



## **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 7 December 2016 at 10.00 a.m.** to transact the following business:-

1. To confirm the minutes of the meeting held on 26 October 2016 (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 - 28)
9. Mid-Year Review Report on Treasury Management for the period to 30 September 2016 - Report of Corporate Director, Resources (Pages 29 - 44)
10. Gambling Act 2005 Statement of Principles - Report of Corporate Director, Regeneration and Local Services (Pages 45 - 158)
11. Report of the Audit Committee for the Period November 2015 to November 2016 - Report of the Audit Committee (Pages 159 - 170)
12. Members' Allowances Scheme 2017/2018 - Report of Independent Remuneration Panel (Pages 171 - 214)

13. Motions on Notice

14. Questions from Members

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

Dated this 29th day of November 2016

A handwritten signature in black ink, appearing to read 'Colette Longbottom', with a stylized flourish at the end.

Colette Longbottom  
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 26 October 2016 at 10.00 a.m.**

**Present:**

**Councillor E Bell in the Chair**

Councillors E Adam, J Allen, J Alvey, B Armstrong, J Armstrong, B Avery, A Batey, A Bell, D Bell, J Bell, R Bell, H Bennett, J Blakey, G Bleasdale, D Boyes, J Brown, C Carr, J Carr, J Chaplow, J Charlton, J Clare, P Conway, J Cordon, K Corrigan, P Crathorne, K Davidson, M Dixon (Vice-Chairman), S Forster, N Foster, D Freeman, I Geldard, B Glass, B Graham, J Gray, O Gunn, J Hart, T Henderson, K Henig, S Henig, J Hillary, M Hodgson, G Holland, A Hopgood, K Hopper, L Hovvels, E Huntington, S Iveson, I Jewell, B Kellett, A Laing, P Lawton, J Lee, J Lethbridge, J Lindsay, A Liversidge, R Lumsdon, J Maitland, C Marshall, N Martin, P May, B Moir, S Morrison, A Napier, T Nearney, H Nicholson, R Ormerod, A Patterson, M Plews, G Richardson, S Robinson, J Rowlandson, K Shaw, M Simmons, T Smith, B Stephens, P Stradling, A Surtees, L Taylor, P Taylor, O Temple, K Thompson, F Tinsley, E Tomlinson, J Turnbull, A Turner, A Watson, M Wilkes, M Williams, A Willis, S Wilson, R Young and S Zair

Apologies for absence were received from Councillors L Armstrong, P Brookes, M Davinson, C Hampson, D Hicks, C Kay, H Liddle, J Maslin, L Pounder, A Savory, J Shuttleworth, H Smith and M Stanton

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

- Alderman, former Derwentside District Councillor Bill Stockdale who was elected to the Leadgate Ward of Derwentside District Council in 1979 until he stood down in 2003.
- Alderman, former Durham City Councillor Michael (Micky) Howarth who represented the Bearpark and Witton Gilbert Ward on Durham City Council from May 1987 to May 2003.

The Chairman informed Council that 21 October marked the 50<sup>th</sup> anniversary of the Aberfan disaster when a small Welsh mining community was changed forever. Thousands of tons of waste from a coal tip poured down a hillside and engulfed a school and nearby homes killing 144 people, most of them children. Hundreds more had lived with the shock and grief of that day.

The Council stood for a moments silence to remember those lost in the Aberfan disaster and the courage and determination of those who survived and as a mark of respect to former Councillors Stockdale and Howarth.

The Chairman informed Council that the meeting was to be the last one attended by Councillor Mac Williams before he was to stand down as a Councillor at the end of November. The Council placed on record its appreciation of the service of Councillor Mac Williams.

## **1 Minutes**

The minutes of the meetings held on 14 and 21 September were confirmed by the Council as a correct record and signed by the Chairman.

## **2 Declarations of Interest**

Councillor B Glass declared an interest in Agenda Item No 10 because his wife was a Member of Parliament and he would not be commenting on this item.

## **3 Chairman's Announcements**

The Chairman welcomed John Hewitt, Corporate Director, Resources who was attending his first Council meeting since taking up the role on 18 October 2016. The Chairman also congratulated and welcomed Jane Robinson on her appointment to the post of Corporate Director, Adults and Health Services.

It gave the Chairman great pleasure to announce that Durham City had won the 'Champion of Champions' category of the RHS Britain in Bloom competition. The Chairman thanked everyone who had given their time and effort in helping the county scoop these honours.

The Chairman informed Council that County Durham now had a world champion female kickboxer, seventeen year old Terri Stuart from Dipton. Terri became world champion when she defeated current gold medallist Georgia Capato, from Italy, in a competition held at Stanley Civic Hall. The Chairman invited the Council to join him in congratulating Terri on her fantastic achievement.

## **4 Leader's Report**

The Leader of the Council informed the Council that he had no report for the meeting.

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

Questions had been received from Bishop Auckland and Shildon Area Action Partnership and Spennymoor Area Action Partnership relating to the following:

- What the County Council was doing to support young carers in County Durham and whether this could be affected by ongoing budgetary savings.
- How the AAP could complement the overall strategic vision of the County Council in battling mental health issues at a local level.

Andrew Walker, Bishop Auckland and Shildon AAP Co-ordinator and Michael Wilkes, Spennymoor AAP Co-ordinator were in attendance to ask their questions.

Councillor T Smith, Cabinet Support Member for Children and Young People's Services and Councillor L Hovvels, Portfolio Holder for Adult and Health Services thanked the AAPs for their questions and provided responses.

The Head of Legal and Democratic Services informed the Council that the questions, together with the responses, would be placed on the Council's website and a copy of the responses would be sent to the Area Action Partnerships.

## **6 Questions from the Public**

Two questions had been received from Members of the Public regarding the following:

- Whether the Council was instituting a review of the Department which concerned itself with 'due diligence' in County Council legal matters.
- What the County Council was doing to curb illegal encampments that were costing council tax payers money.

In the absence of the questioners, the Head of Legal and Democratic Services informed the Council that a copy of the questions, together with the responses would be placed on the Council's website and a copy of the responses would also be sent direct to the questioners.

## **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 discussed by the Cabinet at its meeting held on 14 September 2016 (for copy see file of Minutes).

Councillor Wilkes referred to Item 3 in the report, the Review of Youth Support, and asked whether the Council would pull back from the reduction in funding and the removal of open access to the youth service to allow the voluntary sector and the County Council more time to identify funding sources.

Councillor Henig replied that all funding for and the provision of youth services was not being withdrawn. However, the service would be delivered in a different way with funding being provided to all of the AAPs to ensure the service was delivered across the whole County. All services were being examined in light of the Council already having to make £180m in savings with an estimated extra £60-£70m of future savings needed. The County Council continued to support youth services but in a different way to previous provision.

## 9 Local Council Tax Reduction Scheme 2017/18

The Council considered a report of the Corporate Director, Resources which sought approval for the continuation of the Local Council Tax Reduction Scheme for a further year into 2017/18 (for copy see file of Minutes).

