academy when that school was formed as a new-build through the Building Schools for the Future (BSF) programme in 2011. However the Governing Body expressed the strong desire that the school should remain a separate school at that time. Pupil numbers have declined in recent years, but have now begun to increase, due to pressure on places at Consett Academy, and in response to the exercise of parental preference. This school has previously had approval to set a deficit budget for 2017-18, 2018-19 and 2019-20, on the basis of the school achieving an in-year surplus from 2019-20, which would allow it to start to reduce its deficit.

The school is forecasting significant increases in pupil numbers over the next three years and that it will be able to set an in-year surplus budget in 2019/20 and start to pay down the accumulated deficits it will have built up by that point. The school is changing from specialising in Design & Technology to Humanities and is currently restructuring its staffing accordingly and to prepare for a further increase in pupils for 2019-20, which would be reflected in admissions this September.

Detailed consideration has been given to each of the options available in terms of ensuring financially viable education provision in the Wingate area. A full overview of the findings of the options analysis was provided in the

Cabinet report, including the preferred option to create a multi-academy trust with Tanfield School.

In terms of Tanfield School there is an opportunity for this smaller secondary school to benefit from both the education and financial rigour and progress that Wellfield School has already made and join a progressive partner that will assist, complement and enhance their position in their locality as a specialist but small school. The Governing Body of Tanfield are supportive of joining an Academy Trust with Wellfield School.

The formula funding arrangements that currently exist for both schools would be unaffected by the formation of a multi-academy trust of these schools. An academy trust would be funded directly by the Department for Education, but its funding would be similar to that of maintained schools, as set out in the schools formula.

There would be no radical change to existing education provision, with each school remaining as a separate entity within the Trust and no additional home to school transport costs being incurred.

In coming to this recommendation, officers undertaking the Review considered a range of schools with which Wellfield could potentially partner in a multi-academy trust. These included secondary schools in the vicinity, as well as other schools, including primary schools and Tanfield School. The proposed partnership of Wellfield and Tanfield Schools needs to be formally approved by the Regional Schools Commissioner. Officers from the Regional Schools' Commissioner's office, on behalf of the Department for Education, have been working with Wellfield School to support the partnership process. The final decision rests with the RSC and, if agreed, the proposal would be expedited quickly thereafter.

The estimated deficit balance that the Council would need to write off to the general fund at this stage would be c£3.4m for Wellfield School and c£0.583m for Tanfield School. The earmarked reserve set aside for this purpose, from which this sum would be payable, which has an estimated value at 31 March 2019 of £4.5 million.

## **Decision**

We have:

- (a) agreed to support the proposal that Wellfield School establishes a multi-academy trust (MAT) with Tanfield School, Stanley;
- (b) in the event that this is successfully concluded, agreed to the Council writing off the deficit balance at the point of conversion, estimated at c£3,400,000 for Wellfield School and c£583,000 for Tanfield School, in

line with government expectations of maintained schools with deficit budgets which convert to become academies.

- (c) in the event that the RSC does not support the proposed partnership between Wellfield and Tanfield School, a further report to Cabinet will be required on the alternative options for school provision in the Wellfield area.

**7. Forecast of Revenue and Capital Outturn 2018/19 – Period to 30 September 2018**

**Deputy Leader of the Council– Councillor Alan Napier  
Contact – Jeff Garfoot 03000 261946**

We have considered a report of the Corporate Director of Resources which provided Cabinet with information on the forecast of the 2018/19 forecast revenue and capital outturn, a forecast of the Council's Council Tax and Business Rates Collection Fund position at 31 March 2019 and the use of earmarked, cash limit and general reserves. The report also sought approval of the budget adjustments and proposed sums outside of cash limits.

Revenue

Appendices 2 and 3 of the report compared the forecast outturn with the revised budget. The report outlined that the following adjustments have been made to the original budget which was agreed by Council on 21 February 2018:

- (a) agreed budget transfers between service groupings;
- (b) additions to budget for items outside the cash limit (for Cabinet consideration and recommended approval);
- (c) planned use of or contribution to the earmarked reserves set out in Appendix 4 of the report

The report identified a forecast cash limit underspend of £3.87 million plus a forecast overachievement of core government grant and underspend on all other budgets of £2.557 million. This total net underspend of £6.427 million represents 1.5% of the net expenditure budget of £423.069 million.

Approval is being sought for the following sums to be funded from, or transferred to general contingencies. These sums are deemed to be outside of service grouping cash limits:

<b>Service Grouping</b>	<b>Proposal</b>	<b>Amount £ million</b>
CYPS	Social Work Cases Backlog	0.085
CYPS	Trade Union Facility Time Request	0.017
REAL	WW1 Project	0.043
REAL	Durham Miners' Association contribution	0.090
REAL	Aykley Heads Development	0.057
<b>TOTAL</b>		<b>0.292</b>

A full review of all earmarked reserves has been carried out to determine the scope to replenish the ER/VR reserve and to support council regeneration priorities in the coming years. The level of cash limit reserves has also been reviewed, with a view to undertaking a top-slice in line with previous years to support the reserves review. The report set out sums which have been identified for re-prioritisation.

The reserves review has identified £18.664 million that could be used to support council regeneration priorities and replenish the ER/VR reserve.

The forecasted cash limit and general reserves position is a prudent one given the forecasted levels of savings the council needs to make of £35.3 million over the period 2019/20 to 2022/23 with the delivery of further savings becoming ever more challenging to achieve. This position also needs to be considered in light of the significant and sustained pressure in the demand areas of the Children and Young People's Services budgets which continue to place a significant strain on the council's financial resources despite investment of more than £7.7 million in the last two years with no additional funding being received from Government in acknowledgement of the issues faced in this area. The reasons for the major variances against the revised budgets were detailed in the report by each service grouping.

## Capital

On 11 July 2018 Cabinet received a report which provided details of the final outturn position of the 2017/18 Capital Programme. This included details of budgets of £32.944 million that were re-profiled from 2017/18 to 2018/19 and adding these to the new 2018/19 capital allocations of £9.339 million approved by full Council on 21 February 2018 and the existing 2018/19 budget of £94.770 million gives the original budget of £137.053 million for 2018/19 that is shown in the table below.

Since the original 2018/19 budget was agreed the MOWG has considered a number of variations to the capital programme which are a result of additions and reductions in resources received by the Council. The variations of note were outlined in the report. The preferred option of creating a multi-academy trust with Tanfield School would allow the Council to pay off the historic debt on transfer, and could, present an opportunity to improve educational standards at Tanfield School also. The report also provided details of the position on the capital programme and the collection funds in respect of Council Tax and Business Rates.

## **Decision**

We have:

- (a) noted the council's overall financial position for 2018/19;
- (b) agreed the proposed 'sums outside the cash limit' for approval;
- (c) agreed the earmarked reserves transfers outlined in the report, including the creation of three new reserves and replenishment of the ER/VR reserve;
- (d) agreed the revenue and capital budget adjustments;
- (e) noted the forecast use of earmarked reserves;
- (f) noted the forecast end of year position for the cash limit and general reserves;
- (g) noted the position on the capital programme and the Collection Funds in respect of Council Tax and Business Rates.

## **8. Speed Management Strategy Cabinet Portfolio Holder– Councillor Brian Stephens Contact – John Reed 03000 267454**

We have considered a report of the Corporate Director of Regeneration and Local Services which updated the Cabinet on speed management on the public highway and sought approval for the updated Speed Management Strategy which has been developed in partnership with Durham Constabulary.

The current Speed Management Strategy was approved in 2007 and requires updating to reflect changes in best practice and Department for Transport guidance. On 17 December 2014 Cabinet approved the "Review of Current Policy on 20 mph Zones and Limits" with a recommendation for a 20 mph Speed Limits Policy to be developed. The updated 20 mph Speed Limits and Zones Policy was agreed in February 2016 in consultation with the Scrutiny 20 mph Working Group and is incorporated into the strategy.

The Speed Management Strategy has been developed in partnership with Durham Constabulary. It provides a framework for the setting of appropriate speed limits on the public highway and addressing speeding issues within County Durham based upon current legislation, guidance and best practice. Speed management is a shared responsibility between the Council as the Local Highway Authority and Durham Constabulary.

Speed limits for new developments are assessed as part of the planning process. All existing roads have speed limits and these are reviewed if there is a significant change to the road or its environment or in response to speeding complaints. The Council's "Highway Design Guide for Residential Developments - 2014" requires that residential roads should be designed such that the geometry and physical features limit vehicle speeds to 20 mph. All new residential/side roads are required to have a 20 mph speed limit from 1 April 2016.

The Council delivers and funds a Rotational Speed Visor Programme facilitates further rotational and fixed speed visors. The Council does have a limited budget for road safety schemes for engineering measures such as traffic calming to address speeding issues.

Durham Constabulary will consider speed enforcement where:

- A mandatory speed limit has been introduced;
- There is a need for compliance;
- The speed necessary is clear to all drivers using the road; and
- Some decide to ignore the speed limit and a road safety benefit will be achieved through compliance.

Durham Constabulary has developed the Community Speed Watch initiative to involve community volunteers in addressing speeding complaints on roads with a speed limit of 40 mph and below where it is safe to do so. If, as a result of a Community Speed Watch activity, the data collected indicates a genuine overall speeding issue, this is escalated to the Police Traffic Management Unit for further consideration.

The Schools 20mph part-time speed limits project is in its final year of implementation with 52 of the 66 schemes funded by public health grant being completed to date. A further 30 schemes have been completed to date funded by Local Members Neighbourhood Budgets and schools. A further 8 schemes are in development.

The report proposed that a 6 weeks public consultation be undertaken on the proposed Speed Management Strategy with all partners, Area Action Partnerships, Town and Parish Councils and residents.

## Decision

We have:

- (a) Noted the update on speed management; and
- (b) Approved public consultation on the Speed Management Strategy and delegated to the Corporate Director, Regeneration and Local Services, in consultation with the Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships, to finalise and publish the strategy after giving consideration to all feedback received in partnership with Durham Constabulary.

**9. Future options for schools in the Horden area, as part of the Education Review in County Durham  
Deputy Leader of the Council, and Cabinet Portfolio Holder–  
Councillors Alan Napier and Olwyn Gunn  
Contact – Phil Hodgson 03000 265842**

We have considered a report of the Corporate Director of Children and Young People's Services and the Corporate Director of Resources which made recommendations in relation to primary schools in the Horden area, namely Cotsford Infant and Junior Schools.

Reports to Cabinet have outlined the significant financial difficulties being experienced by a number of schools across the county as a result of reductions in admission numbers and to a lesser extent school funding formula changes, which has necessitated some schools setting deficit budgets – mainly secondary schools. This is a particular concern because schools that have an inadequate OFSTED judgement have been required to become sponsored academies and if / when they do, any deficit balance that they are carrying becomes a cost to the local authority and is not transferred to the sponsoring academy.

Legislation prevents the Council from making contributions to or financially supporting individual schools. Funding for schools is provided primarily through the Dedicated Schools Grant. In November 2017, Cabinet considered a report which outlined the need for a strategy for school organisation. This involved reviewing educational provision in each local area across the county.

The two schools with the most significant financial challenges / financial viability concerns were Wellfield School in Wingate and Wolsingham School and Sixth Form in Wolsingham. These schools and the schools in the surrounding pupil place planning areas were agreed as falling into the first

phase of the strategic review of schools provision, together with a review of primary schools provision in the Horden area.

In general, based on pupil based planning forecasts, there is a need to consider the long term provision of Nursery / Primary provision in some pupil place planning areas. Horden is one of these areas, which is why it was included in the first phase of the area based reviews of schools provision launched in November 2017. Currently, there is a Nursery, Infant, Junior and two Primary schools in the Horden area. A One Point centre is next to the Junior School and pupil numbers across all schools have been reducing significantly. These schools have been undertaking staffing reductions over the last few years to help maintain a balanced budget, however, they are now facing financial difficulties as a result of such low pupil numbers.

The Cabinet report of November 2017 identified a process for considering options for enhanced and sustainable educational provision in each locality and an indicative timeframe for these reviews to be completed. Reviews were to be undertaken in stages, with initial discussion with all partners to consider options for enhanced provision in local areas. This could involve discussions with schools, the local community, and partners / key stakeholders about possible options for re-organisation including.

The review of existing provision in the three initial review areas (Weardale, Wingate and Horden) has now been completed and proposals have been developed for Cabinet consideration. Separate reports have been prepared outlining the findings.

Consideration of options for provision in the Horden area was different to the two other areas addressed in phase 1 of the education review, because no schools involved are currently operating a deficit budget. The review was however required as the primary schools in the Horden area are likely to become financially unviable in the future due to falling roles.

The options were detailed in the report were discussed with the chairs of the governing bodies and head teachers of the primary schools in Horden and with the elected members for the area. The governing bodies of Cotsford Infant and Junior schools had approached the Local Authority prior to the Education review of the wider provision in this area to implement a strategy to amalgamate to create a new primary school.

In December 2017, senior officers of the Education Service met with the two local members for Horden and representatives of Horden Nursery, Cotsford Infant and Junior, Yohden Primary and Our Lady Star of the Sea RCVA Primary. The purpose of the meeting was for officers to explain the situation in Horden with falling pupil rolls and the effect this will have currently and in

the future in terms of schools maintaining staffing levels to deliver an effective curriculum. The meeting aimed to seek views on the most effective solution.

Horden Nursery School is an Outstanding Nursery School and because of its reputation attracts pupils from areas beyond Horden. It is not experiencing a fall in pupil numbers and therefore it was felt that at this stage it should not be considered as part of an amalgamation.

These wider regeneration plans were a major focus for the discussions with the school. Whilst there is significant capacity with both Cotsford Schools and Yohden Primary School, any further reduction is uncertain at this time. The meeting agreed that taking this into account, the unanimous view was that an amalgamation of Cotsford Infant and Junior Schools should be the first stage in a potential reorganisation across the Horden area. It was agreed that later consideration will be given to Yohden Primary School and Horden Nursery School when the regeneration plans are sufficiently advanced to involve plans around the potential location of a new school.

There is a statutory requirement to consult on the proposal to amalgamate schools. It is therefore proposed to conduct a consultation in accordance with the Department for Education (DfE) guidance in accordance with the indicative timeline set out in Appendix 1 of the report to Cabinet.

To enable an amalgamation to be effectively implemented for 1 September 2019, consultation commenced in the first week of November 2018, furthered through a Delegated Decision Report. Consultation will be held in accordance with DfE statutory guidance.

## **Decision**

We have:

- (a) supported the agreement reached between Cotsford Infant and Junior Schools to amalgamate;
- (b) agreed to formally consult on the proposed amalgamation of the Cotsford Infant and Junior Schools in accordance with the timescales set out in the report; and
- (c) Noted that a further report be presented to Cabinet with the outcome of the consultation and proposed next steps in May 2019.

**Councillor S Henig**  
**Leader of the County Council**

27 November 2018

**County Council**

**5 December 2018**

**Mid-Year Review Report on Treasury  
Management for the period to  
30 September 2018**



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**Report of Corporate Management Team**

**John Hewitt, Corporate Director of Resources**

**Councillor Alan Napier, Cabinet Portfolio Holder for Finance**

**Electoral division(s) affected:**

None.

**Purpose of the Report**

- 1 The purpose of this report is to provide information on the treasury management mid-year position for 2018/19.

**Executive Summary**

- 2 This report provides a summary of the Council's treasury position, borrowing activity, investment activity, treasury management and prudential indicators.
- 3 The Council held £291 million in borrowing and £212 million of investments at 30 September 2018. During the half year period, borrowing of £10 million was taken out from the PWLB at a low rate of 2.31%. Furthermore, future borrowing of £60m has been agreed to be taken out in four separate loans at interest rates of between 2.7% to 2.8%. This has enabled the Council to make savings against the cost of carrying the loans if they had been taken out immediately at the prevailing PWLB rates.
- 4 Investments have been undertaken in line with both the CIPFA Code and government guidance which require the Council to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield.
- 5 During the half year period to 30 September 2018, the Council has complied with Treasury Management Indicators relating to interest rate exposure, maturity structure of borrowing and sums invested for more than one year. The Council has also complied with Prudential Code Indicators which relate to the capital programme and how much the Council can afford to borrow.

## Recommendation

- 6 Council is asked to note the contents of the report.

## Background

- 7 Treasury management is defined as 'the management of the local authority's investments and cash flows, its banking, money market and capital market transactions, the effective control of the risks associated with those activities and the pursuit of optimum performance consistent with those risks'.
- 8 The Council operates a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, with a main aim of providing sufficient liquidity, ahead of the achievement of the best possible investment returns.
- 9 The second main function of the treasury management service is to arrange the funding of the Council's capital programme. The capital programme provides a guide to the borrowing need of the Council, and there needs to be longer term cash flow planning to ensure capital spending requirements can be met. The management of longer term cash may involve arranging long or short term loans, utilising longer term cash flow surpluses and, occasionally, debt restructuring to meet Council risk or cost objectives.
- 10 The Council adopts the latest CIPFA Code of Practice on Treasury Management (the Code) which is regarded as best practice in ensuring adequate monitoring of the Council's capital expenditure plans and its Prudential Indicators (PIs). This requires that Members agree the following reports, as a minimum:
- (a) An annual Treasury Management Strategy in advance of the year (reported to the County Council on 21 February 2018 for the 2018/19 financial year);
  - (b) an annual review following the end of the year describing the activity compared to the strategy (reported to the County Council on 19 September 2018 in respect of the 2017/18 financial year);
  - (c) a mid-year Treasury Management Review report, covering the first six months of this financial year, to 30 September 2018 (this report);
- 11 This mid-year report provides a summary of the following:
- (a) summary treasury position;
  - (b) borrowing activity;
  - (c) investment activity;

- (d) treasury management indicators;
- (e) prudential indicators;

## Summary Treasury Position

- 12 The Council's debt and investment position is organised to ensure adequate liquidity for revenue and capital activities, security for investments, and to manage risks within all treasury management activities.
- 13 At the beginning and mid-year point of 2018/19 the Council's treasury position (excluding borrowing by finance leases) was as follows:

	<b>31.03.18</b>	<b>Rate /Return</b>	<b>Average Life</b>	<b>30.09.18</b>	<b>Rate /Return</b>	<b>Average Life</b>
	<b>£ million</b>	<b>%</b>	<b>years</b>	<b>£ million</b>	<b>%</b>	<b>years</b>
<b>Total Debt</b>	291	3.88	17.61	291	3.74	18.48
<b>Total Investments</b>	172	0.56	0.3	212	0.87	0.63
<b>Net Debt</b>	119			79		

- 14 As at 30 September 2018, the Council had £291 million of borrowing and £212 million of investments.