In **Moving** the report, Councillor Napier, Deputy Leader and Cabinet Portfolio Holder for Finance, informed the Council that this was the fifth year of the Council supporting the Scheme and he hoped it would receive unanimous support of Members.

Continuation of the Scheme for a further year would continue to protect 34,000 low income families within the County, would award 100% Council Tax support where eligible, and would also protect 26,000 pensioners. Durham was only one of two Local Authorities in the region to continue to offer this level of support and only one of a dwindling number nationally.

Nearly 23,000 working age claimants were supported by the Scheme, 8,000 of whom did not qualify for benefits but qualified for the Scheme because they were on a low income. With inflation forecast to rise to between 2% and 3% it was essential that the County Council continued to support the Scheme for as long as it could afford to do so.

In **Seconding** approval of the Scheme Councillor J Brown, Portfolio Holder for Corporate Services informed the Council that it provided support to the most deprived communities which had suffered an onslaught of welfare changes. The County Council was one of a few Councils to continue to support such a Scheme and there was evidence that in areas which had drawn back from such level of support Council Tax arrears had increased and working age families had fallen in to the poverty trap.

In supporting continuation of the Scheme for 2017/18 Councillor R Bell sought clarification of the cost referred to in paragraph 14 of the report of £53.2m against the net cost of retaining the Scheme referred to in paragraph 15 of £5.064m. The Corporate Director, Resources informed Councillor Bell that he would provide him with further information after the meeting.

Councillor Hopgood supported continuation of the Scheme. Durham was one of few Councils to provide this level of support which was being provided over and above any statutory necessity to do so.

Upon a vote being taken it was

### **Resolved:**

That:

- (i) the current Local Council Tax Reduction Scheme be continued into 2017/18 which will retain the same level of support to all working age council tax payers on low incomes.

- (ii) 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 2018/19 to be considered by Cabinet in July/September 2017 and Full Council by January 2018.

## **10 Electoral Boundary Review - Initial proposals for new Parliamentary Constituencies in Durham**

The Council considered a report of the Head of Legal and Democratic Services which provided information on the initial proposals of the Boundary Commission for England for new Parliamentary constituency boundaries on England, and of the consultation procedure (for copy see file of Minutes).

In **Moving** the report, Councillor Henig informed the Council that the Boundary Review was as a result of the Government's desire to reduce the number of MPs to 600. There would be an increase in the number of electors per constituency to approximately 75,000 and the number of constituencies in County Durham would decrease from 6 to 5. As a result of this reduction, some of the proposed constituencies would include wards of neighbouring authorities, and would include cross-constituency seats.

The Constitution Working Group had deferred consideration of the proposals to a future meeting of the Group. Group Leaders were asked to consult the members of their groups, and feedback comments to Constitution Working Group on 9 November, 2016. Comments of the initial proposals needed to be submitted by 5 December, 2016 which was before the next Council meeting and the report sought delegated authority to the Head of Legal and Democratic Services to prepare and submit a response having taken into account comments from Constitution Working Group.

In **Seconding** the report, Councillor Hopgood encouraged all Members to participate with their Group Leaders to provide feedback to the Constitution Working Group.

Councillor R Bell added that Members needed to engage with community groups to ensure they also made representations.

### **Resolved:**

That delegated authority be granted to the Head of Legal and Democratic Services to prepare and submit a response to the Boundary Commission for England in consultation with Constitution Working Group.

## **11 Motions on Notice**

In accordance with a Notice of Motion it was **Moved** by Councillor Lumsdon, **Seconded** by Councillor Patterson

*In County Durham a significant number of women born after the 1950's will ultimately be affected by the increase to the State Pension Age (SPA) with a lack of appropriate notification.*

*The new SPA will amount to the differing treatment of women affected by the change, for example a woman born 28/4/1953 (aged 63) received her state pension recently (July 2016) but a woman born 28/4/1954 (exactly one year later – now aged 62) has to wait until November 2019 – staggering 3 years and 4 months longer.*

*Female employment rates in the North East are among the lowest in the UK. In addition, over time legislative (and cultural) changes have led to a narrowing of employment rates and women are more likely to be in lower paid jobs.*

*Durham County Council calls upon the Government to make fair transitional state pension arrangements for all women born on or after 6th April 1951, who have unfairly borne the burden of the increase to the State Pension Age.*

Upon a vote being taken it was **Resolved**:

That the motion be **carried**.

In accordance with a Notice of Motion it was **Moved** by Councillor Ormerod, **Seconded** by Councillor Martin

*This council notes:*

- 1. That the Bus Services Bill currently passing through Parliament includes Clause 21 that will effectively “prohibit a local authority from forming a company for the purposes of providing a local bus service”.*
- 2. That the Localism Act 2011 provides general powers of competence to local authorities.*
- 3. That municipal bus companies provide some of the best bus services in the country and have a successful track record of increasing bus passenger numbers and providing high quality bus services.*
- 4. That in County Durham we have shown that publicly operated services such as Link 2 can be invaluable for residents who are not served by private companies.*

*This council believes:*

- 1. Clause 21 contradicts the general powers of competence and the spirit of the Localism Act 2011.*
- 2. If there is a need and a demand from their public, then Councils should be able to provide their own bus services, including through the setting up of a company.*
- 3. Consequently Clause 21 should be omitted from the Bus Services Bill.*

*This council resolves:*

- 1. To write to Lord Ahmad and to call on the Department for Transport to omit Clause 21 from the final legislation.*
- 2. To write to County Durham’s MPs to ask them to oppose clause 21 when the Bus Services Bill reaches the House of Commons and ask them to write to*



*Lord Ahmad and the Department of Transport to raise concerns about Clause 21.*

3. *To work with any organisations to publicise our opposition to clause 21 in local media.*

Upon a vote being taken it was **Resolved:**

That the motion be **carried**.

## **12 Questions from Members**

### **Councillor J Hart**

I know all members will share my dismay and concern at plans announced by Bonds Foundry to cease production in Tow Law, ending more than 150 years of large scale metalwork in the town – something the company were very clear would be the likely outcome of a vote to leave the European Union in June's referendum.

Will the Cabinet Member for Economic Regeneration detail efforts being made by this authority to support staff affected by the announcement and to encourage business growth in our rural communities – and does he share my concern that this could be just the start of an uncertain economic period for Durham and the wider region and take the opportunity to outline this county's preparedness?

Councillor N Foster, Portfolio Holder for Economic Regeneration thanked Councillor Hart for his question and provided a response.

Through Business Durham, the Council was working closely with the management of Bonds Foundry and had offered the services of the Rapid Response Service including JobCentrePlus, National Careers Service and the Council to assist those at risk of redundancy with job search skills, c v writing, training towards updating qualifications, including self-employment as an option. The Council would be contacting employers to source vacancies for the employees at Bonds Foundry.

The restructure at Bonds Foundry was a result of the downturn in the oil and gas sector, and global downturn. The Council had supported other companies in the County similarly affected who had gone on to find new positions.

It was worth emphasising that there was positive news for the rural economy. Glaxo Smith Kline had announced a £92m investment for its site at Barnard Castle and other SMEs in their supply chain would benefit from this growth.

In addition through its outreach work Business Durham was supporting rural businesses to grow. In addition it had commissioned business workshops at the Durham Dales Centre, and was encouraging businesses to take part in rural economic development programmes such as the Rural Growth Network and Leader programmes.

## **Councillor O Temple**

The loans which financed the building of Durham's Private Finance Initiative (PFI) Schools were written at very high interest rates, rates which are commonly renegotiated sometime after the completion of construction.

Since the renegotiation of these financial arrangements currently taking place was therefore predictable from the outset:

1. Does the Portfolio Holder for Resources accept responsibility for the original contract for PFI Schools which contained such swingeing penalties for early redemption of loans (currently around £12 million on borrowings of just £43 million: 28%) that any savings available from current low interest rates will be almost swallowed up by them?
2. Was the Portfolio Holder aware that, upon renegotiation, the original contract provided a pre-set percentage of any gain (as much as 50% in some scenarios) to the financiers who arranged the original loan?
3. Does the Portfolio Holder now regret the position the council finds itself in in relation to this refinancing package?

Councillor A Napier, Portfolio Holder for Finance thanked Councillor Temple for his questions and provided a response.

1. Although the funding of PFI deals were complex it was important to note that the framework for the deals was driven by Government via Partnership for Schools or PfS. Via PfS, the Government ensured that terms for PFI deals were broadly standard and this approach was taken in terms of the funding of PFI deals. The Council's PFI contract for its three schools in Sedgefield and Shotton were agreed in 2009 following a competitive procurement process, at the height of the financial crisis. Notwithstanding this the council worked with professional advisers and were successful in securing a fixed rate of interest across the 25-year deal. In terms of trying to secure a fixed interest rate for a mortgage, banks were reticent to agree any such arrangement beyond 3 to 5 years. If a bank was to agree to a fixed rate deal then the fee the bank would expect to be paid for breaking the deal would be excessive. Consider then the penalty the bank would expect you to pay if you were only 7 years into a 25 year fixed rate deal. On this basis I am satisfied that the redemption penalties represented the market position at the time the PFI contracts were agreed and reflected the Government standards that were in place. Other Council's were in a similar position and were reviewing their PFI contracts in exactly the same way as in Durham. I am even more satisfied that the council is taking appropriate steps to further reduce costs and will benefit from refinancing at a time of historically low interest rates.
2. Early PFI deals did not include any sharing of benefit from PFI deals. 100% of the benefit went to the private sector.

After complaints from local authorities, the terms of contracts were changed with the arrangement in the council's contract being standard. PFI was

introduced to share risk between the public and private sectors and it was only fair and in line with the contracts that any benefit was similarly shared.

3. The council was in a strong position in this regard. In terms of outcomes, the schools in question were performing well and the Council shouldn't lose sight that children's education was always at the forefront. With reference to the PFI, the Council had identified that the deal could be refinanced to the council's benefit. The original contract and funding were based upon a government driven standard approach and was little different to any PFI deal across the country. The council was again being pro-active and was now able to benefit and take advantage of historically low interest rates that were available.

### **Councillor A Hopgood**

The current position this Council finds itself in with regards to our Teaching Assistants was said to be all about equality. Can the Portfolio Holder tell us how this can possibly continue to be justified when Teaching Assistants are now being offered different packages according to which union they belong to and even the option of exchanging unions in order to take up the alternative. Would the Portfolio Holder agree that this whole episode has left our children's education in disarray?

Councillor J Brown, Portfolio Holder for Corporate Services thanked Councillor Hopgood for her question and responded on behalf of Councillor O Johnson, Portfolio Holder for Children and Young People's Services.

Following the Council decision of 14 September GMB and UNISON conducted their respective consultative ballots on the revised offer that they had both agreed to at the ACAS meeting in July.

The majority of GMB members accepted the revised offer and therefore they would see their new contracts applied on 1 April 2017 and receive 2 years compensation.

The majority of UNISON members rejected the revised offer so therefore they would see their new contracts applied on 1 January 2017 and receive 1 year's compensation.

All new contracts, no matter when they would be implemented would be the same in that they would see Teaching Assistants just being paid for the hours they worked and on a term time only basis.

In relation to Teaching Assistants exchanging unions that was a matter for the Trade Unions and unless evidence could be provided to the contrary assurance could be given that Durham County Council was not attempting to undermine any Trade Union position.

Colleagues in Children's and Young Peoples Services had confirmed they were working closely with the Head Teachers to minimise the impact of any industrial action that may occur in schools. Therefore, given that the Council had not yet

even been given notice of any forthcoming industrial action, never mind seen it take place it would be impossible and inconceivable to agree with Councillor Hopgood that this episode had left children's education in disarray, which was a spurious and unfounded claim at this time.

Councillor Hopgood replied that there was evidence that members had left one Trade Union to join another and asked how the dispute could be said to be about equality when one set of workers was being set against another.

Councillor Brown replied that it was not for a politician to comment on which trade union anybody decided to choose and that all Teaching Assistants would be employed on the same contract.

**7 December 2016**

**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 19 October, and 16 November 2016 to enable Members to ask related questions.

Members are asked to table any questions on items in this report by 2 pm on 6 December 2016 in order for them to be displayed on the screens in the Council Chamber.

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| Item 3 | Public Health Annual Update Report                                    |
| Item 4 | Durham County Cricket Club – Financial Support                        |
| Item 5 | Schools PFI Refinancing   |

**16 November**

- |        |  |
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| Item 6 | Council Tax Base 2017/18 and Forecast Surplus on the Council<br>Tax Collection Fund as 31 March 2017<br>Key Decision: CORP/R/16/03 |
| Item 7 | Safeguarding Adults Board Annual Report 2015/16  |
| Item 8 | Durham Local Safeguarding Children Board Annual Report<br>2015-16  |
| Item 9 | Mid-Year Review Report on Treasury Management for the<br>period to 30 September 2016   |

**1.      Durham Key Options Lettings Policy Changes**

**Key Decision: RED/08/16**

**Cabinet Portfolio Holder – Councillor Eddie Tomlinson**

**Contact – John Kelly 03000 262545**

We have considered a report of the Corporate Director, Regeneration and Local Services which updated on the outcomes of the recent consultation on the proposed changes to the Durham Key Options Lettings Policy and sought approval to implement policy changes as set out in the report.

Durham Key Options (DKO) began in 2008, with East Durham Homes acting as a pilot to the Choice Based Lettings (CBL) scheme. CBL allows applicants who are registered for housing to bid for empty properties on a weekly basis. Dale and Valley Homes, Derwentside Homes, East Durham Homes, livin (formerly Sedgfield Borough Homes) and North Star (formerly Teesdale Housing) joined in 2009 and Cestria fully entered the scheme in 2010. All seven partners agreed to follow one combined Letting Policy and nominate 100% of their stock through DKO. The DKO Lettings Policy was last reviewed and amended in 2013. This was in response to the Localism Act 2011 and impending changes to housing benefit.