## Borrowing Activity

- 15 At 30 September 2018, the Council held £290.602 million of loans, a decrease of £0.011 million from the start of the year. The mid-year borrowing position and the change since the start of the year is shown in the table below:

	<b>31.3.18</b>	<b>In-year</b>	<b>30.9.18</b>	<b>Average</b>	<b>30.9.18</b>
	<b>Balance</b>	<b>Movement</b>	<b>Balance</b>	<b>Rate</b>	<b>Average</b>
	<b>£ million</b>	<b>£ million</b>	<b>£ million</b>	<b>%</b>	<b>Life</b>
					<b>years</b>
Public Works Loan Board	238.979	(0.001)	238.978	3.60%	16.5
Private Sector Pension Fund	51.420	(0.003)	51.417	4.41%	27.7
	0.214	(0.007)	0.207	8.01%	9.5
<b>Total borrowing</b>	<b>290.613</b>	<b>(0.011)</b>	<b>290.602</b>		

- 16 The Council's chief objective when borrowing has been to strike an appropriate risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required.
- 17 During the period there was a £10m PWLB loan that matured in September 2018 at an interest rate of 2.72%. To take advantage of historically low rates of interest, new borrowing of £10 million was raised during the first half-year with details in the following table.

<b>Lender</b>	<b>Principal £ million</b>	<b>Interest Rate %</b>	<b>Start Date</b>	<b>Length</b>
PWLB	10.00	2.31	31/05/2018	40 years
<b>Total</b>	<b>10.00</b>			

- 18 Affordability and the "cost of carry", the gap between the interest rates on borrowings and the interest rates achieved on investments, continued to be important influences on the Council's borrowing strategy. During the first half-year the Council's Treasury Management advisors, Link Asset Services, identified that there was a strong possibility that interest rates would have increased by the time the Council next needed to undertake significant borrowing to support the capital programme. An options appraisal was undertaken to compare the potential borrowing alternatives that were identified:
- (a) to secure future borrowing at fixed, historically low, rates with no cost of carry anticipated
  - (b) taking out PWLB loans at current rates and incurring costs of carry until they were needed.
- 19 The conclusion was that securing future borrowing at the following fixed rates was identified as the preferred option:

<b>Loan Number</b>	<b>Deferred Period</b>	<b>Rate</b>	<b>Amount</b>	<b>Start Date</b>	<b>Maturity Date</b>
Loan 1	1.5 years	2.733%	£20m	13/02/2020	13/02/2070
Loan 2	2.5 years	2.773%	£15m	15/02/2021	15/02/2071
Loan 3	3 years	2.793%	£15m	13/08/2021	13/08/2071
Loan 4	3.5 years	2.807%	£10m	15/02/2022	15/02/2072

- 20 This enabled the Council to make savings against the cost of carrying the loans if they had been taken out immediately at the prevailing PWLB rates.
- 21 No rescheduling was done during the year as the differential between PWLB new borrowing rates and premature repayment rates made rescheduling unviable.

## Other Debt Activity / Long Term Liabilities

- 22 Although not classed as borrowing, the Council also raised £1.131 million of capital finance for replacement fleet vehicles and equipment via finance leases during the first half year to 30 September 2018. It is expected that a further £6.192m will be raised during the remainder of the year, giving total expected additional lease finance of £7.323 million.

## Investment Activity

- 23 The Council has invested significant funds, representing monies received in advance of expenditure plus balances and reserves held. During the half-year to 30 September 2018, investment balances ranged between £171.8 million and £ 252.0 million.
- 24 As at 30 September 2018 the Council held investments totalling £211.820 million. The following table provides a breakdown of these investments split by the type of financial institution and maturity period.

Financial Institution	0-3 months	3-6 months	6-12 months	Total
	£ million			
Banks	4.312	34.495	68.990	107.797
Building Societies	-	-	-	-
Central Government	0.862	-	-	0.862
Other Local Authorities	4.312	13.798	63.384	81.494
Money Market Funds	21.667	-	-	21.667
<b>Total</b>	<b>31.153</b>	<b>48.293</b>	<b>132.374</b>	<b>211.820</b>
<b>% of total</b>	<b>15%</b>	<b>23%</b>	<b>62%</b>	

- 25 The Council's investment policy is governed by Ministry of Housing, Communities and Local Government (MHCLG) guidance, which has been implemented in the annual investment strategy approved by the Council on 21 February 2018. Both the CIPFA Code and government guidance require the Council to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.
- 26 All of the Council's investment activity has remained within the benchmarks for managing investment risk which were included in the Annual Treasury Management Strategy. The following table compares the actual position as at 30 September 2018 against the previously agreed benchmarks.

Investment Risk	Measured by	Benchmark	Actual position 30.9.2018
Security	% of historic risk of default	0.08%	0.012%
Liquidity	Weighted average life to maturity	6 months (183 days) average 9 months (274 days) maximum	231 days average
Yield	Internal returns above the 7 day LIBID rate	0.44%	0.87%

## Treasury Management Indicators

- 27 There are three debt related treasury activity limits which are designed to manage risk and reduce the impact of an adverse movement in interest rates.

**Interest Rate Exposures:** This indicator is set to control the Council's exposure to interest rate risk. The upper limits on fixed and variable rate interest rate exposures, expressed as the proportion of net principle invested was:

	30.9.18 Actual	30.9.18 Actual	2018/19 Limit	Complied
Upper limit on fixed interest rate exposure	£251.1m	86.4%	100%	✓
Upper limit on variable interest rate exposure	£39.5m	13.6%	70%	✓

**Maturity Structure of Borrowing:** This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of fixed rate borrowing were:

	Lower Limit	Upper Limit	30.9.18 Actual	Complied
Under 12 months	0%	20%	0%	✓
12 months to 2 years	0%	40%	4%	✓
2 years to 5 years	0%	60%	7%	✓
5 years to 10 years	0%	80%	23%	✓
10 years and above	0%	100%	66%	✓

**Principal Sums Invested for Periods Longer than 364 days:** The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments:

	<b>Limit</b>	<b>As at 30.9.18</b>	<b>Complied</b>
Actual principal invested beyond one year	£75m	£0m	✓

## Prudential Code Indicators

- 28 The Local Government Act 2003 requires the Council to have regard to the Chartered Institute of Public Finance and Accountancy's Prudential Code for Capital Finance in Local Authorities (the Prudential Code) when determining how much money it can afford to borrow.
- 29 The objective of the Prudential Code is to ensure, within a clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable, and that treasury management decisions are taken in accordance with good professional practice. To demonstrate that the Council has fulfilled these objectives, the Prudential Code sets out the following indicators that must be set and monitored each year.

**Capital Expenditure:** The table below summarises planned capital expenditure and financing when the 2018/19 budget was set in February 2018 and compares it to the estimated position at 30 September 2018:

	<b>2018/19 Original Estimate £ million</b>	<b>2018/19 Estimate at 30.9.18 £ million</b>	<b>Difference £ million</b>
<b>Capital Expenditure</b>	<b>104.109</b>	<b>116.190</b>	<b>12.081</b>
<u>Financed by:</u>			
Capital grants and contributions	34.028	59.109	25.081
Revenue and reserves	13.006	46.135	33.129
Capital receipts	22.439	9.263	-13.176
<b>Net financing need for the year</b>	<b>34.636</b>	<b>1.683</b>	<b>-32.953</b>

**Capital Financing Requirement (CFR):** The CFR is a measure of the Council's underlying borrowing need for a capital purpose. The CFR includes any other long term liabilities (e.g. PFI schemes, finance leases). The forecast outturn position compared to the original estimate in February 2018 is set out in the table overleaf:

	<b>2018/19 Original Estimate £ million</b>	<b>2018/19 Forecast at 30.9.18 £ million</b>	<b>Difference £ million</b>
<b>Total Capital Financing Requirement</b>	<b>484.786</b>	<b>420.855</b>	<b>-63.832</b>

<b>Forecast Debt:</b> The Council's forecast outturn debt at 30 September 2018 is as follows	<b>31.03.18 Actual £ million</b>	<b>2018/19 Forecast at 30.09.18 £ million</b>	<b>Difference £ million</b>
Borrowing	290.613	290.602	<b>-0.011</b>
Finance leases	9.545	11.892	<b>2.347</b>
PFI liabilities	39.174	38.183	<b>-0.991</b>
<b>Total Debt</b>	<b>339.332</b>	<b>340.677</b>	<b>1.345</b>

**Gross Debt and the Capital Financing Requirement:** In order to ensure that over the medium term debt will only be for a capital purpose, the Council should ensure that debt does not, except in the short term, exceed the total of the capital financing requirement in the preceding year plus the estimates of any additional capital financing requirement for the current and next two financial years. This is a key indicator of prudence. The table below shows the forecast position as at 30 September 2018:

	<b>2018/19 Estimate £ million</b>	<b>2018/19 Forecast at 30.09.18 £ million</b>	<b>Difference £ million</b>
Total debt	347.460	340.677	<b>-6.783</b>
Capital financing requirement	484.786	420.855	<b>-63.931</b>
<b>Headroom (Under Borrowed)</b>	<b>-137.326</b>	<b>-80.178</b>	<b>-70.714</b>

**Operational Boundary:** This is the limit beyond which external borrowing is not normally expected to exceed. Periods where the actual position is either below or over the boundary is acceptable subject to the authorised limit not being breached.

<b>Operational boundary</b>	<b>2018/19 Estimate £ million</b>	<b>2018/19 Actual as at 30.9.18 £ million</b>	<b>Complied</b>
Borrowing	432.000	290.602	✓
Other long term liabilities	53.000	48.135	✓
<b>TOTAL</b>	<b>485.000</b>	<b>338.737</b>	✓

**Authorised Limit for external borrowing:** This represents a control on the maximum level of borrowing and is a statutory limit determined under section 3 (1) of the Local Government Act 2003. It reflects the level of external borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

<b>Authorised limit</b>	<b>2018/19 Estimate</b>	<b>2018/19 Actual as at 30.9.18</b>	<b>Complied</b>
	<b>£ million</b>	<b>£ million</b>	
Borrowing	482.000	290.602	✓
Other long term liabilities	56.000	48.135	✓
<b>TOTAL</b>	<b>538.000</b>	<b>338.737</b>	✓

**Actual and estimates of the ratio of financing costs to net revenue stream:** This indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

	<b>2018/19 Estimate</b>	<b>2018/19 Actual as at 30.9.18</b>	<b>Difference</b>
	<b>%</b>	<b>%</b>	<b>%</b>
Ratio of financing costs to net revenue stream	7.67	7.07	-0.60

## Conclusion

- 30 The Council has complied with its Treasury Management Strategy 2018/19 for its half-yearly activity covering the period to 30 September 2018.

## Background Papers

- a) 21 February 2018 – County Council – Appendix 11: Durham County Council 2018/19 Annual Treasury Management Strategy as part of the Medium Term Financial Plan, 2018/19 to 2021/22 and Revenue and Capital Budget 2018/19.
- b) County Council – 19 September 2018 – Treasury Management Outturn 2017/18.

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<b>Contact:</b>	<b>Jeff Garfoot</b>	<b>Tel:</b>	<b>03000 261946</b>
	<b>Azhar Rafiq</b>	<b>Tel:</b>	<b>03000 263480</b>

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## **Appendix 1: Implications**

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### **Legal Implications**

None

### **Finance**

The report details the Council's cash management, loans and investment activity during 2018/98. The report also provides the overall financing of the Council's capital expenditure, along with borrowing and investment income returns.

### **Consultation**

None

### **Equality and Diversity / Public Sector Equality Duty**

None

### **Human Rights**

None

### **Crime and Disorder**

None

### **Staffing**

None

### **Accommodation**

None

### **Risk**

None

### **Procurement**

None

**County Council**

**5 December 2018**

**Community Governance Review –**

**West Rainton**



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**Report of Corporate Management Team**

**Helen Lynch, Head of Legal and Democratic Services**

**Councillor Simon Henig, Leader of the Council**

**Electoral division affected:**

Sherburn

**Purpose of the Report**

- 1 To advise Council of the final stage of consultation that has been undertaken as part of the Community Governance Review (“the Review”) in relation to West Rainton, and to make a final recommendation in this regard.

**Executive summary**

- 2 Following Durham County Council (“the Council”) receiving a valid petition from the electors in West Rainton parish, which had been forwarded by West Rainton Parish Council (“the Parish Council”), the Council has undertaken a community governance review on the issue. The petition, with 284 signatures, requested that there be a reduction in the number of parish councillors on the Parish Council from 11 to 9, and to change the name of the Parish Council to include Leamside.
- 3 The Review included two stages of consultation with electors and relevant stakeholders, the first being an initial consultation on the proposals of the Parish Council. The consultation responses were considered and a draft recommendation on the Review was agreed by the Council on 19 September 2018. The second period of consultation was then undertaken on the draft recommendation, which was to give effect from 1 April 2019 to change the name of the parish/ Parish Council to West Rainton and Leamside; and with effect from the

ordinary elections in 2021 reduce the Parish Council size from 11 to 9 councillors.

- 4 The responses received have been considered by the Constitution Working Group, and it has made a recommendation to Council. It is now for Council to consider making its final recommendation of the Review. If council agree to support the change to community governance, a final recommendation will be published on the Council's website on 12 December 2018, and a Re-organisation order will be made one month thereafter.

### **Recommendation**

- 5 That Council agree to make a final recommendation on the Review as follows:-
  - (a) With effect from 1 April 2019 confirm the change of name of the parish/ Parish Council to West Rainton and Leamside;
  - (b) With effect from the ordinary elections in 2021 reduce the parish council size from 11 to 9 councillors.
- 6 The final recommendation would be published on 12 December 2018, and the Re-organisation order would be made one month later.

### **Background**

- 7 On 12 February 2018, Durham County Council ("the Council") received a petition from the electors in West Rainton parish which had been forwarded by West Rainton Parish Council ("the Parish Council") requesting that the Council undertake a Community Governance Review to reduce the number of parish councillors on the Parish Council from 11 to 9, and to change the name of the Parish Council to include Leamside. The petition contained 284 validated signatures.
- 8 The Local Government and Public Involvement in Health Act 2007 ("the Act") requires that for a petition to be valid for an area between 500-2499 electors, it must contain no fewer than 187 signatures and specify one or more proposed recommendations to be considered by a Review. The petition referred to at paragraph 2 met these criteria. A map defining the area to which the Review relates was produced by the Council and is attached at Appendix 2 of this report.
- 9 The request to change the governance arrangements was prompted by prolonged difficulties in maintaining full membership of the Parish Council, hence the request for a reduction in council size; together with a desire to change the name of the Parish Council to West Rainton and

Leamside Parish Council to better describe the geographical area represented.

- 10 The Terms of reference (ToR) for the Review including the timetable, and means of consultation were prepared by the Council and made available on the council's website, and a four week period of consultation was undertaken from 15 May 2018.
- 11 The ToR which were published on 15 May 2018 set out the various matters that a Review may consider under the Act. However it specified the purpose of the Review to be the two matters proposed by the petition (the name change and the reduction in the number of councillors) and it was to these matters that the consultation was directed. A copy of the ToR is attached at Appendix 3 to the report.

## **The Law, Duties and Guidance**

- 12 Under section 93 of the Act, the Council must comply with various duties when undertaking a community governance review, including:
  - i. having regard to the need to ensure community governance within the area under review reflects the identities and interests of the community in that area, and is effective and convenient.
  - ii. taking into account any other arrangements, apart from those relating to parishes and their institutions that have already been made, or that could be made for the purposes of community representation or community engagement in respect of the area under review.
  - iii. taking into account any representations received in connection with the review.
- 13 Under Section 100 of the Act, the Council must also have regard to guidance issued by the Secretary of State. In March 2010 the Department for Communities and Local Government (as was) and the Local Government Boundary Commission for England published guidance on Reviews of community governance.
- 14 Any community governance review must make the following recommendations:
  - (i) what new parish or parishes should be constituted in the area under review (section 87(1));
  - (ii) in relation to an existing parish (section 88):

- (a) that the parish should not be abolished and that its area should not be altered; or
- (b) that the area of the parish should be altered; or
- (c) that the parish should be abolished; and
- (d) whether or not the name of the parish should be changed; and
- (e) whether or not the parish should continue to have a council; and
- (f) if so, what changes (if any) should be made to the electoral arrangements that apply to that council (section 90), and this should include consideration of what warding arrangements should apply.

15 The minimum legal number of parish councillors for each parish council is five. There is no maximum number and there is no other legislative guidance. The only other requirement is that each parish in a grouping arrangement must have at least one member on the common council.

16 National Association of Local Councils (NALC) published guidance in 1988. It recommended that a council of no more than the legal minimum of five members is inconveniently small and considers a practical minimum should be seven. It does, however, state that local council business does not usually require a large body of councillors and business convenience makes it appropriate to suggest that the practical maximum should be twenty five.

17 Aston Business School has also carried out research and the recommended figures by both the NALC and Aston are reproduced below. Within those minimum and maximum limits, the following allocations were recommended by NALC:

<b>Electors</b>	<b>Councillors</b>	<b>Electors</b>	<b>Councillors</b>
Up to 900	7	10,400	17
1,400	8	11,900	18
2,000	9	13,500	19
2,700	10	15,200	20

3,500	11	17,000	21
4,400	12	18,900	22
5,400	13	20,900	23
6,500	14	23,000	24
7,700	15	Over 23,000	25
9,000	16		

- 18 However, in rural authorities with sparsity of population, even this table may not be appropriate.
- 19 The Aston Business School's research was published in 1992. It showed the then levels of representation and it is likely that these levels of representation have not greatly changed in the intervening years.

<b>Electors</b>	<b>Councillors</b>
<500	5-8
501-2,500	6-12
2,501-10,000	9-16
10,001-20,000	13-27
>20,000	13-31

- 20 The Local Government Boundary Commission for England (LGBCE) is of the view that each area should be considered on its own merits having regard to population, geography, the pattern of communities and to the current powers of parish councils.

- 21 When considering the number of electors, the Council must have regard to:-
- (a) The number of local government electors of the parish; and
  - (b) Any change in that number which is likely to occur in the period of five years beginning with the day when the review starts.

### **Consultation on Initial proposals**

- 22 The initial consultation on the proposals put forward by the Parish Council commenced on 15 May 2018 for a 4 week period. It involved consultation with stakeholders with details sent on 15 May 2018 to the local Councillors, the County Durham Association of Parish and Town Councils (CDALC), the Member of Parliament for the City of Durham Constituency, the Durham Area Action Partnership, and local community groups. A press release was issued to cover interested electors with information given on how to make representations during the consultation. The Council is aware that articles appeared in the Sunderland Echo on 28 May, Northern Echo on 29 May, and Durham Times on 1 June. Relevant information was also published on the Council's website.
- 23 Responses in support were received from two residents, and one resident advised of their objection. Comments made in favour included that 11 parish councillors was an over representation, difficulties in attracting more candidates to stand, risk of meetings being inquorate, and necessitating calling of elections. Against the change was concern that there was lack of openness and transparency in the parish council's proposal to reduce the council size, a lack of consistency with a neighbouring parish council size, that it decreases democratic accountability by responding to short term difficulties in recruitment of councillors, that there would soon be an increased electorate with developments in the area, and that the proposed name change would not better reflect the geographical area which as well as West Rainton and Leamside also covers other areas including Rainton Gate, Moorhouse, Chilton Moor and Moorsley Bank.
- 24 County Durham Association of Parish and Town Councils (CDALC) advised that it usually responds to say that they have no objections about reduction in council size and that it makes it easier for elections to be called at an ordinary election. They asked whether the Parish Council had consulted with members of the community before taking the decision to seek to reduce its council size. They had no comment on the suggested name change.

- 25 The Parish Council have questioned whether the reduction in number of councillors could be implemented as soon as possible rather than until it fell in-line with the ordinary year of elections, if the Council did agree to a change in governance.

### **Consultation on Draft Recommendations**

- 26 Council considered the representations made in the initial consultation and agreed at its meeting on 19 September 2018 to make the following draft recommendation:-
- (a) With effect from 1 April 2019 change the name of the parish/ Parish Council to West Rainton and Leamside;
  - (b) With effect from the ordinary elections in 2021 reduce the Parish Council size from 11 to 9 councillors.
- 27 In accordance with the Review timetable the draft recommendation set out above was published and a further statutory period of consultation ran from 26 September until 24 October 2018. Stakeholders who were part of the initial consultation, and the members of public who had responded to the consultation were issued with a letter advising of the draft recommendation, and provided with the opportunity of commenting further on the proposal. A further press release was issued to cover interested electors with articles appearing in local newspapers. Relevant information was also published on the Council's website.
- 28 There was support from one resident, objections made by another, and the parish council re-iterated its position relating to council numbers and asked again whether the proposals for reducing the number of councillors could be brought in earlier than May 2021.
- 29 The letter of support from a resident who had commented in the initial consultation advised of continuing support and that the recommendations would better reflect the situation in their Parish. The objections made were from the same person who had objected in the initial round of consultation. The objector had submitted two slightly different letters of objections, one to the consultation group and the other to a number of the Councillors. Full details of the points made by the objector in the two letters are attached at appendix 4. These have been summarised as below:-
- The Parish Council name already includes Leamside and therefore is not an issue.
  - By the Council referencing only the last two full elections which were uncontested as justification for reducing the numbers, when

in 2006 there were 13 candidates, it is citing short term difficulties in reducing candidates which is only a temporary issue.

- As a community governance review is once in a lifetime future generations will have to stay with this decision as the decision could not be easily reversed.
- Reducing the number of councillors to 9 from 11 when there could be an electorate of 2296 would best fit 12 councillors not 9 as suggested when applying the Aston Business School's research, and that it is not a marginal increase as suggested in the draft recommendations.
- With a parish quorum of 3 this means all meetings have been quorate and can transact business.
- Drew comparisons with a neighbouring parish which has fewer electors but a higher number of councillors, therefore West Rainton would have less democratic representation.
- The Parish Council stating that there is widespread support for this is not evident from its own records.
- The Parish Council website shows a lack of transparency and public consultation and does not set out the business to be transacted for the community governance review.
- The lack of consultation by the Parish Council is being mirrored by the Council and has resulted in a low response to the consultation.

## **Considerations**

### **Numbers**

- 30 The Parish Council have had difficulties in maintaining their full complement of 11 councillors. At the ordinary elections in 2013, and 2017 there were uncontested elections with 5 standing in 2013, and 7 in 2017. Prior to 2013 there had been contested elections however since then the Parish Council have continually been looking to fill the seats by co-option. There have been some co-options made, and some appointments through by-election where following the election notice being published elections were held, and the costs borne by the Parish Council. Currently the Parish Council have 8 councillors, and 3 vacancies, and will be required to continue to seek to fill the seats by co-option. The Council has not been made aware of any difficulties in meetings being inquorate however the Parish Council are required to continually seek co-options.

- 31 Having considered the guidance on council size, as detailed earlier in the report at paragraphs 8 to 14, as the number of registered electors at 31 October 2018 was 1867, if applying the NALC guidance of council size up to an electorate of 2,000 the minimum would be 8 and the maximum number would be number 9. The Aston Business school guidance on council sizes of between 501 and 2,500, would be between 6 and 12. Guidance from LGBCE is of the view that each area should be considered on its own merits having regard to population, geography, the pattern of communities and to the current powers of parish councils, and to consider any change in size of its electorate which is likely to occur in the period of five years. In local councils in County Durham as throughout the country there is a varying size of council to its electorate.
- 32 Planning officers have confirmed that planning permission has been granted for development in the area, with the two largest being residential dwellings of 150, and one for 65 (subject to completion of S106 legal agreement). There were, as of 31 October 2018, unimplemented planning permissions (or resolutions to grant permission) for 223 dwellings within the parish. If built then this number of dwellings would be likely to yield a further 401 electors. There are no proposed residential allocations for the parish in the emerging County Durham Plan.
- 33 Therefore the total number of electors may rise to above 2,000 within the next 5 years. A limit of 9 parish councillors would therefore be slightly below the NALC recommendation but the number of electors is likely to be only marginally over the 2,000 figure even if all the dwellings are built, which itself is uncertain.

## **Name**

- 34 The proposal of changing the name of the Parish Council to include Leamside would cover the two main settlements of the parish area. Of the other settlements mentioned by the objector most are very small with only Rainton Gate having more than 100 electors.
- 35 There is a separate provision in the Local Government Act 1972 that would enable the Council to change the name of the Parish Council upon receiving a request from the Parish Council to do so. That does not apply here, because the request has been received by way of a community petition.
- 36 During the consultation it has been pointed out that the Parish Council had previously included Leamside in its title, although not for a number of years, and the crest on its website does include Leamside. As far as the Council is aware there has not been a formal resolution made to

change its name and the use of the name “West Rainton and Leamside” appears to have been inconsistent. The fact that the name change is included within the Petition suggests that the will of the petitioners is to confirm the name as “West Rainton and Leamside”.

## **Timing**

- 37 The Parish Council have questioned whether any change to council size could be implemented before the ordinary year of elections in May 2021. Legislation does not permit a change to council size to be implemented through a Review earlier than at the time of ordinary elections unless it was also to change the term of office of its sitting councillors i.e. changing the year of elections to another date instead of the usual four year period. This is possible but is unlikely to be administratively convenient.
- 38 The petition which was submitted to the Council by the Parish Council had 284 validated signatories of the parish electorate agreeing with their proposals. This equates to 15% of the 1907 registered electors at the time of 1 December 2017. The Parish Council website contains the agendas/ minutes/ supporting reports from its meetings where co-option/ community governance had been considered. Although there had been a limited response to the two stages of consultation undertaken by the Council with one resident objecting to the proposals at both stages, taking into account the numbers who supported the Parish Council petition, and the responses received by the Council, it can be seen there is support for the petitioners’ proposals.

## **Other matters**

- 39 Of the matters that must be considered for recommendation in any Review, it is not recommended to constitute any new parishes or to abolish or alter the existing parish. The existing parish should continue to have a council and there is no reason to consider that warding arrangements would better reflect the identities and interests of the parishioners or give rise to greater effectiveness or convenience of community governance.
- 40 The objector complains that the Parish Council discussions of the proposal were opaque. Whether or not this is the case is not a matter for consideration, because the trigger for the Review has been the duly made petition rather than any deliberations by the Parish Council.
- 41 If the Council determined that it would make a re-organisation order to change the community governance in the area, and in the future the community found that it wished to make changes, the Council would be

obliged to undertake a further community governance review after a period of two years had elapsed and was in receipt of a valid petition.

## **Conclusion**

- 42 The Review is focussed on the request by the petitioners to reduce the size of the council from 11 to 9, and to change the name of the Parish Council to include Leamside. It is for the Council to consider whether to make a final recommendation to support the proposals or not.
- 43 The Constitution Working Group at its meeting on 13 November 2018 noted that from the numbers signing the petition submitted by the Parish Council, the response to the consultation, and the considerations detailed in the report, the group would recommend to Council a final recommendation to make changes as set out in paragraphs 5 and 6 of the report.
- 44 The Group in considering the issue of the name change and the points made by the objector in relation to it, suggested that due to the uncertainty as to whether there has been any previous formal resolution to change the name outside of a community governance review, the group were in agreement to recommend to council that the name be confirmed as West Rainton and Leamside Parish Council. The Group supported the reduction in council numbers.
- 45 Changing the council size would be effective from the time of ordinary elections in 2021, and confirmation of the name change of the parish/ Parish Council be effective from 1 April 2019.

## **Next Steps**

- 46 If Council agree to support the change to community governance, a final recommendation will be published on the Council's website on 12 December 2018, and a Re-organisation order will be made one month thereafter. Those stakeholders who have previously been consulted, and the members of the public who responded to the consultation would be notified of the final recommendation, and a press release would be issued to this effect.

## **Background papers**

CLG and Local Government Boundary Commission for England Guidance on Community Governance Reviews.

## Other useful documents

Report to council 19 September 2018

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<b>Contact:</b>	Ros Layfield	Tel: 03000 269708
	Helen Lynch	Tel: 03000 269732

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## **Appendix 1: Implications**

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### **Legal Implications**

The Review to be undertaken in line with current legislation and Regulations. Failure to comply with the requirements of the Local Government and Public Involvement in Health Act 2007 will result in any arrangements being void and leave the Council open to challenge by way of judicial review.

### **Finance**

The main costs will be in respect of a consultation and will be met from the budget identified for community governance reviews.

### **Consultation**

See report.

### **Equality and Diversity / Public Sector Equality Duty**

An equality impact assessment had been updated during the Review- no implications were identified.

### **Human Rights**

None specific within this report.

### **Crime and Disorder**

None specific within this report.

### **Staffing**

The work will impact on staff time.

### **Accommodation**

None specific within this report.

### **Risk**

None specific within this report.

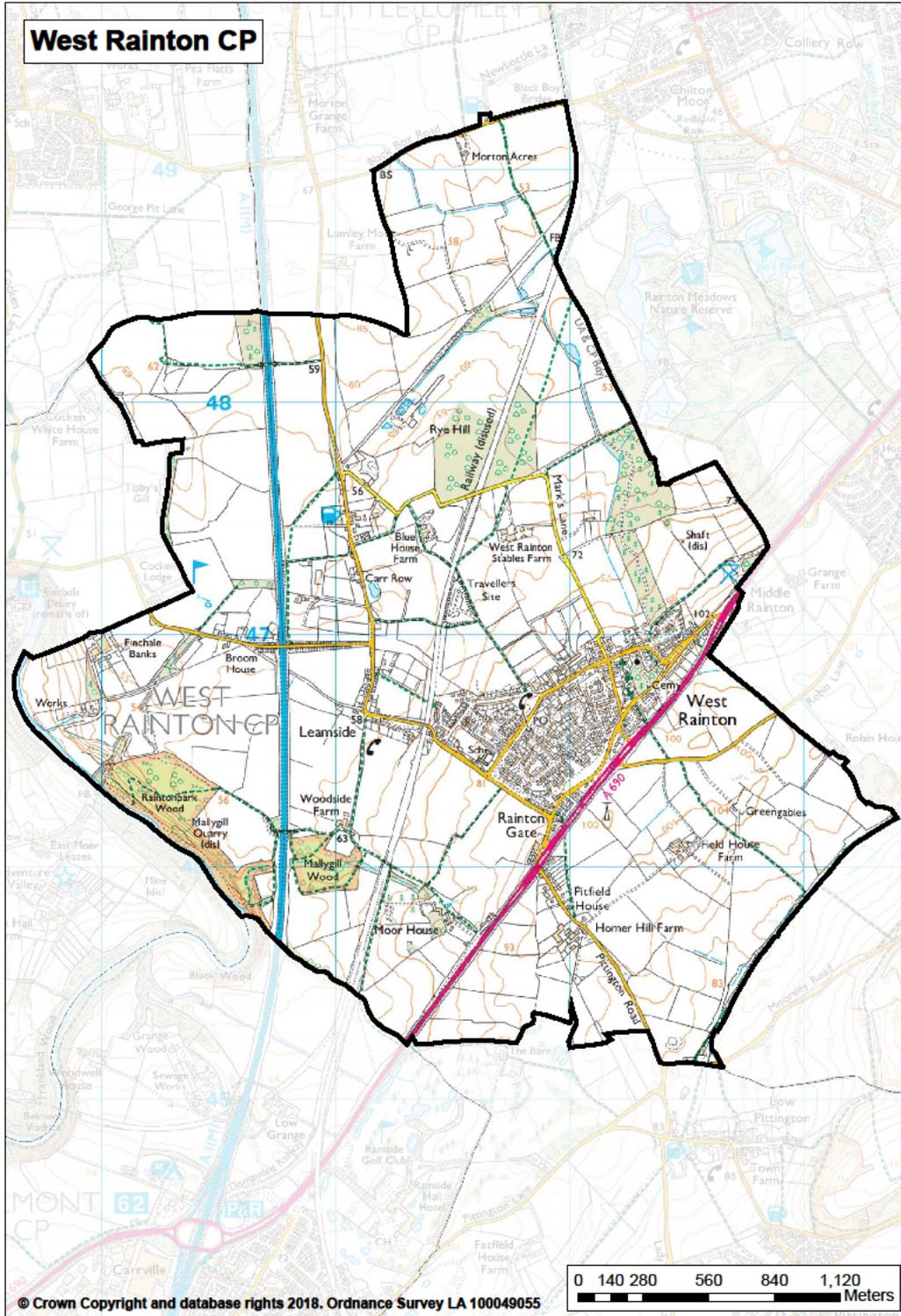
### **Procurement**

None specific within this report.

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## Appendix 2: Map of the area under consideration

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## **Appendix 3: Terms of Reference**

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### **COMMUNITY GOVERNANCE REVIEW OF WEST RAINTON**

#### **TERMS OF REFERENCE**

##### **Introduction**

In undertaking the Review, Durham The Council (“the Council”) will comply with the requirements of Part 4 of the Local Government and Public Involvement in Health Act 2007 and the relevant parts of the Local Government Act 1972, and have regard to Guidance on Community Governance Reviews issued in accordance with section 100(4) of the Local Government and Public Involvement in Health Act 2007 by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March 2010. The Council will also have regard to the following regulations which inform consequential matters arising from the Review:

- Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625);
- Local Government Finance (New Parishes) Regulations 2008 (SI2008/626). (The 2007 Act has transferred powers to the principal councils which previously, under the Local Government Act 1997, had been shared with the Electoral Commission and the Boundary Committee for England).

The Council will also give due consideration to the Guidance on Community Governance Reviews issued by the Secretary of State for Communities and Local Government published in 2008.

##### **What is a community governance review?**

A Community Governance Review is a legal process whereby the Council will consult with those living in the area, and other interested parties, on the most suitable ways of representing the people in the area identified in the review.

This means making sure that those living in the area, and other interested groups, have a say in how local services are delivered in their area.

A Review can consider one or more of the following options:

- creating, merging, altering or abolishing parishes;
- the naming of parishes and the style of new parishes and the creation of town councils;
- the electoral arrangements for parishes (for instance, the ordinary year of election; council size; the number of councillors to be elected to the council, and parish warding);
- grouping parishes under a common parish council or de-grouping parishes;
- other types of local arrangements, including parish meetings.

## **Aim of the Review**

The Council aims to ensure that community governance arrangements within the area under review are reflective of the identities and interests of the community in that area.

## **Why is the Council undertaking the Review?**

On 12 February 2018 the Council received a petition from West Rainton Parish Council (“ the Parish Council”) that had been signed by sufficient residents from the area, which requested the Council carry out a community governance review to reduce the numbers of councillors from 11 to 9, and to formally change the name of the Parish Council to West Rainton and Leamside Parish Council.

## **Who is undertaking the Review?**

The Council is responsible for undertaking any review within its electoral area. Full Council is responsible for agreeing draft and final recommendations prior to any Community Governance Order being made.

## **Consultation**

The Council has now published these Terms of Reference. This document sets out the aims of the Review, the legislation that guides it and some of the policies the Council considers important in the Review. In coming to its recommendations in a review, the Council needs to take account of the view of the local people.

The Council recognises that the development of strong, sustainable communities depends on residents’ active participation in decision making and making a positive contribution to improving the place where they live. The Council is therefore committed to engaging effectively with the diverse communities it serves and to enabling local people to participate meaningfully

in decisions that affect their lives, where all people feel able to take an active part in influencing service delivery.

The Council will undertake an initial consultation with electors and other stakeholders in the area.

The consultation will take place through writing to the statutory consultees and seeking their views. A press release will be circulated in the local press to cover interested electors in addition to relevant information being available on the Council's website;

### **How to contact us**

Further information about the Review is available on the Council's website and its social network pages, detailed below:

[www.durham.gov.uk/communitygovernance](http://www.durham.gov.uk/communitygovernance)

[www.facebook.com/durhamcouncil](http://www.facebook.com/durhamcouncil)

[www.twitter.com/durhamcouncil](http://www.twitter.com/durhamcouncil)

### **Timetable for the Review**

<b>Action</b>	<b>Time Span</b>	<b>Dates</b>
Publication of Terms of Reference		15 May 2018
Consultation process – consultation with local electors and statutory consultees	4 weeks	15 May 2018
Analysis/evaluation of consultation results and submissions received. Preparation of draft proposals	6 weeks	19 June 2018

Publication of draft proposals		26 September 2018  (Council 19 September)
Consultation on draft proposals	4 weeks	26 September 2018
Consideration of submissions received and preparation of final recommendations	6 weeks	24 October 2018
Publication of final recommendations and resolution to make a re-organisation Order, if appropriate		12 December 2018  (Council 5 December)
Preparation and publication of any reorganisation Order	One month	5 January 2019

### **Order and commencement**

The Review will be completed when the Council publishes its final recommendations.

In the event of a reorganisation of Community Governance Order being required, the provisions of such an order may take effect in two parts:-

- i) a change to the number of councillors on the council would take effect from the local elections in 2021, to fall in line with the ordinary year of election of councillors for local, parish and town elections;

- ii) a change of name to the parish and parish council would take effect from a date to be determined.