In order to ensure appropriate letting of social housing properties in County Durham, DKO must continue to ensure that the future homes of their applicants are suitable and affordable. The client's current housing need must be balanced with their future need, both in terms of housing need and affordability. It is considered essential that the DKO Letting Policy reflects the changing climate in housing; the impact of welfare reform and the changing needs of clients. Overall, the aim is to offer suitable and affordable homes, with an easier application process and a more efficient bidding system; a more customer friendly scheme, with a better matching of stock to needs.

The DKO Board, which is made up of representatives of all landlords involved with DKO, agreed an action plan for 2016-17 and a review of the letting policy was included as one of the actions. The Council's Consultation Officers Group (COG) agreed the 10 questions (also agreed by all DKO partners) which formed the consultation for these changes. These were set out in appendix 4 of the report. All DKO partner landlords carried out their own consultation with their stakeholders, including their own Boards and management teams. There were exactly 800 returns in response to the consultation, across all 7 landlord partners. The response was largely in favour of all changes with at least 72% agreeing with each change. The results of this consultation were included in the report at appendix 4.

Following the approval of the changes to the policy, DKO partners will spend the coming months reviewing the procedures that sit behind the DKO Letting Policy. The DKO Board will create a robust procedure for the assessment of

rent and mortgage arrears, as well as clarifying how affordability will be assessed by the scheme. The procedure document will be revised to include all other changes, by the DKO Steering Group and the Choice Based Lettings Co-ordinator (employed by DCC). Staff training will be carried out across all partners (and co-ordinated by the Council) to ensure all changes are understood, both in terms of their reasoning and potential impact. The DKO website and partner websites will be updated to promote all changes to the public. Other advertising (such as the Durham County News magazine) will be utilised to ensure all changes are widely promoted.

## **Decision**

We have agreed to amend the Durham Key Options Letting Policy as follows:

- The banding structure will be reduced from 5 bands (A to E) to 4 bands (1-4). The existing quota system will also be removed so all allocations are awarded based solely on housing need, with all applicants being shortlisted in the order of their band (1-4) with their date of application acting as a tie breaker.
- To accommodate the new 4 band structure, all applicants in high medical need will be assessed against a new two-tier medical framework, devised by DKO in partnership with Occupational Therapists. All applicants with a medical need will be placed in either band 1 with an urgent medical need, or band 2 for all other medical needs.
- All applicants placed in band 1 will be expected to be rehoused (pending suitable accommodation available) within 12 months. If suitable accommodation has been deliberately overlooked or refused then the applicant may be placed in band 2, but only after a direct offer of accommodation has been made. Each case will be reviewed at the 12 month stage and where suitable accommodation has not been available (or where the applicant's circumstance means they have been unable to bid) then their time in band 1 will be extended. The 6 week timeframe to rehouse statutorily homeless applicants will remain in the policy, with a direct offer made after a 6 week period.
- To increase engagement with the local authority's housing solutions service, DKO will remove the low level banding reason 'threatened with homelessness within the next three months' (that would have felt into the new band 3). All applicants will be given their housing options but referred to the local authority for full homelessness advice (any potential homeless application required). Applicants found to be homeless and in priority need through a homeless application will be placed in band 1, those that the authority find they have no duty to, will be placed in band 2.
- DKO will also remove the banding assessment reason 'wanting larger accommodation (outside of overcrowding)', currently in band D. All applicants that can afford larger accommodation will still be given

access to it but will not be assessed as having a housing 'need' when they are adequately housed.

- Applicants assessed as adequately housed that have moved within the last 12 months through the DKO scheme, will not be allowed to register until the end of that 12 month period (from date of move). If the applicant (or household) requires a new housing need to be assessed (eg welfare, hardship, medical) then their application for housing will be accepted at any time.
- All rent/mortgage arrears will be assessed when considering applicant's current circumstance and acceptability as a future tenant. Every case will be dealt with on its own merits including the reason for accruing the arrears and 'signs of change' since.
- Applicants will only be granted access to the size of home they can afford to pay the total rent for (whether in full, or part housing benefit).

**2. An Opportunity for Every Care Leaver**  
**Cabinet Portfolio Holder – Councillor Ossie Johnson**  
**Contact – Linda Bailey 01325 375940**

We have considered a report of the Interim Corporate Director, Children and Adults Services which updated on action being taken to ensure all of Care Leavers have the opportunity to achieve their aspirations and fulfil their potential and to highlight ongoing barriers to the successful progression into Apprenticeships and employment for some Care Leavers.

In March 2016, the Corporate Management Team agreed to the development of an Action Plan to identify and promote opportunities for Care Leavers within DCC and to clarify roles and responsibilities. The Action Plan (which was included in the report at Appendix 2) has been developed and it is now being implemented. Key developments include:

- Identification of Directorate Champions to support the sourcing and promotion of opportunities (for Apprenticeships and Traineeships):
- Profile of agenda raised with Strategic Managers via Management Teams and identification of possible opportunities for Care Leavers
- Establishment of a central brokerage function to support unemployed Care Leavers into education, employment or training and/or to benefit from the identified opportunities.
- All unemployed Care Leavers (15-24) allocated a Transition Advisor (through DurhamWorks) to support them on their pathway to employment. The Advisors will continue to work with them until July 2018.
- Celebration of Success of individual Care Leavers, e.g. Care Leavers undertaking a Traineeship with the Adult Learning and Skills Service recently received a Group award at an Awards



evening on the 16<sup>th</sup> June. In addition, a Care Leavers Celebration of Achievement Event will be held on the 26 October 2016 as part of national Care Leavers Week.

Many Care Leavers continue to face multiple barriers to progression. These include low confidence and low self-esteem and previous negative experiences of education which can impact on motivation to progress into education, employment or training. Some Care Leavers are also teenage parents and their barriers to progression can be even greater. In addition to the many personal barriers individual Care Leavers can face to progression, there continues to be a financial disincentive for many to progress onto an Apprenticeship or into employment. In year one of an apprenticeship, it is likely that an individual will receive £529 per month. Many Care Leavers, as a result of their individual circumstances, receive benefits far in excess of this and there continue to be caught in a benefits trap. Initial discussions with both Revenue and Benefits and Jobcentre Plus suggest there is no local flexibility to waiver national rules which dictate the support Care Leavers can receive when undertaking an Apprenticeship.

The report therefore proposed that a small Task Group be established involving the Young People's Service, Adult Learning and Skills Service, Revenue and Benefits, Regeneration and Economic Development and Jobcentre Plus to develop a more detailed understanding of the level of financial support that would be required to support an estimated 10 Care Leavers each year with a two year income guarantee and a process by which this could be managed.