### **Publication of terms of reference**

These Terms of Reference will be published on the Council website [www.durham.gov.uk/communitygovernance](http://www.durham.gov.uk/communitygovernance) and are available for inspection at the offices of the Council.

### **Date of Publication**

15 May 2018

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## **Appendix 4: Letter of objection to draft recommendations (2 from same objector)**

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### **1. Letter content- 10 October 2018- to members of the Council.**

I am concerned about a consultation currently taking place in respect of the Parish Council.

As probably one of the very few residence of West Rainton and Leamside Parish who is aware of this consultation. It is important that a number of misconceptions are put on the record.

Starting with the name of the parish council if you examine the parish councils summons and minutes held by the Parish Council and those by Durham County Records up until 19 November 2015 summons show the name of the Parish Council as West Rainton and Leamside Parish Council not West Rainton Parish Council. Further examination of the summons and minutes show no record at any parish council meeting of a resolution been approved change the Parish Councils name to West Rainton Parish Council. The unauthorised change of name coincides with the development of its website and the appointment of new Parish Clerks in recent years using an abbreviate version of the parish councils name for only 3 years. This item is a non issue.

Examination of the Parish Councils official crest on its own website shows West Rainton and Leamside Parish Council not a suggested West Rainton Parish Council.

Turning to the membership of the Parish Council being reduced from 11 to 9 members having read Durham the Councils consultation. The essence of the argument been put forward the Parish Council and Durham Council have consulted widely including The Councillors B Kellett, D Hall (Sherburn Ward). Due to the short term difficulties recruiting and retaining members at the last 2 local government elections it is reasonable of the membership of the parish council to be reduce thus creating a democratic deficit.

As neither The Councillors actual reside in the West Rainton and Leamside Parish Council area, but they live in the neighbour Pittington Parish Council area. I think it reasonable to draw comparisons. Why it more democratic for this Parish Council with a considerably large electorate 1895 electors than the

neighbour Parish Council with 1198 electors to have less democratic representation.

According to the consultation document the current figure for the electorate of West Rainton and Leamside Parish Councils stands at 1895 plus an additional 401 estimated electors in the next 5 years which would increase the electorate to 2296 (not a marginal increase as suggested in the report). The Proposal makes reference to the County Durham Association of Local Councils, National Association of local Councils and the Aston Business School which are none statutory bodies. Using the NALC and the Aston Business School research with an electorate in the range 501 to 2,500 number of councillors 6-12 with an electorate of 2285 this would result in a figure closer to 12 councillor's not 9 as suggested.

The consultation document justifies a reduction in the number of councillors on the basis that the council is having difficulties in maintaining its full complement of 11 councillors. Citing short term difficulties at the ordinary elections in 2013, and 2017 which were uncontested elections with 5 standing in 2013, and 7 in 2017 which is a temporary situation. Ignoring the previous ordinary election that took place in 2006 which had 13 candidates. The Local Government Act 1972 clearly states that the quorum figure for a parish council is 3 or a third of its members whichever is the greatest making the quorum figure at this parish council 4. Using the above figures during both period the parish council has been quorate and can transact its business.

The Parish Council has stated that it has consulted widely in the Parish and there is wide support in the area for the proposed changes unfortunately this is not evident from its own records.

Examination of the Parish Council website show there has been a lack of transparency and public consultation which is being mirrored at Durham Council that has resulted in the extremely low response to the consultation. Examination of the Parish Councils website contains reference to summons / minutes / supporting reports from its meetings where co-option/ community governance had been considered the rhetoric has no substance. Particularly in relation to previous NALC advice to this parish council quote "NALC Response "I would say generally in respect of the two agendas I have seen that I am not satisfied that they set out the business to be transacted at the relevant meetings." In this instance the parish councils summons, minutes etc do not set out the business to be transacted in respect of the governance review.

The Parish Council minutes below does show a lack of openness and transparency.

1. Minutes 20/07/2017 **Item 10 Parish Councillor Co-option** – 6 Member of the Public - Summons makes no reference to a Community Governance Review - No Supporting document relating to co-option or Governance Review. Summons states “(10) Parish Councillor Co-option – Update from Parish Clerk)
2. Minutes 21/09/2017 **Item 9 Parish Councillor Co-option** (a) Parish Councillor Applications (b) Governance Review – 3 members of Public. The topic under discussion relates to Co-option which is incompatible with a Governance Review. Topic under discussion co-option not governance review. - Summons states “(9) Parish Councillor Co-option” agenda can only deal with one item of business only
3. Minutes 21/12/2017 **Item 9 Governance** no supporting report documented – 3 members of the Public. Summons states “”( 9) Governance review – update on signatories”
4. Minutes 15/02/2018 **Items 11 Update Governance Review** no supporting document – 9 Members of the Public. Summons states “(11) Community Governance Review - update from Project Officer”

Crucially there is no record on any summons or minutes confirming the parish council’s approval of any resolutions authorising a petition for a Governance Review. With the except of 1 very brief report that appeared in the Durham Advertiser a paper that is not available in West Rainton Area . The reason for the lack of responses from the elector is very simple nobody knows the Governance Review is taking place.

## **2. Letter content- 24 September 2018- to consultation group**

I am confused by the contents of the draft recommendation where they relate to changing the name of the parish council quote “a petition was received from West Rainton Parish Council to formally change the name of the Parish Council to West Rainton and Leamside Parish Council. The Parish Council for the last few years has shortened its name without approval. As the current name of the parish council is already West Rainton and Leamside Parish Council how has the name changed (crest included)

Turning to the issue of the number of councillors I want to raise the following points the currently electorate stands at 1895 plus 401 which would potentially equal 2296 (not a marginal increase as suggested. The Proposal makes reference to the County Durham Association of Local Councils, National Association of local Councils and the Aston Business School I should point out that none of these organisations are statutory bodies. Using the NALC and the Aston Business School research with an electorate in the range 501 to 2,500 number of councillors 6-12 with an electorate of 2285 this would result in closer to 12 councillor’s not 9 as suggested. As a Community Governance

review is a once in a lifetime event the decision to reduce the number of councillors would penalise future generations as the decision could not be immediately reversed.

The justification for reducing the number of councillors is the Parish Council is having difficulties in maintaining its full complement of 11 councillors. Citing the ordinary elections in 2013, and 2017 there were uncontested elections with 5 standing in 2013, and 7 in 2017 which is a temporary situation. Ignoring the ordinary election that took place in 2006 which had 13 candidates. The Local Government Act 1972 clearly states that the quorum figure for a parish council is 3 or a third of its members whichever is the greatest. Using the above figures during both period the parish council has been quorate and can transact its business.

Examination of the Parish Council website show there has been a lack of transparency and public consultation which has resulted in the extremely low response to the consultation. Examination of the Parish Councils website contains reference to summons / minutes / supporting reports from its meetings where co-option/ community governance had been considered the rhetoric has no substance Particularly in relation to previous NALC advice to this public authority quote "NALC Response "I would say generally in respect of the two agendas I have seen that I am not satisfied that they set out the business to be transacted at the relevant meetings." In this instance the parish councils summons, minutes etc. do not set out the business to be transacted in respect of the governance review.

The Parish Council minutes below does show a lack of openness and transparency.

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Crucially there is no record on any summons or minutes confirming the approval of any resolutions authorising a petition for a Governance Review. The reason for the lack of responses from the elector is very simple nobody knows the Governance Review is taking place.

5 December 2018



**Review of the Council's Statement  
of Gambling Policy.**

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**Report of Ian Thompson, Corporate Director, Regeneration and Local Services**

**Councillor Brian Stephens, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships**

**Electoral division(s) affected:**

None

**Purpose of the Report**

- 1 For Council to consider a Statement of Principles (Gambling Policy) for 2019 to 2021 in accordance with the Gambling Act 2005. Once adopted, the revised policy will enable the Council to continue to make decisions when exercising its responsibilities as the Licensing Authority under the Gambling Act 2005 for the next three years.

**Executive summary**

- 2 The Council is responsible for issuing licences under the Gambling Act 2005 and must prepare and publish, every three years, a statement of principles under the Act.
- 3 The Council's Statement of Gambling Policy provides advice to businesses and the public on the Council's overall position regarding the Gambling Act 2005 and a decision making framework which is used to exercise its functions under the Act.
- 4 A review of the current policy was required to enable the revision, re-publication and implementation by the end of January 2019.
- 5 Following a full public consultation exercise, all comments have been considered and where appropriate revisions have been proposed.
- 6 These proposed changes will enhance clarity, provide up-to-date information and advice to help applicants, existing licence holders and to any persons or organisations who may be affected by or be subject to the policy.

- 7 The proposed policy will improve decision making and ensure the continued protection of the public from gambling activities that take place at licensed premises for the next three years.

## **Recommendation**

- 8 That consideration is given to the Committee's recommendation, the consultation responses, officer proposals and content of the final draft statement of principles attached in **Appendix 2**.
- 9 That Council agrees to the adoption of the revised statement of principles.

## **Background**

- 10 Under the Gambling Act 2005, the Council is responsible for issuing premises licences for gambling premises such as casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres as well as permits for gaming machines in pubs, clubs and other alcohol-licensed premises.
- 11 The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and 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; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 12 Licensing authorities are required to prepare and publish, every three years, a statement of principles that they propose to apply when exercising their functions under the Gambling Act 2005, during the three-year period to which the policy applies
- 13 In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. The last review leading to the adoption of the current statement of principles (SOP) was undertaken in 2016. A review of the current SOP was required to be undertaken to enable the revision and re-publication of this policy document by January 2019. For the purposes of the latest review period, the newly revised SOP must be published by 3rd January 2019 before it comes into force on 31st January 2019.
- 14 The SOP fulfils two principal purposes; firstly, it provides advice to businesses and the public on the Council's overall position regarding

the Gambling Act 2005. Secondly, it provides a decision-making framework for the Council via its Licensing Committee to exercise its functions under the Act. As such, the SOP must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by activities. Failure to achieve the correct balance could lead to the policy statement being either, overly prescriptive and open to challenge, or alternatively, ineffective in the protection of local residents or through a failure to promote the licensing objectives effectively.

- 15 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require licensed operators to consider local risks. Gambling premises operators must undertake a risk assessment taking into consideration relevant local information. Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. Under this SOP, operators will be expected to have their own policies, procedures and control measures in place to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's Statement of Principles.
- 16 The draft, revised SOP attached at **Appendix 2**, produced following the review process, incorporates legislative requirements, national guidance and reflects current good practice.

## **Consideration**

- 17 Between May and August 2018 a public consultation exercise on the current statement of principles was conducted. The consultation took place in accordance with the Gambling Commissions guidance to Licensing Authorities and Government's Code of Practice on Consultation thereby allowing sufficient time for the consultation and for the return of responses.
- 18 The legislation provides the licensing authority with guidance on those organisations and bodies that the Council must consult with as part of the review. In addition to the statutory consultees, many other individuals, agencies and organisations considered to be affected by the SOP were identified and their comments were invited. We also contacted all existing Gambling licensees within in the County to obtain their views.
- 19 Consultation on the Council's SOP was widely advertised in the regional press. It also appeared on the Council's website, where e-mail responses were invited.
- 20 At the culmination of the consultation exercise six relevant responses had been received. All comments received are attached in **Appendix 3**.

- 21 All of the comments received have been taken into consideration. Where it was appropriate to incorporate received suggestions and recommendations into the revised draft, this has been done. Where it was not appropriate to do so, explanations have been provided as to why this is the case in the Table of Changes in **Appendix 4**. The majority of proposed changes were made following scrutiny of the current SOP by officers from Licensing Services with the aim to enhance clarity and provide useful information and advice to those who may be affected by or be subject to the policy.
- 22 The Licensing and General Purposes Committee was asked to consider the outcome of the consultation exercise at a committee held on Thursday 11<sup>th</sup> October 2018. At this meeting Members agreed to recommend to Council the adoption of the amendments and a revised version of the SOP. The minutes from this meeting are available on the Council's website.

### **Conclusion**

- 23 The Statement of Principles has been reviewed in accordance with the cyclical adoption requirements of the Gambling Act 2005. The proposed revised Gambling SOP incorporates legislative requirements and Gambling Commission Guidance.
- 24 Responses to the consultation have where it was appropriate to do so, been incorporated within the draft SOP. A copy of the final draft revised SOP is attached in **Appendix 2**.
- 25 The revised SOP has been recommended to Council for adoption by the General Licensing and Registration Committee

### **Background papers**

- Durham County Council's Gambling Act 2005 current Statement of Principles
- Gambling Commissions Guidance to licensing authorities - 5th edition September 2015

### **Other useful documents**

- None

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**Contact: Joanne Waller**

**Tel: 03000 2609324**

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## **Appendix 1: Implications**

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### **Legal Implications**

It is a statutory requirement for a Licensing Authority to review, consult upon and publish, every three years, a Statement of Principles it proposes to apply when exercising Gambling Act functions. Such Statement of Principles should follow guidance and best practice in order to underpin decision making by the Licensing Authority in carrying out its functions. The decision to approve the Statement of Principles is an administrative decision which can be subject to challenge by judicial review. The individual decisions of a Licensing Authority may be challenged by statutory appeals mechanisms.

### **Finance**

The costs of consultation and publication of the revised policy will be met from existing budgets. The report has no value for money implications.

### **Consultation**

The 3 yearly review of the Statement of Principles is subject to Government Guidance which prescribes the statutory consultees who must be included in policy consultation. In addition to the statutory consultees, other relevant local, regional and national bodies and organisations have been identified and are consulted in relation to policy revision.

### **Equality and Diversity / Public Sector Equality Duty**

None – a screening exercise has been undertaken and no equality matters have been identified

A Diversity Impact Assessment (DIA) was carried out in the planning stages of this consultation.

### **Human Rights**

None

### **Crime and Disorder**

The Council's licensing Statement of Principles forms a central part of the control and regulation of the evening and night time economies. As such, it can be viewed as having a pivotal role in the prevention of alcohol related crime and disorder.

The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for alcohol

related issues or mitigate their effects. This coupled with monitoring and enforcement and the appropriate use of the review process can significantly contribute towards crime reduction and an increase in public reassurance.

**Staffing**

None

**Accommodation**

None

**Risk**

None

**Procurement**

None

**Regeneration and Local Services**

**Environment Health and Consumer Protection**

# **Durham County Council**

## **Proposed**

# **Statement of Principles**

**2019 - 2021**

**Gambling Act 2005**

*Altogether better*



Version Date	Version ref	Revision History	Reviser	Approved by	Review Date
2009	V1	Final version	Joanne Waller	County Council	2013
2013	V2	Final version	Joanne Waller	County Council	2016
2016	V3	Reviewed and revised	Joanne Waller	County Council	2019
2019	V4	Reviewed and revised	Joanne Waller	County Council	2021

Further copies of this document can be obtained from:

Durham County Council  
Regeneration and Local Services  
Environment, Health and Consumer Protection  
Annand House  
John Street North  
Meadowfield  
Durham  
DH7 8RS

Email: [licensingadministration@durham.gov.uk](mailto:licensingadministration@durham.gov.uk)

**Please note:**

The information contained within this document can be made available in different languages and formats including Braille and large print

## **Foreword by Councillor Brian Stephens - Portfolio Member for Neighbourhoods and Local Partnerships**

Our most important role is to actively work to protect those who live and work in the County and who visit our area. As part of this role, the Council licenses certain types of business and commercial premises where activities take place that may impact on both individuals and the community as a whole. Premises used for gambling purposes are in this category.

This Statement of Principles, or more commonly known, gambling policy for County Durham accords with seeking to promote the licensing objectives set out in the Gambling Act:

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

By working together, listening to, learning from and responding to our residents and service users, Durham County Council aims to build a district where people are proud to live and work. We have produced this statement as required by the Gambling Act 2005 having had regard to the Gambling Commission's guidance, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing.

We intend that this document should provide information and guidance on the general approach that we will take to licensing gambling premises in the County. It is intended that this Statement of Principles not only reflects but aims to support our strategic purposes, as set out in the Council Plan.

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## 1.0 Introduction

### 1.1 Background

The Gambling Act 2005 created a system of licensing and regulation for commercial gambling in this country. The Act gives local authorities responsibilities for licensing premises for gambling including gaming machine arcades, betting, casino gaming and bingo.

The Gambling Act 2005 (the Act) received Royal Assent in 2005 and came into force in 2007. The Act and associated regulations together with the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), statutory guidance issued to licensing authorities, the Commission's formal statement of principles, form a central framework for regulating commercial gambling.

Under Section 349 of the Gambling Act 2005 each licensing authority is required to develop, consult on and publish a Statement of Principles (SOP). The statement must set out the principles which the authority proposes to apply in exercising its licensing functions under the Act. This process repeated every three years, a process that began on 31<sup>st</sup> January 2007. The Council's Statement of Principles provides the local framework for the licensing of premises and specified gambling activities.

The Act requires the Gambling Commission to issue guidance to licensing authorities on the manner in which they are to exercise their functions under the Act and the principles to be applied by them in exercising those functions. Licensing authorities are required to take account of all such guidance. The guidance is designed to ensure the spread of best practice and consistency of approach in decision making amongst licensing authorities, whilst not preventing authorities from properly exercising the discretion they have to take account of appropriate and relevant local issues and factors.

The consultation process leading to the development of this latest version of Durham County Council's policy is laid out in the Gambling Act 2005, the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 and the Guidance to Licensing Authorities issued by the Gambling Commission ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

### 1.2 The licensing objectives

The purpose of the Statement of Licensing Policy is to set out the principles that the Council propose to apply when determining licences, permits and registrations under the Gambling Act 2005. The Council will carry out its functions under the Act with a

view to aiming to permit the use of premises for gambling in so far as it is reasonably consistent with the three licensing objectives set out at 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.

Any decision taken by the Council in regard to determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it is reasonably consistent with the licensing objectives. More information can be found about how the Council will achieve this in Part B and C of this document.

The principles to be applied specifically to the determination of premises licence applications include definition of premises, location, duplication with other regulatory regimes, conditions, door supervision, layout of the premises and supervision of gaming facilities. It also makes reference to the provision of adult gaming centres, family entertainment centres, casinos, bingo premises, betting premises, tracks and travelling fairs.

The Council has the ability to issue permits for prize gaming and unlicensed family entertainment centres. The Council is able to specify the information it requires as part of the application process which will aid determination and this information is described in this Statement of Principles.

Club gaming and club machine permits are also issued by the Council. The process for this is described, along with other processes specified in the legislation for example temporary use notices, occasional use notices and small society lotteries.