## **Decision**

We have:

- Noted the activity being undertaken to support Care Leavers address financial barriers to undertaking an Apprenticeship / access employment and ensure the Council meets its responsibilities as a Corporate Parent.

### **3. Public Health Annual Update Report Cabinet Portfolio Holders – Councillors Lucy Hovvels, Joy Allen, and Ossie Johnson Contact – Gill O'Neill 03000 267696**

We have considered a report of the Interim Corporate Director, Adult and Health Services and the Interim Director, Public Health

The report provided an update of national, regional and local developments during the last year. Priorities going forward are in alignment with Public Health England and best available evidence, building on community assets and impacting on the health needs of the population. Wellbeing for life and Area Action Partnership connections will be pivotal in achieving this.

Further work will be undertaken through the housing and health group and links with the poverty action group to consider how by maximizing income and improving the quality of housing can reduce premature mortality and increase life expectancy. The work with the NHS on the Sustainable Transformation Plans and the Health and Social Care Commission will take up increasing amounts of time within the public health team to ensure prevention and early intervention is at the forefront of thinking across all work streams.

## **Decision**

We have:

- noted the content of the report
- agreed to receive an annual update on public health in relation to ongoing transformations in service delivery and commissioned services.

#### **4. Durham County Cricket Club – Financial Support Cabinet Portfolio Holders – Councillors Neil Foster, and Alan Napier Contact – Ian Thompson 03000 267331**

We have considered a joint report of the Corporate Director, Regeneration and Local Services and the Corporate Director, Resources which informed Cabinet of developments in relation to securing the future of first class county cricket in the county. The report also provided an update on the finances of Durham County Cricket Club (DCCC), a change in their articles of association and subsequent restructure of the Club in response to a financial rescue package agreed with the England and Wales Cricket Board (ECB). The report also sought agreement to the Council converting its outstanding loan balance into equity in the form of redeemable preference shares in the new Community Interest Company (CIC) that will run the Club going forward as part of the rescue package to secure the future of DCCC.

The Emirates Durham International Cricket Ground in Chester-le-Street is a world class multi-purpose events and entertainment venue that has hosted a number of prestigious, high-profile cricket matches, including an Ashes Test Match in 2013, many one day and limited overs T20 internationals plus a range of concerts, conferences, meetings and events which provide significant tourism and promotional benefits to the county. Over the summer, DCCC made the Council and the ECB aware of the extent of the significant financial difficulties that the Club was facing and raised grave concerns over the future viability of the Club unless there was a significant restructuring of its debt position or new additional cash investment into the business. DCCC had hoped that commercial and residential developments on the site could have provided much needed financial security but it was unlikely that these benefits could be realised quickly enough

The financial situation DCCC faces is untenable and the Club is effectively insolvent and not viable in its current state. It has been taking advice from an

Insolvency Practitioner and without a restructuring and rescue package being put in place the Club will enter into administration. There is a real threat that first class cricket could be lost and a significant risk that the Council would be unable to recover the outstanding debt.

The ECB have intervened and the Club will face sporting sanctions as a consequence of their financial position. The rescue package proposed by the ECB would see the ECB write off £2million of outstanding debts. It is recognised that the sanctions will lower the profile of the Club in the short term, however, the ECB have committed to limited overs international cricket being brought to the County each year and the Emirates Durham International Cricket Ground in Chester-le-Street being a Cricket World Cup venue in 2019. The proposed package is contingent on the Council's participation in an 'all creditor' agreement through transferring its debt to redeemable preference shares in the new CIC. This would allow a solvent Club under new management to continue and over time grow. The ECB have also committed to the Council receiving an equally proportionate amount of any special fee payments due to DCCC over the coming years. The Council's role and participation in the new Board is still to be determined.

The proposals put forward by the ECB carry the prospect of the Council ultimately recovering its investment by way of dividend and / or special fee payments and does not involve the Council paying any further monies to the Club.

**Decision:**

We have:

- (i) Agreed to convert the outstanding balances on the loans advanced by the Council to DCCC in 2009, 2011 and 2013 – currently £3.740million - to equity in the form of redeemable preference shares in the newly formed CIC to run DCCC going forward;
- (ii) Noted that the new CIC will be overseen by a new Chair, a new Board of Directors and a new management team going forward;
- (iii) Delegated to the Corporate Directors of Resources and Regeneration and Local Services, in consultation with the Cabinet Portfolio Holders for Finance and Regeneration and Economic Development, authority to finalise the terms of the conversion and shareholding in the new CIC.

**5. Schools PFI Refinancing**  
**Deputy Leader of the Council – Councillor Alan Napier**  
**Contact – Jeff Garfoot 03000 261946**

We have considered a report of the Corporate Director, Resources, which sought approval for delegated powers to be utilised to enter into a debt refinancing arrangement for the Council's Public Finance Initiative (PFI) covering Schools.

As part of the Building Schools for the Future programme, three new schools were procured through a PFI contract with Inspiredspaces Durham (ProjectCo1) Ltd. The schools were completed between September 2010 and January 2011 and the associated PFI contract runs until January 2036. During this time, the Council pays a monthly amount to the contractor, currently £608,000 per month, which is currently funded by a PFI grant, contributions from the schools, and a contribution from the Dedicated Schools Grant.

The Council has been approached by Amber Fund Management Limited (AFM), our partner in the PFI Project Company to consider the refinancing of the senior debt within the PFI deal. This approach has been made at this time because of the historically low level of interest rates available at present.

In total the original senior debt was circa £49million with circa £43million still outstanding. AFM have approached the Council along with five other local authorities to bring together a larger portfolio to take to the market to seek a refinancing deal. In total the outstanding debt for all of the authorities is £390million. It is expected that a more competitive deal can be secured by going to the market for £390million rather than just the Councils £43million. Notwithstanding this expectation, terms will be sought for individual authorities as well as for the full £390million. This will enable each local authority to be able to compare and assess options individually and collectively.

Each of the PFI contracts includes a requirement for early redemption penalties to be paid as part of any refinancing deal. It is estimated that the cost of these early redemption payments for the six local authorities could be circa £110million. This would require a total refinance package of circa £500million. Although this would result in an increase in the outstanding debt, it is still expected that the total repayments over the remaining term of the arrangement (circa 20 – 22 years) will be lower due to the expected reduction in interest rate charged on the new loan debt.

At this stage AFM have approached the market to seek terms. In terms of timing, it is expected that the short list will be agreed by the end of October and a final deal being finalised by the end of March 2017. Based upon initial indications AFM have advised the Council that the terms being offered by prospective funders will result in a net gain for the six local authorities. Any benefit from the refinancing will be split between the Council and AFM as follows:

Up to £1million benefit	50% DCC – 50% AFM
Between £1million and £3million benefit	60% DCC – 40% AFM
Over £3m benefit	70% DCC – 30% AFM

It is not clear at this point when the Council will be required to enter into contractual arrangements to finalise any refinancing arrangement, however, there may be a need to move at pace in this regard. With this in mind this report seeks approval for delegated approval to be given to enable any such arrangement to be entered into on the basis that any arrangement generates a financial benefit, balances risk and protects the interests of the Council.