### **1.3 Consultation**

In preparing this statement the Council consulted with and considered the views of a wide range of people and organisations. The Council has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities (5th edition) issued by the Gambling Commission and the responses from those consulted on the statement.

A full list of comments made in response to the consultation and the consideration by the Council of those comments is available on request to the Licensing Manager whose details are listed below and also via the Council's website at [www.durham.gov.uk](http://www.durham.gov.uk)

This Statement of Principles was approved at a meeting of the Full Council [DATE to be inserted]

#### **1.4 Strategic context**

Durham County Council Plan objectives and outcomes provide the broader strategic direction for the authority. The Plan includes the following objectives:

- Vibrant and successful towns and a thriving Durham City.
- Sustainable neighbourhoods & rural communities.
- Improve the mental and physical wellbeing of the population.
- Reduce anti-social behaviour.
- Protect vulnerable people from harm.
- Implement measures to promote a safe environment.
- Children and Young People make healthy choices.
- To have the best start in life.

#### **1.5 Legal Context**

This Statement of Principles is intended to meet the Council's obligations under Section 349 of the Gambling Act 2005. The Council will follow any regulations and statutory guidance issued in accordance with the Act and will have regard to any codes of practice issued by the national gambling regulator, the Gambling Commission.

#### **1.6 Local Context**

Local data is not currently available on the prevalence of gambling in County Durham. However national data does exist. It suggests 63% of adults (aged 16+) had gambled in the previous year, or 45% if playing the National Lottery is excluded. The great majority of these will be non-problem or low-risk gamblers, but a small proportion will be at moderate risk or be problem gamblers. Nationally, it is estimated less than 1% of the population is a problem gambler, most of whom (more than 90%) will be men.

The Council is aware of research looking specifically at identifying groups of the society that could be considered vulnerable to problem gambling. The study of Problem Gambling in Leeds; Kenyon, Ormerod, Parsons and Wardle, 2016, identifies the following groups:

- Young people.
- Minority ethnic groups.
- Unemployed and constrained economic circumstance.
- People living in deprived areas.
- People who are homeless.
- People suffering with some forms of mental ill health.

- People engaged in substance abuse/misuses.
- Some people with certain personality traits/cognitive distortions.
- Problem gamblers seeking treatment.

The Council acknowledges that problem gamblers are more likely than other people to experience the following harms:

- **Financial harms:** overdue utility bills; borrowing from family friends and loan sharks; debts; pawning or selling possessions; eviction or repossession; defaults; committing illegal acts like fraud, theft, embezzlement to finance gambling; bankruptcy.
- **Family harms:** preoccupied with gambling so normal family life becomes difficult; increased arguments over money and debts; emotional and physical abuse, neglect and violence towards spouse /partner and/or children; relationship problems and separation/divorce.
- **Health harms:** low self-esteem; stress-related disorders; anxious, worried or mood swings; poor sleep and appetite; substance misuse; depression, suicidal ideas and attempts.
- **School/college/work harms:** poor school, college or work performance; increased absenteeism; expulsion dismissal.

The Council is committed to developing an improved understanding of the prevalence of gambling and gambling harm in the County so that applicants, licensees and Members of the Licensing Committee have access to the best information available. The outcome of research projects and best practice from across the UK will be considered as it becomes available and adopted as a means of gathering and presenting relevant data where appropriate.

### **1.7 Durham County Council**

Durham County Council is situated in the County of Durham, the heart of the North East of England. The area features a rich diversity in lifestyle and culture including a historic city with a World Heritage Site, Beamish and Bowes Museums, Durham, Lumley and Lambton Castles, designated Areas of Outstanding Natural Beauty, and historic villages and market towns.

County Durham has 519,700 people, with 60.8% (312,658 people) classed as living in rural areas. It varies in character with sparsely populated rural areas in the Uplands and Durham Dales, to the larger villages located within the former coalfield communities in the centre and east. The ethnic minority population of the area accounts for 1.4% of the total population (2011 census). Durham University has 16,355 students and the area attracts over 4 million visitors per year.

For further health and deprivation, crime and community safety information about the local area visit: <https://www.durhaminsight.info/>

## **2.0 Part A The Gambling Act 2005**

### **2.1 The Legislation**

The Gambling Act came into force in 2007 and put in place a comprehensive and cohesive regulatory regime based on three fundamental objectives. Under the Gambling Act 2005 (the Act) Durham County Council is the licensing authority for the district and licences premises for gambling activities as well as granting various other gambling permits. In this document, unless otherwise stated, any references to the Council are to the Durham County Council as the Licensing Authority.

### **2.2 Decision making**

The Council will carry out its functions under the Act with a view to aiming to permit the use of premises for gambling in so far as it is reasonably consistent with the three licensing objectives set out at Section 1 of the Act. The Council 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 is:

- 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 this document.

The Council will follow any regulations and statutory guidance issued in accordance with the Act and will have regard to any codes of practice issued by the national gambling regulator, the Gambling Commission.

### **2.3 Risk assessments**

The Gambling Commission's Licence Conditions and Code of Practice (LCCP) require gambling premises to undertake a risk assessment taking into consideration their local information. Specific information about localities is provided in this policy at Section 4.0.

### **2.4 Integration with other guidance, policies, objectives and strategies**

Many stakeholders are involved in the leisure industry and they are all involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case the Council will aim to integrate and co-ordinate them. See also 1.3.

The Council recognises in particular the importance of the co-ordination and integration of this policy statement with other plans aimed at the management of town centres and the night-time economy.

## **2.5 The purpose of the Gambling Act 2005 – Statement of Licensing Principles (SOP)**

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

Durham County Council consulted widely upon the SOP before finalising and publishing the document. The SOP was presented for public consultation on the Durham County Council website, by email and post to solicitors, licensees, support organisations, responsible authorities, ward members, MPs, trade associations, and parish Councils. In total xxx emails and xxx letters were sent advising interested parties of the consultation. The consultation was also advertised on the Council’s webpages.

The consultation took place between xxx and xxx and followed the Cabinet Office’s Code of Practice on Consultation. The consultation elicited xxx responses which are available on request. The SOP was approved at a meeting of the Full Council on xxx November 2018.

## **2.6 The licensing framework**

The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with central government and local authorities to regulate gambling activity.

The Gambling Commission issues operators licences and personal licences. Any operator wishing to provide gambling at a certain premises must have applied for the requisite personal licence and operator licence before they can approach the Council for a premises licence. In this way the Gambling Commission is able to screen applicants and organisations to ensure they have the correct credentials to operate gambling premises.

The Council’s role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any codes of practice issued by the Gambling Commission. The Council also issues various permits and notices to regulate smaller

scale and or ad hoc gambling in various other locations such as pubs, clubs and hotels.

The Council recognises that in matters of regulation under the Gambling Act 2005 (the “Act”), it is subject to the Regulators’ Code. That code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow.

Additionally under the Code, when designing and reviewing policies, the Council must among other things, understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates.

The Council will take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates.

## **2.7 Functions of the Council as the Licensing Authority**

Under the Act, Durham County Council is responsible for the following activities:

- Licensing premises where gambling activities are to take place by issuing premises licences.
- Issuing provisional statements,
- Regulating members’ clubs and miners’ welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits.
- Issuing Club Machine Permits to commercial clubs.
- Granting permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres.
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines.
- Granting 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.
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits.
- Receiving and endorsing Temporary Use Notices.
- Receiving Occasional Use Notices (for tracks).
- Providing information to the Gambling Commission regarding details of licences issued (see section above on ‘Exchange of information’).
- Maintaining registers of the permits and licences that are issued under these functions.

The Council does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission via operator licences. The

National Lottery is not licensed by the Gambling Act 2005 and is regulated by the Gambling Commission under the National Lottery Act 1993.

The provisions of the Gambling Act delegates all decisions relating to Premises Licences, Temporary Use Notices, Occasional Use Notices and the issuing of permits for gaming machines and prize gaming to the Licensing and General Registration Committee of the Council.

## **2.8 Exercise of licensing functions**

The Licensing Authority's licensing functions under the Act will be carried out by the Licensing Committee. In order to provide a speedy, efficient and cost effective service and in accordance with the Act, the Licensing Committee will delegate decisions and functions and will establish a number of sub-committees to deal with them as detailed in this Statement. Three members will sit on these sub-committees. Further, with any of the decisions and functions being administrative in nature, the grant of non-contentious applications, including those where no representations have been made, are delegated to officers.

## **2.9 Duplication with other regulatory regimes and planning matters**

Durham County Council seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. Durham County Council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise. When dealing with a premises licence application for finished buildings, Durham County Council will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

Although the Council cannot consider if there is a need or demand for the gambling facilities applied for, applicants should consider the proximity of other gambling premises in the Local Risk Assessment and the impact this will have on residents, including children and vulnerable groups.

## **2.11 Declaration**

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

This Statement of Principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## **2.12 Responsible authorities**

The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible authorities are able to make representations about licence applications, or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants.

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

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, Durham County Council designates the Local Safeguarding Children Board for this purpose. The contact details of all the Responsible Authorities under the Gambling Act 2005 are available at Appendix 3.

## **2.13 Interested parties**

Interested parties include people or organisations that have the right to make representations about licence applications, or apply for a review of an existing licence. Interested parties can make representations about licence applications, or apply for a review of an existing licence.

In accordance with guidance from the Gambling Commission it is not the Council's role to deem that certain bodies will automatically represent Interested Parties. The question of whether someone is a representative of an Interested Party will be a matter for consideration on a case by case basis.

In keeping with the Commission's Guidance on interested parties (paras 8.06 and 8.17), such persons will include e.g. democratically elected representatives, trade associations, trade unions, residents associations or community groups etc. The Council will satisfy its self on a case by case basis that a person does in fact

represent an Interested Party and to achieve this we may need to consider obtaining a letter of confirmation from a prospective interested party.

Interested parties are defined in the Gambling Act 2005 as follows:

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

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

In addition to supplement the above information, Durham County Council 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. Durham County 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 Licensing Authorities at 8.11 to 8.18. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- Interested parties can be persons who are democratically elected such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the Councillor / MP represents the ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- Interested parties referred to under section 158 of the Act in the opinion of the licensing authority also includes those individuals and organisations concerned with or involved with social welfare, addiction, poverty, public health, poverty and protection of the vulnerable which individuals and organisations. They will be deemed to represent those who live sufficiently close to the premises to be likely to be affected by the authorised activities
- 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, contact should be made with DCC Licensing Services section

**Note:** The Council may from time to time publish more detailed information on the making of representations in separate guidance notes. Guidance notes will be prepared in accordance with relevant Statutory Instruments and the Gambling Commission's own guidance.

#### **2.14 Exchange of Information**

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

The principle that Durham County Council 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 General Data Protection Regulations will not be contravened.

Durham County Council will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Details of those persons making representations in relation to applications will ordinarily be made available to applicants to allow mediation to take place if appropriate, and in the event of a hearing, will form part of a public document. Anyone making representations or applying for a review of a premises licence will be informed that their details will be disclosed.

Should any protocols be established as regards information exchange with other bodies then they will be made available. The Council will look to exchange information connected to licensing activity with neighbouring authorities and other regions where deemed appropriate.

Please contact the licensing department for further information on our protocols.

#### **2.15 Fees**

The Department of Culture, Media and Sport (DCMS) published the Gambling (Premises Licence Fees) Regulations 2007 on 21 February 2007. The Regulations provide for Licensing Authorities to determine the fees, subject to maximum fees prescribed in the Regulations. The Regulations provide for licensing authorities to determine separate fees for different types of activities associated with licences (e.g. application for a licence; application to vary a licence etc.) and the annual fees payable in respect of a licence. The Regulations also provide for Licensing

Authorities to determine separate fees for different classes of premises licence (e.g. those relating to bingo halls, betting shops etc.) prescribing the maximum fees chargeable for each type of gambling premises.

Under section 212(2)(d) of the Gambling Act 2005, in determining fees, licensing authorities must aim to ensure that the income from the fees as nearly as possible equates to the cost of providing the service to which the fee relates. Fees will include the cost of administration (including hearings and appeals), inspection and enforcement associated with the regime (direct and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge). The fees are reviewed annually. The current Gambling Act fees can be found on the Council website at: [www.durham.gov.uk](http://www.durham.gov.uk)

### **2.16 Contact details**

Should you have any comments relating to this statement, please send them via contact address, telephone number and email address provided in Appendix 3, Page 69.

### **3.0 Part B – Promotion of the licensing objectives**

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

The Gambling Commission will take the lead role in keeping gambling free from crime by vetting applicants for operator and personal licences. The Council's main role is to promote this objective in relation to premises. The Council will have to be satisfied that the premises will not adversely affect the licensing objective and is compliant with the commission's guidance, codes of practice and this policy statement.

The Council will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, gambling premises. As part of the application, the applicant will provide evidence to demonstrate that in operating the premises they will promote this licensing objective. For example, if an area is affected by organised crime to a known and significant level the Council will consider carefully whether it is suitable for gambling premises to be located there and whether conditions may be required such as the provision of door supervision.

Issues of nuisance cannot be addressed by the Gambling Act provisions however problems of this nature can be addressed through other legislation as appropriate. There is a distinction between disorder and nuisance. Should incidents of this nature occur in connection with premises the Council will consider whether police assistance was required and if threatening behaviour was a contributory factor etc.

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

The Gambling Commission is the body primarily concerned with ensuring that operators conduct gambling activities in a fair and open way, except in the case of tracks. Generally the Gambling Commission does not expect licensing authorities to have to act to ensure that gambling is conducted in a fair and open way as this will for the most part be addressed via operator and personal licences.

The Council will notify the Gambling Commission of any concerns about misleading advertising or absence of required game rules, or any other matters as set out in the Gambling Commission's Licence Conditions and Code of Practice.

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

##### **3.3.1 Protection of children**

This licensing objective means preventing children from taking part in most types of gambling. The Council will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate

measures may include supervision of entrances / machines, segregation of areas etc.

Persons under 18 cannot be admitted to many types of gambling premises. This objective means preventing children from taking part in most types of gambling.

Section 45 of The Act provides the following definition for child and young person:

Meaning of “child” and “young person” -

(i) In this Act “child” means an individual who is less than 16 years old.

(ii) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

The Council 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. Children and young persons may take part in private and non-commercial betting and gaming, but the Act restricts the circumstances in which they may participate in gambling or be on premises where gambling is taking place as follows:

- Casinos, betting shops and adult gaming centres are not permitted to admit anyone under 18.
- Bingo clubs may admit those under 18 but must have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18.
- Family entertainment centres and premises licensed to sell alcohol for consumption on the premises can admit under 18s, but they are not permitted to play category C machines which are restricted to those over 18.
- Clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines.
- All tracks can admit under 18s, but they may only have access to gambling areas on days where races or other sporting events are taking place, or are expected to take place. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.
- The Council will have regard to any code of practice which the Gambling Commission issues as regards to this licensing objective in relation to specific premises.

- The Council will consider whether specific measures are required at particular premises, with regard to this licensing objective. These measures may include supervision of entrances / machines, segregation of areas, etc. Examples of the specific steps the Council may take to address this area can be found in the section covering specific premises in Part C and in relation to permits and notices in Part 5.0 of this policy.

### **3.3.2 Protection of vulnerable people**

The term of a “vulnerable person” is a broad term. “Adults at risk of abuse or neglect” or “adults at risk” are terms often used in relevant literature.

Department of Health document “No Secrets” from 2000 offers a definition of a vulnerable adult as a person: “who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.”

The Gambling Commission, in its guidance to local authorities, does not seek to offer a definition, but will, for regulatory purposes assume that this group includes people: ‘Who gamble more than they want to, people who gamble beyond their means, elderly persons, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or because of the influence of alcohol or drugs.’

The Gambling Commissions Code of Practice clearly describes the policies and procedures that operators should put in place regarding:

- Combating problem gambling.
- Access to gambling by children and young persons.
- Information on how to gamble responsibly and help for problem gamblers.
- Customer interaction.
- Self-exclusion.
- Employment of children and young persons.

The Council may consider any of the measures detailed below as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant. Applicants should consider the following proposed measures for protecting and supporting vulnerable persons, for example:

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet
- training for staff members which focuses on an employee’s ability to detect a person who may be vulnerable and providing support to vulnerable persons

- self-exclusion schemes
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- posters and leaflets with GamCare Helpline and website displayed in prominent locations
- external advertising e.g. on windows and entrances to be positioned or designed not to entice passers-by

It should be noted that some of these measures form part of the mandatory conditions placed on premises licences.

It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 3, that licensees must have and put into effect policies and procedures intended to promote socially responsible gambling.

The LCCP say that licensees must make an annual financial contribution to one or more organisation(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling.

Since 2007 there have been significant changes in how gambling is carried on both nationally and within the County. Gambling has for many years formed an important and significant part of the entertainment culture. It is however important that we understand the harm that can be caused by irresponsible and problem gambling.

Increasingly there is awareness and concern about the availability of some gambling activities that enable people to bet large amounts of money very quickly; and that doing so can lead to financial and other problems if it gets out of hand.

It is important also that we recognise that the vast majority of licensees operating in the County do so responsibly and with appropriate sensitivity to the needs of the communities in which they operate.

It is incumbent on all those involved in the gambling industry to be mindful of the needs of the most vulnerable members of our society, and Durham County Council has an important role to play through the licensing regime in helping to safeguard them.

The Care Act 2014 imposes a requirement on a local authority to "make enquiries if it has reasonable cause to suspect that an adult in its area, whether or not ordinarily resident there, has needs for care and support, is experiencing, or is at risk of, abuse or neglect, and as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it".

In accordance with section 153 of the Act Durham County Council is aware that in making decisions about premises licences and temporary use notices, it should aim to permit the use of premises for gambling in so far as it thinks it is:

- 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 local authority must make whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom. "Abuse" includes financial abuse; and for that purpose "financial abuse" includes having money or other property stolen, being defrauded, being put under pressure in relation to money or other property, and having money or other property misused.

## **4.0 Part C Premises Licences**

### **4.1 General Principles**

The Council will issue premises licences to allow those premises to be used for certain types of gambling. These are:

- Casino premises
- Bingo premises
- Betting premises including tracks and premises used by betting intermediaries
- Adult gaming centre premises, or
- Family entertainment centre premises

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

The Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The Council will also have regard to these Codes of Practice.

### **4.2 Definition of “premises”**

Premises is defined in the Act as “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances.

### **4.3 Building separation, access arrangements and multiple licences**

The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

The Gambling Commission states in the fourth edition of its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building/ plot will be the subject of an application for a licence, for example, 32 High Street. But, that

does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably.

This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the Council will pay particular attention if there are issues about sub-divisions of a single building or plot and shall ensure that mandatory conditions relating to access between premises are observed.

The Council will take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the Council will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

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

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

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

- Does the premises have a separate registration for business rates?

- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

The Council will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues that the Council will consider before granting such applications include whether children can gain access, compatibility of the two establishments; and the ability to comply with the requirements of the Act. In addition, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

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

**a. Casinos**

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

**b. Adult Gaming Centre**

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

**c. Betting Shops**

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

d. **Tracks** - No customer should be able to access the premises directly from:

- a casino
- an adult gaming centre

e. **Bingo Premises** - No customer must be able to access the premise directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

f. **Family Entertainment Centre** - No customer must be able to access the premises directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

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

#### **4.4 Premises "ready for gambling"**

An applicant cannot obtain a full premises licence until they have the right to occupy the premises to which the application relates.

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

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

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

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

Applicants should note that Durham County Council is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance produced by the Gambling Commission.

#### **4.5 Location**

The Council is aware that the issue demand for gambling activities cannot be considered with regard to the location of premises but that considerations in connection with the licensing objectives are relevant to its decision-making. In accordance with the Gambling Commission's Guidance to Licensing Authorities, Durham County Council 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. In deciding whether a licence for particular premises should be granted, each case will be decided on its merits.

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

In relation to the licensing objectives, it is the Council's policy upon receipt of any relevant representations to consider location - specific issues, including the following factors. This list is not exhaustive:

- The possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area.
- The possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children.
- The size of the premises and the nature of the activities taking place.
- Levels of organised crime in the area.

#### **4.6 Local Risk Assessment**

Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. Operators will be expected to have policies, procedures and control measures in place to mitigate those risks.

Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event, in this case the risk of the impact on the licensing objectives.

The local risk assessment process is not the same as other forms of risk assessments undertaken by gambling operators, such as Health and Safety at Work, Fire Safety etc. The local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the area and the local community.

Licence holders are required to undertake a local risk assessment when applying for a new premises licence. Such information may be used to inform the decision the Council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome. However, the Licensing Authority will expect the local risk assessment to consider as a minimum:

- The location of educational establishments attended by persons under 18 years of age.
- The location of services for children such as playgrounds, leisure centres and other areas where children will gather.
- The location of any establishment frequented by vulnerable adults for the purpose of treatment and/or support.
- The location of any establishment frequented by persons addicted to gambling for the purpose of treatment and/or support.
- The layout of the local area and physical environment in which the premises are situated including any crime and disorder hotspots.

The local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected by the licensee or applicant.

Licence holders must review (and update as necessary) their local risk assessments:

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

In relation to a. above, a significant change may include (but is not limited to):

- The development of an educational establishment for persons under 18 years of age.
- The development of an establishment at which vulnerable adults and/or persons addicted to gambling may attend for the purpose of treatment and/or support.
- The licensee becoming aware of a particular risk to premises offering gambling facilities in the location of the premises.
- The Licensing Authority, having received information and having consulted with the licensee upon the significance of that information, determines that this amounts to a change in local circumstances.
- When there are significant changes at a licence holders premises that may affect their mitigation of local risks.
- When applying for a variation of a premises licence.

The Council will expect local risk assessments to consider the following socio-economic and demographic factors:

- The proximity of the premises to schools.
- The commercial environment.
- Factors affecting the footfall.
- Whether the premises is in an area of deprivation.
- Whether the premises is in an area subject to high levels of crime and/or disorder.
- The ethnic profile of residents in the area.
- The demographics of the area in relation to vulnerable groups.
- The location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather.
- The range of facilities in the local area such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities.
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activity, etc.
- The proximity of churches, mosques, temples or any other place of worship.
- The proximity of premises that may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor surgeries, Council one stop shops, addiction clinics or help centres, places where alcohol or drug dependent people may congregate.

The Council will expect local risk assessments to show how vulnerable people, including people with gambling dependencies, are protected including:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Information held by the licensee regarding self-exclusions and incidences of underage gambling.
- Arrangements in place for local exchange of information regarding self-exclusion and gaming trends.
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.

The Council will expect local risk assessments to show how children are to be protected:

- The proximity of institutions, places or areas where children and young people frequent such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas, etc.
- The proximity of place where children congregate such as bus stops, cafes, shops.
- Areas affected by issues such as children and young people participating in anti-social behaviour, including activities such as graffiti, tagging, underage drinking etc.

The Council will also encourage the following matters to be included in local risk assessments:

- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- Gambling Act 2005 Statement of Licensing Policy 2019-2021

- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

In preparing a Local Risk Assessment the licence holder may have regard to;

- The crime mapping website: [www.police.uk](http://www.police.uk)
- Neighbourhood statistics website: [www.neighbourhood.statistics.gov.uk](http://www.neighbourhood.statistics.gov.uk)
- Information made available by Durham County Council
- Health and deprivation, crime and community safety information about the local area visit: <https://www.durhaminsight.info/>

Where concerns do exist, the Council suggests that the licence holder considers consulting the most appropriate Responsible Authority for guidance before submitting an application for a licence or a variation of a licence, or where it is believed there has been a significant change in local circumstances.

When the officers from the Council undertake an inspection of premises offering gambling facilities it is likely that the Local Risk Assessment will be requested to be seen. It is therefore a requirement that the Local Risk Assessment, or a copy, is kept at the premises at all times.

As a matter of best practice the Council recommends that operators establish a regular review regime. This review programme would ensure that these assessments are considered at regular intervals and updated if necessary.

#### **4.7 Decision-making**

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

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

Durham County Council also notes the Gambling Commission guidance on ensuring that betting is the primary activity of licensed premises. Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premise when seeking variations to licenses.

In making this determination, Durham County Council will have regard to the six indicators of betting as a primary gambling activity.

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

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

Application of the Licensing objectives - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities.

Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the Council may consider licence conditions to cover issues such as:

- proof of age schemes
- Proof of age schemes

- CCTV
- Supervision of entrances.
- Supervision of machine areas
- A reduction in the number of betting machines (betting premises)
- The manning of premises
- Physical separation of areas
- Location of entrance points
- Notices/signage
- Specific opening hours
- A requirement that children must be accompanied by an adult (in premises where children are allowed)
- Enhanced CRB checks of the applicant and/or staff
- Staff training in brief intervention, conflict resolution, basic knowledge of mental health, learning disabilities and addiction, including substance misuse
- Support to persons with gambling addiction, including brief intervention
- Policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, half term and school holidays
- Policies to address the problems associated with truant children who may attempt to gain access to premises and gamble
- Obscuring windows – labelling premises so it's clear that they are gambling premises

This list is not mandatory or exhaustive, and is merely indicative of examples of measures which may satisfy the requirements of the Council and the responsible authorities to meet the licensing objectives.

The Council is aware that the Secretary of State has set mandatory conditions and default conditions and the Gambling Commission has set Licence Conditions and Codes of Practice which are necessary for the general good conduct of gambling premises, therefore it is unlikely that the Council will need to impose individual conditions imposing a more restricted regime in relation to matters that have already been addressed.

It is noted that there are conditions which the Council 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

Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Council will attach individual conditions to address such matters.

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

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

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

Durham County Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, Durham County Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

Any conditions attached to a licence issued by the Council 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, and/or related to the area where the premises is based
- fairly and reasonably related to the scale, type and location of premises
- consistent with the licensing objectives; and
- reasonable in all other respects

Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using, such as supervision of entrances, 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 in this policy. The Council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

#### **4.8 Door supervision**

The Council will consider whether there is a need for door supervision 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 Private Security Industry Act 2001 and that door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to carry out a criminal records (CRB) check on potential staff and for such personnel to have attended industry recognised training.

#### **4.9 Adult Gaming Centres**

Adult gaming centres are a category of premises introduced by the Act that are most closely related to adult only amusement arcades seen in many town and city centres. Under the Act a premises holding an adult gaming centre licence will be able to make category B, C and D gaming machines available and no one under 18 will be permitted to enter such premises.

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

Durham County Council may consider measures to meet the licensing objectives such as:

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

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commission Codes of Practice or by the applicant, the Council may consider licence conditions to address such issues.

#### **4.10 Licensed Family Entertainment Centres (FECs)**

Licensed family entertainment centres are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes. Licensed family entertainment centres will be able to make available unlimited category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located.

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

Where category C or above machines are available in premises to which children are admitted then the Council will ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose a rope, floor markings or similar provision will not suffice and the Council may insist on a permanent barrier of at least 1 meter high
- only adults are admitted to the area where the machines (category C) are located
- access to the area where the machines are located is supervised at all times
- the area where the machines are located is arranged so that it can be observed by staff; and

- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- appropriate measures and training for staff as regards suspected truant children on the premises
- measures and training covering how staff would deal with unsupervised very young children being on the premises
- measures and training covering how staff would deal with children causing perceived problems on or around the premises
- the arrangements for supervision of premises either by staff or the use of CCTV. Any CCTV system installed should both the interior and the entrance working to the latest Home Office and ACPO standards and to the satisfaction of Durham Constabulary and the local authority. The system must record images clearly and these recordings be retained for a minimum of 31 days. If the equipment is inoperative the police and local authority must be informed as soon as possible and immediate steps taken to make the system operative. Notices must be displayed at the entrances advising that CCTV is in operation

Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the Independent Safeguarding Authority to determine if their staff need to be CRB checked.

The Council will refer to the Commission's website to familiarise itself with any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Council will also make itself aware of the mandatory or default conditions and any Gambling Commission Codes of Practice on these premises licences.

Durham County Council may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry Notices / signage Specific opening hours Self-exclusion schemes

- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

#### **4.11 Casinos**

The Gambling Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games whereby casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or bank at different odds to their fellow players. Casinos can also provide equal chance gaming and gaming machines. Large and small casinos can also provide betting machines.

Durham County Council 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 we decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by Full Council.

#### **4.12 Bingo premises**

There is no official definition for bingo in the Gambling Act 2005 however there is a category of premises licence specifically for bingo premises which is used by traditional commercial bingo halls for both cash and prize bingo. In addition, this premises licence will authorise the provision of a limited number of gaming machines in line with the provisions of the Act.

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

If children are allowed to enter premises licensed for bingo it is important that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted then the operator should ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose a rope,

floor markings or similar provision will not suffice and the Council may insist on a permanent barrier of at least one meter high

- only adults are admitted to the area where the machines are located
- access to the area where the machines are located is supervised at all times
- the area where the machines are located is arranged so that it can be observed by staff
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
- children will not be admitted to bingo premises unless accompanied by an adult

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

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

Where certain measures are not already addressed by the mandatory/default conditions, the Gambling Commission Code of Practice or the applicant, the Council may consider licence conditions to address such issues.

#### **4.13 Betting premises**

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

#### **4.14 Betting machines**

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

positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.

#### **4.15 Fixed Odds Betting Terminals (FOBTs)**

The Authority is concerned about the potential effects of excessive use of FOBTs by customers who may be least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling. Under this policy the Council encourages operators to report vandalism to FOBTs on their premises so the Council can obtain more information about the level of crime associated with the use of FOBTs within the County.

Where an applicant for a betting premises licence intends to offer higher stake category B gaming machines (categories B2-B4) including any Fixed Odds Betting Terminals (FOBTs), then applicants should consider the control measures related to the protection of vulnerable persons, highlighted in section 3.5.

Where certain measures are not already addressed by the mandatory/default conditions, Gambling Commission Code of Practice or the applicant, the Council may consider licence conditions to address such issues.

#### **4.16 Tracks**

Tracks are sites (including racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the “totaliser” or “tote”), and also general betting, often known as “fixed-odds” betting. Multiple betting outlets are usually located on tracks such as ‘on-course’ betting operators who come onto the track just on race days to provide betting for the races taking place on that track. There can also be ‘off-course’ betting operators who may operate self-contained facilities at the tracks which offer customers the chance to bet on other events, not just those taking place on the track.

All tracks will require a primary ‘general betting premises licence’ that the track operator will hold. It should be noted that track operators do not require an operating licence from the Gambling Commission although they may apply for one. This is because the various other gambling operators offering betting at the track will each hold an operating licence.

Durham County Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, Durham County Council will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need

to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

The Council will consider the impact upon the protection of children licensing objective and the need to ensure that entrances to each type of betting premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

If any off-course operators are permitted to provide betting facilities under the authorisation of the track operator's premises licence, then it will be the responsibility of the premises licence holder to ensure the proper conduct of such betting within the premises boundary.

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

#### **4.17 Gaming machines**

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

*Betting machines* - Durham County Council is aware that Section 181 of the Act 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. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council, amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-person transactions and the location of the machines, in order to ensure they are in a properly segregated area where children are not permitted.

Where certain measures are not already addressed by the mandatory/default conditions, the Gambling Commission's Licence Conditions and Code of Practice or the applicant, the Council may consider licence conditions to address such issues. Durham County Council may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV

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

#### **4.18 Applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28). Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.29).

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

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to Licensing Authorities, para 20.32).

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

#### **4.19 Travelling Fairs**

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

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

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

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

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

#### **4.20 Provisional Statements**

A provisional statement application is a process which allows a developer to examine the likelihood of whether a building which he expects to be constructed, to be altered or to acquire a right to occupy would be granted a premises licence. A provisional statement is not a licence and merely gives the holder some form of guarantee that a premises licence would be granted so the developer can judge whether a development is worth taking forward in light of the need to obtain a premises licence. An applicant may also apply for a provisional statement for premises which already hold a premises licence (either for a different type of gambling or the same type).

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

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

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

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

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

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

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

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

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

When determining a provisional statement application the Council will operate in accordance with the Act and will not have regard to any issues related to planning consent or building regulations, e.g. the likelihood that planning consent will be granted.

#### **4.21 Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the

review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

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

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

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

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt. The licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.

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

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

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

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling

at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

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

## 5.0 Part D Permits, Notices and Lottery Registrations

### 5.1 Unlicensed Family Entertainment Centre gaming machine permits

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide category D machines. It should not be confused with a 'licensed family entertainment centre' which requires a premises licence because it contains both category C and D gaming machines.

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.

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

In accordance with the above provision the Council has prepared a 'Statement of Principles' in relation to unlicensed family entertainment centre gaming machines as follows:

- a. The Council 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.
- b. The efficiency of such policies and procedures will be considered on their merits, however, they may include:
  - appropriate measures and training for staff as regards suspected truant children on the premises
  - measures and training covering how staff would deal with unsupervised very young children being on the premises

- measures and training covering how staff would deal with children causing perceived problems on or around the premises
- the arrangements for supervision of premises either by staff or the use of CCTV. Any CCTV system installed should both the interior and the entrance working to the latest Home Office and ACPO standards and to the satisfaction of Durham Constabulary and the local authority. The system must record images clearly and these recordings be retained for a minimum of 31 days. If the equipment is inoperative the police and local authority must be informed as soon as possible and immediate steps taken to make the system operative. Notices must be displayed at the entrances advising that CCTV is in operation

Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the Independent Safeguarding Authority to determine if their staff need to be vetted through the Disclosure and Barring Service (DBS).

In accordance with published guidance, the Council will only grant an application for a permit if it is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.

The Council will also expect, in accordance with Gambling Commission Guidance, that applicants demonstrate:

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

In accordance with the Act, while the Council cannot attach conditions to this type of permit, the Council can refuse applications if they are not satisfied that the issues raised in the “Statement of Principles” have been addressed through the application.

**Note:** applicants only need to address the “Statement of Principles” when making the initial application and not on renewal.

## **5.2 (Alcohol) Licensed premises gaming machine permits - Gaming machine permits in premises licensed for the sale of alcohol**

**a. Automatic entitlement: two gaming machines** - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of categories C and/or D. The

premises merely need to notify the licensing authority and pay the prescribed fee. 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

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

Durham County Council considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which may satisfy the Council that persons under 18 years will be prevented from using the machines may include the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets and or helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence. Any such application would need to be dealt with under the relevant provisions of the Act.

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

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine. Alcohol licensed premises are able to provide some limited equal chance gaming. Licensees are referred to the advice provided by the Gambling Commission.

### **5.3 Prize gaming permits**

A prize gaming permit is a permit issued by the licensing authority to authorise the provision of facilities for gaming with prizes on specified premises. Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed on the walls.

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

Durham County Council has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm

The Council will expect, as per the Gambling Commission Guidance that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible and that the gaming offered is within the law.

The Council will also expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- appropriate measures and training for staff as regards suspected truant children on the premises
- measures and training covering how staff would deal with unsupervised very young children being on the premises
- measures and training covering how staff would deal with children causing perceived problems on or around the premises
- the arrangements for supervision of premises either by staff or the use of CCTV. Any CCTV system installed should both the interior and the entrance working to the Home Office and ACPO standards as described PSDB leaflet 09/05 and to the satisfaction of Durham Constabulary and the local authority. The system must record images clearly and these recordings be retained for a minimum of 31 days. If the equipment is inoperative the police and local authority must be informed as soon as possible and immediate steps taken to make the system operative. Notices must be displayed at the entrances advising that CCTV is in operation

Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the Independent Safeguarding Authority to determine if their staff need to be CRB checked.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

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

In line with the Act, while the Council cannot attach conditions to this type of permit, the Council can refuse applications if they are not satisfied that the issues raised in

the “Statement of Principles” have been addressed through the application. Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time.

#### **5.4 Club gaming and club machines permits**

Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance i.e. poker, bingo etc. A ‘club machine permit’ will enable the premises to provide gaming machines (three machines of categories B4, C or D). Commercial clubs may apply for a ‘club machine permit’ only.

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

To qualify for these special club permits a members club must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming. 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 the Royal British Legion and clubs with political affiliations.

The club must be conducted ‘wholly or mainly’ for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that under 18 year olds do not use the adult only gaming machines. These measures may include:

- the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised
- notices and signage
- the provision of information leaflets / helpline numbers for organisations such as GamCare

Before granting the permit the Council will need to satisfy itself that the premises meets the requirements of a members’ club and that the majority of members are over 18.

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states:

"Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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

## **5.5 Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. They allow the use of premises on not more than 21 days in any 12 month period for gambling. Premises that might be

suitable for a Temporary Use Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

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

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence. A temporary use notice must be lodged with the licensing authority not less than three months and one day before the day on which the gambling is due to take place. .

There are a number of statutory limits regarding Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

The Council considers that the determination of what constitutes "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a "set of premises", the Council will look at, amongst other things, the ownership/occupation and control of the premises.

The Council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **5.6 Occasional Use Notices (Tracks)**

There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice. The application may be made in writing, to the Council by the person responsible for the administration of the events on a track or by an occupier of the track.