## **Decision**

We have agreed to:

- (i) Note the option to refinance the debt outstanding in the Council's Schools PFI;
- (ii) Note the total sums outstanding and the option to aggregate the Council's outstanding debt with that of five other local authorities to maximize financial benefit;
- (iii) Note the expectation of a financial benefit being generated from the refinancing;
- (iv) Authorise the Corporate Director Resources in consultation with the Portfolio Holder for Finance to agree a refinancing deal beneficial to the Council.

## **6. Council Tax Base 2017/18 and Forecast Surplus on the Council Tax Collection Fund as 31 March 2017**

**Key Decision: CORP/R/16/03**  
**Deputy Leader of the Council – Councillor Alan Napier**  
**Contact – Paul Darby 03000 261930**

We have considered a report of the Corporate Director, Resources which requested that Cabinet determine the Council's Tax Base for all domestic properties liable to pay council tax. The report also included information on the estimated collection fund surplus as at 31 March 2017.

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 Local Council Tax Reduction Schemes (LCTRS's) 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. Section 84 of the Local Government Act 2003 enables authorities to set their Council Tax Base, other than by a decision of the full Council, therefore, allowing Cabinet to take the necessary decisions to determine the Council Tax Base for 2017/18.

On 20 July 2016 Cabinet resolved to recommend to Council continuation of the current LCTRS into 2017/18. On 26 October, 2016 Council subsequently approved the continuation of the current Local Council Tax Reduction Scheme into 2017/18, 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 2017 and Full Council by January 2018 with regards to proposals for 2018/19. There are no other discount changes impacting on the Tax Base for 2017/18.

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 and over the last few years the Council has largely declared a balanced position on the Collection Fund. Last year however, the Council declared a surplus of £7.031million, which was distributed in 2016/17 and used for budget setting in the current year.

The Council Tax Collection Fund is forecast to achieve a surplus of £2.578million at 31 March 2017 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 2016/17 demands / precepts on the Fund. The £2.578million will therefore be allocated as follows:

	Forecast Surplus to be Distributed in 2016/17 £m
Durham County Council	£2.169m
Durham Police, Crime & Victims' Commissioner	£0.259m
Durham & Darlington Fire and Rescue Authority	£0.150m
Total	£2.578m

Officers will continue to carefully track and monitor the Council Tax Base and Collection Fund performance over the coming months. It is unlikely that the forecast outturn on the Collection Fund will change significantly at this stage. Police, Fire and local town and parish councils have been notified of their indicative Council Tax Bases earlier this summer and the Fire Authority and Durham Police, Crime and Victims' Commissioner have also been notified that they will receive a share of an anticipated surplus on the Council Tax Collection Fund.

In continuing with the current LCTRS next year, members have committed to a full review of the Scheme in early summer of 2017. This review will draw on experiences elsewhere and the impact of the wider welfare reforms in County Durham during the period 2013/14 to 2016/17 and put forward options for consideration by Cabinet in July/September next year, with a view to consultation on any changes for 2018/19 being in the Autumn of 2017 and a report being presented to Cabinet on the outcome of the consultation by December 2017. The 2018/19 LCTRS scheme will need to be endorsed by Council before 31 January 2018.

## Decision

We have:

- (i) approved the Council Tax Base for the financial year 2017/18 for the County, which has been calculated to be 135,620.9 Band D equivalent properties;
- (ii) approved the declaration of a surplus on the Council Tax Collection Fund at 31 March 2017 of £2.578million, 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.

## 7. Safeguarding Adults Board Annual Report 2015/16 Cabinet Portfolio Holder – Councillor Lucy Hovvels Contact – Lesley Jeavons 03000 267356

We have considered a report of the Corporate Director, Adults and Health Services which presented the County Durham Safeguarding Adult Board Annual Report for 2015/2016.

The introduction of the Care Act 2014, placed a statutory requirement upon the Safeguarding Adults Board to produce and publicise an annual report. The report provided information on the current position of the County Durham Safeguarding Adults Board and outlined achievements during the year 2015/2016. A number of specific areas were covered in the Annual Report as follows:

- Safeguarding in the national and local context.
- Achievements and impact during the year 2015/2016.
- Looking ahead, future actions and the refreshed Strategic Plan for 2016/17.
- Perspectives of the key partners.
- Key data on safeguarding activity in County Durham is throughout.

### **Decision**

We have received the annual report and noted the ongoing developments achieved in this area of work.

### **8. Durham Local Safeguarding Children Board Annual Report 2015-16 Cabinet Portfolio Holder – Councillor Ossie Johnson Contact – Peter Appleton 03000 267388**

We have considered a report of the Interim Corporate Director, Children and Young People's Services which presented the Durham Local Safeguarding Children Board Annual Report 2015-16.

Durham Local Safeguarding Children Board (LSCB) is a statutory body established under the Children Act 2004. The Durham LSCB Annual Report 2015-16 sets out the work of multi-agency partners to ensure effective arrangements are in place to safeguard and protect vulnerable children and young people from abuse and neglect. The report described the work undertaken against the 2015-16 priorities and sets out the future priorities for 2016-19 which include:

- Reducing Child Sexual Exploitation
- Improving Early Help
- Reducing Neglect (contributory factors are domestic abuse; alcohol misuse; substance misuse; parental mental health)
- Reducing self-harm and improving young people's self-esteem
- Increase the voice of the child
- Ensuring that each agency is accountable for delivery of its own safeguarding responsibilities

### **Decision**

We have endorsed the Durham Local Safeguarding Children Board Annual Reports.



**9. Mid-Year Review Report on Treasury Management for the period to 30 September 2016**  
**Deputy Leader of the Council – Councillor Alan Napier**  
**Contact – Jeff Garfoot 03000 261946**

We have considered a report of the Corporate Director Resources which provided information on the treasury management mid-year position for 2016/17 and sought approval of a revision to:

- a) a Treasury Management Indicator for 2016/17; and
- b) the Council's Investment Strategy for 2016/17.

The Council operates a balanced budget, which 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, providing adequate liquidity initially, before considering optimising investment return.

The second main function of the treasury management service is the funding of the Council's capital programme. Accordingly, 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'.

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:

- c) an annual Treasury Management Strategy in advance of the year (reported to the County Council on 24 February 2016);
- d) an annual review following the end of the year describing the activity compared to the strategy (reported to the County Council on 21 September 2016), and
- e) a mid-year Treasury Management Review Report;

The Annual Treasury Management Statement for 2016/17 was approved by the Council on 24 February 2016. It recommended that revisions be made to the:

- Treasury Management Indicator for the upper limit on variable interest rate exposure.
- Investment Strategy

## **Treasury Management Indicator for the upper limit on variable interest rate exposure**

There are three debt related treasury activity limits. The purpose of these are to restrain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of any adverse movement in interest rates. The indicators are:

- (i) Upper limits on variable interest rate exposure. This identifies a maximum limit for variable interest rates based upon the debt position net of investments
- (ii) Upper limits on fixed interest rate exposure. This is similar to the previous indicator and covers a maximum limit on fixed interest rates;
- (iii) Maturity structure of borrowing. These gross limits are set to reduce the Council's exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

The Council is asked to approve an increase to the upper limit on variable rate loans as a percentage of net debt for 2016/17 to 70% from 30%, as set out in the following table. Net debt is total borrowing less total investments. The revision is necessary due to the high level of investments held by the Council, which reduces the net debt position and in turn increases the percentage of loans to net debt.