Durham County Council 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. Durham County Council will though consider the definition of a 'track' and whether the

applicant is permitted to avail him/herself of the notice. Durham County Council will also ensure that no more than eight occasional use notices are issued in one calendar year in respect of any venue.

### **5.7 Small society lottery registrations**

A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part. The Act creates two principal classes of lotteries: Licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries there are four sub classes, one of which is small society lotteries.

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

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

To be 'non-commercial' a society must be established and conducted:

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

The other types of exempt lotteries are 'incidental non-commercial lotteries', 'private lotteries' and 'customer lotteries'. If you require guidance on the different categories of lotteries please contact the Council.

Durham County Council will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if

no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities

Charities and community groups should contact Durham County Council on 03000 265107 to seek further advice.

The National lottery is not licensed by the Gambling Act 2005 and continues to be regulated by the National Lottery Commission under the National Lottery Act 1993.

## **6.0 Part E Enforcement**

### **6.1 Enforcement principles**

The administration and regulation of permits, small society lotteries and temporary permissions for gambling are the responsibility of licensing authorities. The Council will take into account the following factors when determining which agency will take the lead on enforcement are:

- the nature of the breach;
- the seriousness of the breach;
- the frequency of the breach; and
- the enforcement action that is available

Generally the Council will take the lead in enforcing premises licence conditions, dealing with breaches of premises licence conditions, and investigating and prosecuting less serious or significant incidents of illegal gambling. The Commission meanwhile will lead on enforcement activity connected to operating and personal licences, and on the investigation and prosecution of illegal gambling of multi-authority, regional or national importance.

Where non-gambling offences are also involved a multi-agency approach may be appropriate, and the Council, the police and Commission shall use local consultation arrangements to agree priorities and who should lead on which issues.

Regulatory action would include informal or formal warnings and licence reviews, issue of simple cautions (warnings) or the prosecution of an offence under the Act. The main objective of the compliance process will be to ensure compliance with the three licensing objectives, including in particular compliance with the general licensing conditions (including mandatory and default conditions), specific licence conditions and any applicable codes of practice. Enforcement can be defined as the criminal or regulatory investigation process and any consequent laying of criminal charges or imposition of a regulatory sanction.

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 Authority will have regard to the Statutory Regulators Code which came into force in April 2014. We support the principle of better regulation to promote efficient, proportionate and effective approaches to enforcement and inspection that improve regulatory outcomes without imposing unnecessary burdens on business.

The Council will work closely with the responsible authorities in accordance with any locally established joint enforcement protocols and we will aim to promote the licensing objectives by targeting known high risk premises following government guidance around better regulation.

Durham County Council's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

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

Durham County Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

Durham County Council has adopted and implemented a risk-based inspection programme, in line with government recommendations around better regulation and the principles of the Hampton Review based on:

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

This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, Durham County Council will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

The main enforcement and compliance role for Durham County Council in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of

gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

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

This Authority acknowledges the Primary Authority Scheme. This scheme allows businesses to be involved in their own regulation. It enables them to form a statutory partnership with one local authority, which then provides robust and reliable advice for other local regulators to take into account when carrying out inspections or addressing noncompliance. Where there is a Primary Authority scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking enforcement action. At the time of the publication of this statement there are no Gambling Act 2005 Primary Authority arrangements in place in County Durham. Further information on the scheme and an up to date list of arrangements can be accessed at: <https://primaryauthorityregister.info/par/index.php/home>

The Council's enforcement/compliance protocols and any written agreements currently in operation are available upon request.

## **6.2 Reviews**

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

- Add, remove or amend a licence condition imposed by the licensing authority;
- Exclude a default condition imposed by the Secretary of State (eg opening hours) or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the premises licence.

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

- a. in accordance with any relevant code of practice issued by the Gambling Commission;
- b. in accordance with any relevant guidance issued by the Gambling Commission;
- c. reasonably consistent with the licensing objectives; and
- d. in accordance with this authority's Gambling Act 2005 – Statement of Licensing Policy.

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

In addition the Council may also reject the application on the grounds that the request is frivolous, vexatious, will certainly not cause this authority to wish to alter, revoke or suspend the licence, or is substantially the same as previous representations or requests for review.

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

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

- a. The licence holder
- b. The applicant for review (if not the Licensing Authority)
- c. The Gambling Commission
- d. Any person who made representations
- e. The Chief Officer of police
- f. Her Majesty's Revenue and Customs

### **6.3 Appeals**

Where an applicant, licence holder or person who has made a representation is aggrieved by a decision of the Licensing Authority, there is a right of appeal. In certain circumstances there is also a right for the Gambling Commission to appeal against decisions of the Licensing Authority. The appeal must be lodged with the Magistrates' Court within 21 days from the date on which the aggrieved person was notified of the Authority's decision. The appeal must be lodged in the Magistrates' Court where the premises are situated.

Generally a decision will not have effect until the time for bringing an appeal has passed, or if an appeal is brought, until it is determined or abandoned. However the Licensing Authority can decide that its decision should have effect immediately, and this will be considered on each occasion having due regard to the individual circumstances and in particular any immediate risk to public safety.

### **6.4 Complaints about premises and licensable gambling activities**

The Licensing Authority will investigate complaints about licensed premises and activities taking place at unlicensed premises. Where appropriate, complainants will in the first instance be encouraged to raise the complaint directly with the licensee or business concerned. In the case of a valid complaint, the Licensing Authority will initially endeavour to seek resolution through informal means.

All complaints should in the first instance be addressed to:

Durham County Council  
Regeneration and Local Services  
Environment, Health and Consumer Protection  
Licensing Services  
Annand House  
John Street North  
Meadowfield  
Durham

Telephone: 03000 260000

Email: [licensingenforcement@durham.gov.uk](mailto:licensingenforcement@durham.gov.uk)

The Licensing Authority will only investigate complaints under this Statement of Licensing Principles where they relate to one or more of the licensing objectives. Where appropriate, the Licensing Authority may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

## Appendix 1 - Delegation of Functions

**The Licensing Authority will delegate its functions under the Gambling Act 2005 as follows:**

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
Application for a provisional statement		Where representation have been received and not withdrawn	Where no representations received / have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made / have been withdrawn
Cancellation of club gaming/club machine permits		X (if requested by the holder)	X (if no request received)
Applications for other permits			X
Cancellation of licensed premises gaming machine permits		X (if requested by the holder)	X (if no request received)
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X (where representations have been received and not withdrawn)	X (where time limits have been exceeded)

**Note:** The Licensing Committee can consider any application; it is not precluded from doing so by reason that the relevant column above is devoid of an entry. **X** Indicates the lowest level to which decisions can be delegated.

## Appendix 2 Glossary

Term	Description
ATM	Auto teller machine or cash machine.
Betting	Betting is defined as making or accepting a bet on the outcome of a race, competition or other event or process or on the outcome of anything occurring or not occurring or on whether anything is or is not true. It is irrelevant if the event has already happened or not and likewise whether one person knows the outcome or not. (Spread betting is not included within this definition).
Betting Machines / Bet Receipt Terminal	Betting machines can be described as automated betting terminals where people can place bets on sporting events removing the need to queue up and place a bet over the counter.
Bingo	There are essentially two types of bingo: cash bingo, where the stakes paid make up the cash prizes that can be won and prize bingo, where various forms of prizes can be won, not directly related to the stakes paid.
Book	Running a 'book' is the act of quoting odds and accepting bets on an event. Hence the term 'Bookmaker'.
Casino games	A game of chance, which is not equal chance gaming. Casino games includes Roulette and black jack etc.
Chip	Casinos in the UK require you to use chips to denote money. They are usually purchased and exchanged at a cashier's booth.
Pusher or penny falls machine	A machine of the kind which is neither a money prize machine nor a non-money prize machine
Crane grab machine	A non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person's success in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects.
Default condition	These are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the Council.
Equal Chance Gaming	Gaming which does not involve playing or staking against a bank.
Fixed Odds Betting	If a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not 'gaming' see below), then it is likely to be betting at fixed odds.
Fixed Odds Betting Terminals (FOBTs)	FOBTs are a type of gaming machine which generally appear in licensed bookmakers. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most

	popular.
Gaming	Gaming can be defined as 'the playing of a game of chance for winnings in money or monies worth, whether any person playing the game is at risk of losing any money or monies worth or not'.
Gaming Machine	Any type of machine allowing any sort of gambling activity including betting on virtual events but not including home computers even though users can access online gaming websites.
Licensing Objectives	The licensing objectives are three principal goals which form the basis of the Act. Stakeholders who have an interest in the Act need to try and promote these objectives: The licensing objectives are: <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.</li> <li>• Ensuring that gambling is conducted in a fair and open way.</li> <li>• Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ul>
Lottery	A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part. A lottery is defined as either a simple lottery or a complex lottery. A simple lottery is one where persons are required to pay to participate and one or more prizes are allocated to one or more members of a class and the prizes are allocated by a process which relies wholly on chance. A complex lottery is where persons are required to pay to participate and one or more members of a class and the prizes are allocated by a series of processes where the first of those processes relies wholly on chance. Prize means money, articles or services provided by the members of the class among whom the prize is allocated. (It should be noted that the National Lottery is not included in this definition of lottery and is regulated by the National Lottery Commission).
Mandatory condition	A condition which will be set by the Secretary of State (some set out in the Act and some to be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The Council will have no discretion to alter or remove these conditions.
Money prize machine	A machine in respect of which every prize which can be won as a result of using the machine is a money prize.
Non-money prize machine	A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize. The winner of the prize is determined by: <ul style="list-style-type: none"> <li>(i) the position in which the coin or token comes to rest after it has been inserted into the machine, together with the position of other coins or tokens which have previously been inserted into the machine to pay a charge for use, or</li> <li>(ii) if the insertion of a single coin to pay the charge for use</li> </ul>

	enables the person using the machine to release one or more tokens within the machine, the position in which such tokens come to rest after being released, together with the position of other tokens which have previously been so released.
Odds	The ratio to which a bet will be paid if the bet wins, e.g. 4-1 means for every £1 bet, a person would receive £4 of winnings.
Off-course betting operator	Off-course betting operators may, in addition to premises away from the track, operate self-contained betting premises within a track premises. Such self-contained premises will provide facilities for betting on both events taking place at the track (on-course betting), as well as other sporting events taking place away from the track (off-course betting). In essence such premises operate like a traditional high street bookmakers. They will however only normally operate on race days.
On-course betting operator	The on-course betting operator is one who comes onto on a track, temporarily, while races are taking place, and operates at the track side. On-course betting operators tend to offer betting only on the events taking place on the track that day (on-course betting).
Pool Betting	For the purposes of the Gambling Act, pool betting is made on terms that all or part of the winnings: 1) Shall be determined by reference to the aggregate of the stakes paid or agreed to be paid by the persons betting 2) Shall be divided among the winners or 3) Shall or may be something other than money. For the purposes of the Gambling Act, pool betting is horse-race pool betting if it relates to horse-racing in Britain.
Regulations or Statutory instruments	Regulations are a form of law, often referred to as delegated or secondary legislation. They have the same binding legal effect as Acts and usually state rules that apply generally, rather than to specific persons or things. However, regulations are not made by Parliament. Rather, they are made by persons or bodies to whom Parliament has delegated the authority to make them, such as a minister or an administrative agency.
Representations	In the context of the Gambling Act representations are either positive statements of support or negative objections which are made in relation to a licensing application. Representations must be made in time, e.g. during a designated notice period.
Responsible authority (authorities)	Responsible authorities (RAs) are agencies which have been appointed by the Gambling Act or regulations to fulfil a designated role during the licensing process. RAs must be sent copies of all licensing applications and have the power to make representations about such applications. RAs also have the power to ask for licences to be reviewed.

Skill machine / Skill with prizes machine	The Act does not cover machines that give prizes as a result of the application of pure skill by players. A skill with prizes machine is one on which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine. An example of a skill game would be trivia game machines, popular in pubs and clubs, which require the player to answer general knowledge questions to win cash prizes.
Spread betting	A form of investing which is more akin to betting, and can be applied either to sporting events or to the financial markets. Spread betting is regulated by the Financial Services Authority.
Stake	The amount pledged when taking part in gambling activity as either a bet, or deposit to the bank or house where the house could be a gaming machine.
Statement of principles document	A document prepared by the Council which outlines the areas that applicants need to consider before applying for gaming permits.
Table gaming	Card games played in casinos.
Tote	"Tote" is short for Totalizer, a system introduced to Britain in 1929 to offer pool betting on racecourses.
Track	Tracks are sites (including horse tracks and dog tracks) where races or other sporting events take place.

## Appendix 3 Responsible Authorities

Responsible Authority	Name	Contact Details
Gambling Commission		Victoria Square House Victoria Square Birmingham B2 4BP Telephone: 0121 2306666 e-mail: <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a>
Licensing Authority		Durham County Council EHCP (Licensing) PO Box 617 Durham DH1 9HZ Telephone: 03000 261016 e-mail: <a href="mailto:licensing@durham.gov.uk">licensing@durham.gov.uk</a>
Durham Constabulary		Durham Constabulary (AHRU) Annand House John Street North Meadowfield County Durham DH7 8RS Telephone: (0191) 3752308 e-mail: <a href="mailto:ahru@durham.pnn.police.uk">ahru@durham.pnn.police.uk</a>
County Durham and Darlington Fire and Rescue Service		Fire and Rescue Service Headquarters Belmont Business Park Durham DH1 1TW Telephone: 0845 305 8383 e-mail: <a href="mailto:firesafety@ddfire.gov.uk">firesafety@ddfire.gov.uk</a>
Durham County Council - Local Safeguarding Children's Board		Durham LSCB County Hall Durham DH1 5UJ Telephone: 03000 267979
Durham County Council- Planning		Durham County Council County Hall Durham DH1 5UQ Telephone: 03000 261397
Durham County Council - Environmental Health		Environment, Health & Consumer Protection Annand House John Street North Meadowfield Durham. DH7 8RS Telephone: 03000 260995 e-mail: <a href="mailto:ehcp@durham.gov.uk">ehcp@durham.gov.uk</a>

**Useful contacts:**

Useful Contacts	Name	Contact Details
Licensing policy	DCC Licensing Services	Durham County Council Regeneration and Local Services Licensing Services Annand House John Street North Meadowfield Durham DH7 8RS Telephone 03000 261016 Email: <a href="mailto:licensing@durham.gov.uk">licensing@durham.gov.uk</a>
Durham County Council Building Control		Durham County Council Telephone: 0300 026 0000
Durham County Council CCTV		Durham County Council Telephone: 0300 026 0000
Door Supervisors	Security Industry Authority	Security Industry Authority PO Box 1293 Liverpool L69 1AX Telephone: 0844 892 1025 e-mail: <a href="mailto:info@the-sia.org.uk">info@the-sia.org.uk</a>

## Appendix 4 – Summary of Gaming Machine Categories and Entitlements

Gaming machines (fruit machines, slot machines) fall into categories depending on the maximum stake and prize available:

Category of machine	Maximum stake (from Jan 2014)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

**Note:** The Stakes are subject to change. For an please check the Gambling Commission Website for current and up-to-date information on stakes and prizes at <http://www.gamblingcommission.gov.uk/home.aspx>

**Please ask us if you would like this document summarised in another language or format.**

العربية (Arabic) (中文 (繁體字)) (Chinese) اردو (Urdu)  
polski (Polish) ਪੰਜਾਬੀ (Punjabi) Español (Spanish)  
বাংলা (Bengali) हिन्दी (Hindi) Deutsch (German)  
Français (French) Türkçe (Turkish) Melayu (Malay)

**licensing@durham.gov.uk**

**03000 261016**



**Braille**



**Audio**



**Large Print**

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2. Section 5 – I note the unusually broad and loosely worded definition of those falling within Section 158 c) of the Act – i.e. those representing persons who i) live sufficiently close to premises to be likely to be affected by the authorised activities or ii) have business interests that might be affected by the authorised activities. I do not believe that the current draft catch-all wording for such representatives is appropriate - in short and with respect, it is not for the Authority to “deem” that certain bodies will automatically represent Interested Parties.

Rather, the question of whether someone is a representative of an Interested Party within the section, should properly be a matter for consideration on a case by case basis. This is in keeping with the main wording in s158 that “...a person is an interested party in relation to an application... if, in the opinion of the licensing authority,.... the person represents persons who satisfy a) or b)”. My submission is also in keeping with the Commission’s Guidance on this (paras 8.06 and 8.17), which does not refer to the categories included in the Draft, but rather to e.g. democratically elected representatives, trade associations, trade unions, residents associations or community groups. The Guidance also refers to the licensing authority having to satisfy themselves on a case by case basis that a person does in fact represent an Interested Party and suggests obtaining a letter of confirmation from the Interested Party.

The Draft’s more general approach to categories seems to relate more closely to the concept of Responsible Authorities. However those bodies are already defined in S 157 of the Act and, again with respect, it is not for the Authority to add to those definitions or categories; instead it is a matter for parliament.

3. Section 6 – I refer to the 2008 case of R (on the application of Betting Shop Services Limited) – V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement) even though the premises were not fully constructed – the applicant is not restricted to making an application for a provisional statement. It was held by the court that the then current Guidance issued by the Commission was wrong. The Guidance was subsequently amended.
4. Section 8 – protection of children and other vulnerable persons. As is alluded to elsewhere in the Draft, it is perfectly legal for children to take part in some limited gambling activities (Category D machines). As such it is not appropriate to refer to this objective as meaning that children should be prevented from taking part in gambling. Perhaps this could be clarified.
5. Sections 10, 11, 13, 14 and 15 - while the Draft suggests that for AGCs, FECs and Tracks, the Authority may consider measures (examples of which are listed) to meet the licensing objectives, curiously these are not repeated for bingo premises, nor betting premises. This is inconsistent. No reason is given as to why such matters are not relevant to Bingo or Betting premises and I suggest that the provisions should be mirrored.

I hope that the above proves useful. If you have any questions, please do not hesitate to contact me.

Yours faithfully,

Elizabeth Speed

Group General Counsel

**Novomatic UK**

**2. From: Tracey Rose**

> Sent: 31 May 2018

14:33 To: AHS Licensing <Licensing@durham.gov.uk>Subject: Gambling Act 2005 - Review of Durham County Council's Gambling Statement of Principles

**Gambling Act 2005**

**Review of Durham County Council's Gambling Statement of Principles**

I refer to your attached copy letter of 24<sup>th</sup> May and write to enquire as to whether the Council intends publishing a draft consultation proposal, or whether you are looking to receive comments on the current policy at the following link:-

<https://www.durham.gov.uk/media/1060/Gambling-Act-Statement-of-Principles/pdf/GamblingAct2005StatementOfPrinciples2016.pdf>

I look forward to hearing from you.

Kind regards

**Tracey**

**Tracey Rose**

Senior Legal & Licence Compliance Administrator

**LUXURY LEISURE, TALARIUS LTD & RAL LTD**

NOVOMATIC GROUP

362C Dukesway

Team Valley Trading Estate

Gateshead

NE11 0PZ

**3. From: Catherine Sweet**

Sent: 12 June 2018 11:46

To: AHS Licensing <Licensing@durham.gov.uk>

Subject: Gambling Act 2005 - Review of Durham County Council's Gambling Statement of Principles

Hello,

Thank you for your letter, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the Gambling Commission.

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see [www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/](http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/)
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process

comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,

Catherine

Catherine Sweet

Head of Marketing and Communications

#### **4. From: Susan Smith**

Sent: 31 May 2018 01:36

To: AHS Licensing <Licensing@durham.gov.uk>

Subject: Gambling

The current notices used by gambling companies such as 'when the fun stops, stop' and 'gamble responsibly' are both pretty meaningless. I therefore suggest it be made a legal requirement for all gambling outlets to have large notices stating 'ONLY GAMBLE WHAT YOU CAN AFFORD TO LOSE'. This notice should also be displayed in the window of establishment in at least an A3 size.

I also believe the gambling outlets should no longer be allowed to advertise their products and offers in their windows. Currently they are on full display and seen by all, including children. Children seeing these adverts leads to gambling being normalized for them.

If you can do anything to implement these suggestions, you could make a real difference to people's quality of life.

Regards

S. Smith

## 5. Form Submission User: ANONYMOUS

URL:

Was this page Useful?

Was this page useful? Yes

How can we make it better? -1

Any Comments?

Totally Agree to reduced slot machine maximum amount to £2 bet NOT £100. Agree with principles

## 6. From: Rachel Stockdale <

Sent: 03 June 2018 14:02

To: Helen Johnson - Licensing Team Leader (N'hoods)

<Helen.Johnson2@durham.gov.uk>

Subject: FW: Review of Durham County Council's Gambling Statement of Principles

Helen,

The only other thing I could see which may frustrate for the future is that when considering an application the LA should not give any consideration to if the premises has or is likely to get planning permission/change of use. That this should be left to the planning committee as an entirely separate matter:

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

The Gambling Commission Guidance to Licensing Authorities states:

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

Durham County Council will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance: When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

I appreciate that is what it says now but if we are looking to future proof in line with making planning and licensing run in harmony rather than against each other is this something worth exploring to see if we can be out there, and ahead of the curve to try and align them better – not to over step the law but to make it streamlined and work better for all of us going forward?

Planning have done some brilliant work around children in care and with the planning around the new builds on the old passport site so are really up for doing things differently and challenging where we are.

Just a suggestion – hope this makes sense

Rachel

**7. From: Sean Barry** Sent: 11 June 2018 14:18  
To: AHS Licensing <Licensing@durham.gov.uk>  
Cc: Helen Johnson - Licensing Team Leader (N'hoods) <Helen.Johnson2@durham.gov.uk>; Jacqui Doherty <Jacqui.Doherty@durham.gov.uk>  
Subject: RE: Review of Durham County Council's Gambling Statement of Principles

Good Afternoon

My Ref: SB/2018/068

**I represent the Durham Local Safeguarding Children Board (LSCB)** which is a responsible authority identified under Durham County Council Gambling Act 2005 Statement of Principles.

In reviewing the current Statement of Principles to promote the protection of children and in preparation for a new revised Statement I offer the following comments:

#### Section 4 – Responsible Authorities (page 10)

Currently Durham Local Safeguarding Children Board is identified as the competent body to advise the authority (Durham County Council) about the protection of children from harm. Local child safeguarding structures and framework will be changing due to the introduction of new legislation in the Children and Social Work Act 2017. The time scale for this work is currently autumn 2018 – March 2019.

In short this means Durham Safeguarding Children Board will be replaced at some point by a new (as yet unnamed) safeguarding partnership. It will be this new safeguarding partnership that will undertake the 'Responsible Authorities' duty for licensing. Up until the change the LSCB continues to hold and carry out the statutory duty. Depending on your timescales and ours you may have a new 'competent body to advise the authority (Durham County Council) about the protection of children from harm' or you may still be referencing the LSCB. If the latter is the case you will have to build in a revision of the Statement of Principles to reflect the safeguarding changes once they come into force.

We will update you as we get to know more.

#### Section 15 – Tracks (page 8 and page 30)

While this focuses solely on the gambling element, access and environment of a track. I note that the review of the current Statement of Principles provides an opportunity to address the issue of a child witnessing disturbing scenes due to animal injury. It is suggested that the Statement of Principles could advise as best practice that track owners introduce of warning notices, so that parents can make informed choices before bringing children to track events.

I have no other comments to make on behalf of Durham LSCB.

Regards

Sean

Sean Barry

Strategy and Development Officer

Local Safeguarding Children Board

[www.durham-lscb.org.uk](http://www.durham-lscb.org.uk)

Tel: 03000 265 434

Durham County Council, DH1 5UL

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

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## Review of Gambling Act 2005 Statement of Principles 2016 - 2019

### A. Changes proposed by DCC Licensing Services for and on behalf of the Licensing Authority

Section and pages	Recommended Change
Title page 1	Departmental name, dates and Act reference
Version control page 2	Version date, information contact details and accessibility
Forward page 3	Foreword by Councillor Brian Stephens - Portfolio Member for Neighbourhoods and Local Partnerships
Contents pages 4 to 5	New format and contents reflecting additional sections
1.0 Introduction pages 6 to 9	New introduction – explanatory, background information and contextual settings (strategic, legal and local)
2.0 Part A The Gambling Act 2005 pages 10 to 18	Additional explanations and clarifications relating to the legislation, objectives, general approach to decision making, risk assessments, policy integration and the licensing framework. An expansion of the overview of the Councils' functions and how they are exercised in practice. Enhanced clarification and greater description of roles and responsibilities, new section on fees and contact details together with update of data protection legislation and information exchange with reference to the General Data Protection Regulations.
3.0 Part B – Promotion of the licensing objectives pages 19 to 23	Additional information and descriptions for explanatory and clarification purposes in relation to the three licensing objectives. And enquiry processes that the Council may undertake for the protection of children and of vulnerable people. Reference to the Care Act 2014
4.0 Part C Premises Licences pages 24 to 47	Additional information and descriptions for explanatory and clarification purposes. Extra information providing enhanced descriptions of the meaning of 'premises' and effects of their adaptation or separation into separate units. Information on newly developed premises. Extra information for explanatory and clarification purposes in relation to locality and locational issues including local risk assessments. New examples of factors to be taken into consideration by the Council are provided to assist operators in carrying out their risk assessments. Extra information to provide clarification on mandatory

	conditions and specific measures which may be required for buildings which are subject to multiple premises licences for the protection of children. Changes to and additional Information on door supervision, fixed odds betting terminals, tracks, travelling fairs and provisional statements for clarification and explanatory reasons.
5.0 Part D Permits, Notices and Lottery Registrations pages 48 to 57	Additional information and descriptions for explanatory and clarification purposes. References to Gambling Commission Guidance for legal clarification in connection with prize gaming. Examples of measures the council may expect to be included in operator's policies and procedures aimed at promoting and supporting the licensing objectives. Information clarifying the role and purpose of the Councils statement of principles and its use by operators and premises licence holders or applicants.
6.0 Part E Enforcement pages 58 to 62	Additional information and descriptions for explanatory and clarification purposes. Reference to the Statutory Regulators Code and Primary Authority scheme. Additional information in connection with premises licence reviews, appeals to the courts and complaints about gambling premises licenced by the Council.
Appendix 2 Glossary pages 64 to 67	New appendix for information and clarification
Appendix 4 Summary of Gaming Machine Categories and Entitlements page 70	Latest information from the Gambling Commission reformatted and represented.

## B. Changes proposed by respondent consultees

Consultees	Proposals	Recommendations
The Gambling Commission (Mel Potter, Compliance Manager)	<ul style="list-style-type: none"> <li>• If you are including a table of stakes and prizes in your current Statement of Policy review then we suggest you just add a footnote to say the stakes are subject to change (if you have not done so already).</li> <li>• Similarly if you have suggested specific local risk assessment requirements in relation to B2 machines in your Policy, you may want to review the wording and consider making it more generic - either to all category B machines or all machines, as appropriate (for example some policies are stating</li> </ul>	<p>Footnote added to table of stakes and prizes Appendix 4 – Summary of Gaming Machine Categories and Entitlements page 70.</p> <p>The policy does not require specific risk assessments for category B2 machines.</p> <p>Information noted. Draft policy vetted by DCC Legal Services</p>

	<p>that a variation is required for introducing screens/booths around B2 machines only)</p> <p>We have become aware that industry lawyers are scrutinising LA's Statement of Policy.</p> <p>Some are contesting the content.</p> <p>We wish to ensure that in such circumstances, Local Authorities understand that the Gambling Commission are willing to discuss the issues raised with yourselves and provide assistance rather than just agreeing to change your SoP.</p> <p>Please do not hesitate to contact me, should you require any assistance.</p>	
<p>Elizabeth Speed, Novomatic UK on behalf of 'Luxury Leisure'</p>	<p>On behalf of Luxury Leisure I make the following comments in relation to the consultation draft (the "Draft"):</p> <p>1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the "Act") it is subject to the Regulators' Code. That code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow. Additionally under the Code, when designing and reviewing policies, the Authority must among other things, understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. I cannot see a reference to the Regulators' Code in the current Draft and suggest that it is incorporated.</p>	<p>Reference is made to the Regulators code in Section 6.0 Part E Enforcement at 6.1 on page 58.</p>

	<p>2. Section 5 – I note the unusually broad and loosely worded definition of those falling within Section 158 c) of the Act – i.e. those representing persons who i) live sufficiently close to premises to be likely to be affected by the authorised activities or ii) have business interests that might be affected by the authorised activities. I do not believe that the current draft catch-all wording for such representatives is appropriate - in short and with respect, it is not for the Authority to “deem” that certain bodies will automatically represent Interested Parties.</p> <p>Rather, the question of whether someone is a representative of an Interested Party within the section, should properly be a matter for consideration on a case by case basis. This is in keeping with the main wording in s158 that “....a person is an interested party in relation to an application... if, in the opinion of the licensing authority... the person represents persons who satisfy a) or b)”. My submission is also in keeping with the Commission’s Guidance on this (paras 8.06 and 8.17), which does not refer to the categories included in the Draft, but rather to e.g. democratically elected representatives, trade associations, trade unions, residents associations or community groups. The Guidance also refers to the licensing authority having to satisfy themselves on a case by case basis that a person does in fact represent an Interested Party and suggests obtaining a letter of confirmation from the Interested Party.</p> <p>The Draft’s more general approach to categories seems to relate more closely to the concept of Responsible Authorities. However those bodies are already defined in</p>	<p>This subject is now fully addressed in section 2.0 Part A The Gambling Act at paragraph section 2.14 interested parties which states that In accordance with guidance from the Gambling Commission it is not the council’s role to deem that certain bodies will automatically represent Interested Parties. The question of whether someone is a representative of an Interested Party will be a matter for consideration on a case by case basis.</p>
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	<p>S 157 of the Act and, again with respect, it is not for the Authority to add to those definitions or categories; instead it is a matter for parliament.</p> <p>3. Section 6 – I refer to the 2008 case of R (on the application of Betting Shop Services Limited) –V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement) even though the premises were not fully constructed – the applicant is not restricted to making an application for a provisional statement. It was held by the court that the then current Guidance issued by the Commission was wrong. The Guidance was subsequently amended.</p> <p>4. Section 8 – protection of children and other vulnerable persons. As is alluded to elsewhere in the Draft, it is perfectly legal for children to take part in some limited gambling activities (Category D machines). As such it is not appropriate to refer to this objective as meaning that children should be prevented from taking part in gambling. Perhaps this could be clarified.</p> <p>5. Sections 10, 11, 13, 14 and 15 - while the Draft suggests that for AGCs, FECs and Tracks, the Authority may consider measures (examples of which are listed) to meet the licensing objectives, curiously these are not repeated for bingo premises, nor betting premises. This is inconsistent. No reason is given as to why such matters are not relevant to Bingo or Betting premises and I suggest that the provisions should be mirrored.</p>	<p>This matter is addressed in section 4.0 Part C Premises Licences at paragraph section 4.20 Provisional Statements on pages 44 to 45.</p> <p>Clarification is provided in section 3.0 Part B Promotion of the licensing objectives at paragraph sections 3.3 and 3.4 on pages 19 to 21 and in section 4.0 Part C Premises Licences at paragraph 4.10 Licensed Family Entertainment Centres (LFECs).</p> <p>This matter has now been addressed in section 4.0 Part C Premises Licences at 4.7 Decision Making on pages 32 to 36 and in sections 4.10 Licensed Family Entertainment Centres (LFECs), 4.12 Bingo premises and 4.16 Tracks</p>
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<p>Catherine Sweet, Head of Marketing and Communications of gamcare.org.uk</p>	<p>While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below:</p> <ul style="list-style-type: none"> <li>• A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see <a href="http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/">www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/</a></li> <li>• Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.</li> <li>• A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local</li> </ul>	<p>For health and deprivation, crime and community safety information about the local area visit: <a href="https://www.durhaminsight.info/">https://www.durhaminsight.info/</a></p> <p>These matters are comprehensively addressed in section 4.0 Part C Premises Licences at section 4.5 Location and section 4.6 Local Risk assessments on pages 28 to 32.</p> <p>These matters are comprehensively addressed in section 4.0 Part C Premises Licences at</p>
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	<p>Licensing Authority that appropriate mitigations are in place.</p> <ul style="list-style-type: none"> <li>• Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?</li> <li>• Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.</li> <li>• Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.</li> <li>• Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.</li> </ul>	<p>section 4.5 Location and section 4.6 Local Risk assessments on pages 28 to 32.</p> <p>This matter is addressed in section 4.0 Part C Premises Licences at section 4.3 Building separation, access arrangements and multiple licences; section 4.7 Decision Making pages 32 to 36 and in section 4.9 on page 36 to section 4.19 on pages 43 and 44.</p> <p>This is addressed in section 4.6 Local Risk assessments on page 32.</p> <p>These matters are addressed in section 4.0 Part C Premises Licences at section 4.3 Building separation, access arrangements and multiple licences; This is also addressed in section 4.6 Local Risk assessments; section 4.7 Decision Making pages 32 to 36 and in section 4.9 on page 36 to section 4.19 on pages 43 and 44.</p>
Susan Smith	<p>The current notices used by gambling companies such as 'when the fun stops, stop' and 'gamble responsibly' are both pretty meaningless. I therefore suggest it be made a legal requirement for all</p>	<p>Durham County Council is not able to make legislation, only policy. This proposal cannot be actioned by DCC. The advertising and promotion of gambling</p>

	<p>gambling outlets to have large notices stating 'ONLY GAMBLE WHAT YOU CAN AFFORD TO LOSE'. This notice should also be displayed in the window of establishment in at least an A3 size. I also believe the gambling outlets should no longer be allowed to advertise their products and offers in their windows. Currently they are on full display and seen by all, including children. Children seeing these adverts leads to gambling being normalized for them.</p> <p>If you can do anything to implement these suggestions, you could make a real difference to people's quality of life.</p>	<p>activities are outside the remit and responsibility of local councils and are matters which are governed and regulated by the gambling Commission and the Advertising Standards Authority. This policy seeks to protect children from harm by promoting the licensing objectives – i.e. protecting children and other vulnerable persons from being harmed or exploited by gambling see sections 1 to 6.</p>
<p>Rachel Stockdale on behalf of Durham Constabulary</p>	<p>The only other thing I could see which may frustrate for the future is that when considering an application the LA should not give any consideration to if the premises has or is likely to get planning permission/change of use. That this should be left to the planning committee as an entirely separate matter:</p> <p>“The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.</p> <p>The Gambling Commission Guidance to Licensing Authorities states: In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One</p>	<p>See section 2.0 Part A The Gambling Act 2005 paragraph section 2.10 Duplication with other regulatory regimes and 2.11 Planning. Also see section Part C Premises Licences paragraph sections 4.3 Building separation, access arrangements and multiple licences; 4.4 Premises “ready for gambling” and 4.20 Provisional statements. The Council will pay due regard to the legislation and associated guidance.</p>

	<p>example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.</p> <p>Durham County Council will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance: When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”</p> <p>I appreciate that is what it says now but if we are looking to future proof in line with making planning and licensing run in harmony rather than against each other is this something worth exploring to see if we can be out there, and ahead of the curve to try and align them better – not to over step the law but to make it streamlined and work better for all of us going forward?</p>	
<p>Sean Barry representing Durham Local Safeguarding</p>	<p>I represent the Durham Local Safeguarding Children Board (LSCB) which is a responsible authority identified under Durham County Council Gambling Act 2005</p>	

<p>Children Board (LSCB)</p>	<p>Statement of Principles.</p> <p>In reviewing the current Statement of Principles to promote the protection of children and in preparation for a new revised Statement I offer the following comments:</p> <p>Section 4 – Responsible Authorities (page 10)  Currently Durham Local Safeguarding Children Board is identified as the competent body to advise the authority (Durham County Council) about the protection of children from harm. Local child safeguarding structures and framework will be changing due to the introduction of new legislation in the Children and Social Work Act 2017. The time scale for this work is currently autumn 2018 – March 2019.</p> <p>In short this means Durham Safeguarding Children Board will be replaced at some point by a new (as yet unnamed) safeguarding partnership. It will be this new safeguarding partnership that will undertake the ‘Responsible Authorities’ duty for licensing. Up until the change the LSCB continues to hold and carry out the statutory duty. Depending on your timescales and ours you may have a new ‘competent body to advise the authority (Durham County Council) about the protection of children from harm’ or you may still be referencing the LSCB. If the latter is the case you will have to build in a revision of the Statement of Principles to reflect the safeguarding changes once they come into force.</p> <p>We will update you as we get to know more.</p>	
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	<p>Section 15 – Tracks (page 8 and page 30)</p> <p>While this focuses solely on the gambling element, access and environment of a track. I note that the review of the current Statement of Principles provides an opportunity to address the issue of a child witnessing disturbing scenes due to animal injury. It is suggested that the Statement of Principles could advise as best practice that track owners introduce of warning notices, so that parents can make informed choices before bringing children to track events.</p> <p>I have no other comments to make on behalf of Durham LSCB.</p>	

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