<b>Interest rate Exposures</b>	<b>2016/17 Original</b>	<b>2016/17 Revised</b>
Limits on fixed interest rates based on net debt	100%	100%
Limits on variable interest rates based on net debt	30%	70%

## **Investment Strategy**

The approved limits for investments as previously agreed within the Annual Investment Strategy no longer meet the requirements of the treasury management function. The main reasons for the need to amend the strategy are:

- a. to facilitate a more balanced approach to investing by diversifying the Council's investment portfolio, spreading the investment risk and maximising investment returns (whilst having regard to security and liquidity);
- b. due to the re-categorisation of the loan with Durham County Cricket Club into equity;
- c. to invest in businesses within County Durham in order to encourage regeneration and economic development in the area.

The report recommended Cabinet to approve the following changes to:

- (i) extend the list of investment instruments categorised as non-specified to enable the Council to invest in other entities locally;
- (ii) increase the monetary limit for equity shareholdings up to:
  - (a) £20 million in total (from £10 million) and
  - (b) £11 million in an individual business;
- (iii) allow investment in property funds of not more than £10 million in total and £5 million in an individual fund.

## **Decision**

We have:

- (a) approved the proposed changes to the Treasury Management Strategy for 2016/17;
- (b) noted the contents of the mid-year review report and agreed to report further to Full Council.

## **10. Forecast of Revenue and Capital Outturn 2016/17 – Period to 30 September 2016**

**Deputy Leader of the Council – Councillor Alan Napier**  
**Contact – Sheila Palmerley 03000 265731**

We have considered a report of the Corporate Director, Resources which provided Cabinet with an updated forecast of 2016/17 revenue and capital outturn, based on the period to 30 September 2016 and included an updated forecast for the Council's Council Tax and Business Rates Collection Fund position at 31 March 2017.

This report updated the position presented to Cabinet on 14 September 2016 that showed the forecasted revenue and capital outturn based on expenditure and income up to 30 June 2016, provided updates to these forecasts and revised forecast balances on general reserves and earmarked reserves at 31 March 2017. The report also included the updated forecasts for the Council Tax Collection Fund and Business Rates Collection Fund for 2016/17.

The following adjustments have been made to the Original Budget agreed by Full Council in February 2016:

- (i) agreed budget transfers between Service Groupings
- (ii) additions to budget for items outside the cash limit
- (iii) planned use of or contribution to Earmarked Reserves

## **Capital**

On 13 July 2016 Cabinet received a report which provided details of the final outturn position of the 2015/16 Capital Programme. The report also included the additional capital allocations of £54.422 million approved by Full Council on 24 February 2016 and the reprofiling of budgets from 2015/16 amounting

to £17.119 million, which resulted in the establishment of the original 2016/17 budget of £126.090 million.

Cabinet subsequently approved further revisions to the capital programme on 14 September 2016, taking into account additional resources received by the authority and further requests for reprofiling as Service Management Teams continue to monitor and review their capital schemes. The revised 2016/17 Capital programme approved by Cabinet on 14 September 2016 is £128.653 million. The report showed the forecast outturn for each service and the actual capital spend as at 30 September 2016.

The report included an updated forecast for the Council Tax and Business Rates Collection Fund position at 31 March 2017.

### **Decision**

We have:

- (i) Noted the projected change in the Council's overall financial position for 2016/17.
- (ii) Agreed the proposed 'sums outside the cash limit' for approval.
- (iii) Agreed the revenue and capital budget adjustments.
- (iv) Noted the forecast use of Earmarked Reserves.
- (v) Noted the forecast end of year position for the Cash Limit and General Reserves.
- (vi) Noted the position on the Capital Programme and the Collection Funds in respect of Council Tax and Business Rates.

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

29 November 2016

**County Council**

**07 December 2016**

**Mid-Year Review Report on Treasury  
Management for the period to  
30 September 2016**



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**Report of Corporate Management Team**

**John Hewitt, Corporate Director Resources**

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

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**Purpose of the Report**

- 1 The purpose of this report is to provide information on the treasury management mid-year position for 2016/17 and seek approval of a revision to:
  - (i) a Treasury Management Indicator for 2016/17; and
  - (ii) the Council's Investment Strategy for 2016/17.

**Background**

- 2 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, providing adequate liquidity initially before considering optimising investment return.
- 3 The second main function of the treasury management service is the funding of the Council's capital programme. The capital programme provides a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending requirements. The management of longer term cash may involve arranging long or short term loans, utilising longer term cash flow surpluses and on occasion any debt previously drawn may be restructured to meet Council risk or cost objectives.
- 4 Accordingly, 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'.
- 5 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:

- (i) an annual Treasury Management Strategy in advance of the year (reported to the County Council on 24 February 2016);
  - (ii) an annual review following the end of the year describing the activity compared to the strategy (reported to the County Council on 21 September 2016), and
  - (iii) a mid-year Treasury Management Review Report (this report);
- 6 This mid-year report has been prepared in accordance with the Code and includes:
- (i) an economic update for the first part of 2016/17;
  - (ii) a review of the Treasury Management Strategy Statement and Annual Investment Strategy;
  - (iii) a review of the Council's capital expenditure (prudential indicators);
  - (iv) a review of the Council's investment portfolio for 2016/17;
  - (v) a review of the Council's borrowing strategy for 2016/17;
  - (vi) a review of compliance with Treasury and Prudential Limits for 2016/17.

### **Treasury Management Statement and Investment Strategy Update**

- 7 The Annual Treasury Management Statement for 2016/17 was approved by the Council on 24 February 2016.
- 8 It is recommended that revisions be made to the:
- (i) Treasury Management Indicator for the upper limit on variable interest rate exposure as detailed in paragraphs 22 and 23; and
  - (ii) Investment Strategy. The proposed changes are detailed in paragraph 32 of this report and the rationale for these amendments is explained in paragraph 31.

### **Economic Update**

- 9 Appendix 2 contains an economic update for the first part of 2016/17, as provided by the Council's Treasury Management advisers, Capita Asset Services.

## Interest Rate Forecast

- 10 Capita Asset Services, has also provided an interest rate forecast up to June 2019, which is detailed in Appendix 3.

## Capital Expenditure

- 11 The following table shows the revised estimates for capital expenditure and the changes since the capital programme was agreed by Council.

<b>Capital Expenditure by Service</b>	<b>2016/17 Estimate agreed by Council in Feb 2016 (£m)</b>	<b>2016/17 Approved Revisions (£m)</b>	<b>2016/17 Revised Estimate (£m)</b>
Assistant Chief Executive	3.307	2.057	5.364
Children and Adults Services	23.105	6.306	29.411
Neighbourhoods	36.511	11.309	47.820
Regeneration and Economic Development	63.026	-23.041	39.985
Resources	9.026	3.469	12.495
<b>Total Capital Expenditure</b>	<b>134.975</b>	<b>0.100</b>	<b>135.075</b>

- 12 Taking into account re-profiling from the 2015/16 capital programme, additional approved expenditure funded from grants, capital receipts and reserves and re-profiling into future years, the revised capital expenditure budget for the General Fund is £135.075 million.
- 13 In addition to the capital expenditure, shown in the table above, a leasing budget of £6.019 million was agreed by full Council in February 2016, which will be revised to £4.791 million to reflect re-profiling from 2015/16 and into future years.
- 14 Further details on the capital programme can be found in the 16 November 2016 Cabinet report 'Quarter 2 Forecast of Revenue and Capital Outturn 2016/17 for the General Fund – Period to 30 September 2016'.

## Changes to the Financing of the Capital Programme

- 15 The following table draws together the main strategy elements of the capital expenditure plans, highlighting the original supported and unsupported elements of the capital programme and the expected financing arrangements of this capital expenditure. The borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR). This will be reduced in part by revenue charges for the repayment of debt which is known as the Minimum Revenue Provision (MRP).

<b>Capital Expenditure</b>	<b>2016/17 Original Estimate (£m)</b>	<b>2016/17 Revised Estimate (£m)</b>
Capital expenditure	134.975	135.075
Leasing	6.019	4.791
Financed by:		
Capital receipts	15.883	18.253
Capital grants	40.452	45.106
Revenue and Reserves	0.072	1.859
Total Financing	56.407	65.218
<b>Borrowing Need</b>	<b>84.587</b>	<b>74.648</b>

- 16 Following approval of the 2016/17 capital programme in February 2016, additional capital grants have been received and additional earmarked capital receipts and revenue and reserves have been allocated to finance the capital programme.
- 17 As a result of the changes to the capital budget the underlying borrowing requirement has been revised downwards by £9.939 million to £74.648 million.

### **Changes to the Prudential Indicators for the Capital Financing Requirement, External Debt and Operational Boundary**

#### **Capital Financing Requirement**

- 18 The following table shows the capital financing requirement (CFR). It also shows the Operational Boundary, which is the limit that external borrowing is not normally expected to exceed.



	<b>2016/17 Original Estimate (£ million)</b>	<b>2016/17 Revised Estimate (£ million)</b>
CFR – Non Housing	498.063	467.493
CFR – Housing	0.000	0.000
<b>Total CFR (PI 2)</b>	<b>498.063</b>	<b>467.493</b>
<b>Net movement in CFR</b>	<b>87.656</b>	<b>57.086</b>
<b>Operational Boundary (PI 5)</b>		
Borrowing	447.000	417.000
Other long term liabilities*	52.000	50.000
<b>Total debt (year-end position)</b>	<b>499.000</b>	<b>467.000</b>

\* PFI schemes and finance leases on balance sheet

### Limits to Borrowing Activity

- 19 The first key control over the treasury activity is a PI to ensure that over the medium term, net borrowing (i.e. borrowings less investments) will only be for a capital purpose. Gross external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2016/17 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has an approved policy for borrowing in advance of need which will be utilised if considered prudent.
- 20 The Corporate Director Resources reports that no difficulties are envisaged for the current or future years in complying with this PI.
- 21 A further PI controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003.

<b>Authorised limit for external debt (PI 6)</b>	<b>2016/17 Original Estimate (£m)</b>	<b>2016/17 Revised Estimate (£m)</b>
Borrowing	497.000	467.000
Other long term liabilities*	55.000	53.000
<b>Total debt</b>	<b>552.000</b>	<b>520.000</b>
<b>CFR (yearend position)</b>	<b>498.063</b>	<b>467.493</b>

\* PFI schemes and finance leases on balance sheet

### Changes to the Treasury Management Indicators

- 22 There are three debt related treasury activity limits. The purpose of these are to restrain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of any adverse movement in interest rates. The indicators are:
- (i) Upper limits on variable interest rate exposure. This identifies a maximum limit for variable interest rates based upon the debt position net of investments
  - (ii) Upper limits on fixed interest rate exposure. This is similar to the previous indicator and covers a maximum limit on fixed interest rates;
  - (iii) Maturity structure of borrowing. These gross limits are set to reduce the Council's exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.
- 23 The Council is asked to approve an increase to the upper limit on variable rate loans as a percentage of net debt for 2016/17 to 70% from 30%, as set out in the following table. Net debt is total borrowing less total investments. The revision is necessary due to the high level of investments held by the Council, which reduces the net debt position and in turn increases the percentage of loans to net debt.

<b>Interest rate Exposures</b>	<b>2016/17 Original</b>	<b>2016/17 Revised</b>
Limits on fixed interest rates based on net debt	100%	100%
Limits on variable interest rates based on net debt	30%	70%

### Borrowing Strategy

- 24 The CFR indicates the requirement for the Council to borrow to support its capital activities. This borrowing can be in the form of external sources (e.g. PWLB) or internal resources (e.g. use of reserves and working capital).

- 25 The Corporate Director Resources, under delegated powers, will adopt the most appropriate form of borrowing depending on the prevailing interest rates at the time.
- 26 Due to the overall financial position of the Council, no new borrowing has been raised during the first six months of 2016/17.
- 27 The overall borrowing position at 30 September 2016 was £246 million.

### **Debt Rescheduling**

- 28 Debt rescheduling opportunities are very limited in the current economic climate given the consequent structure of interest rates and following the increase in the margin added to gilt yields which has impacted PWLB new borrowing rates since October 2010. Therefore no debt rescheduling has been undertaken this year.

### **Investment Portfolio**

- 29 In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity and to obtain an appropriate level of return which is consistent with the Council's risk appetite. As set out in Appendix 3, it is a very difficult investment market in terms of earning the level of interest rate commonly seen in previous decades as rates are very low and in line with the current 0.25% Bank Rate. The continuing potential for a re-emergence of a Eurozone sovereign debt crisis, together with other risks which could impact on the creditworthiness of banks, prompts a low risk strategy. Given this risk environment, investment returns are likely to remain low.
- 30 It is proposed to amend the Investment Strategy to:
- (i) facilitate a more balanced approach to investing by diversifying the Council's investment portfolio, spreading the investment risk and maximising investment returns (whilst having regard to security and liquidity);
  - (ii) re-categorise the loan with Durham County Cricket Club into equity;
  - (iii) invest in businesses within County Durham in order to encourage regeneration and economic development in the area.
- 31 The proposed changes are to:
- (i) extend the list of investment instruments categorised as non-specified to enable the Council to invest in other entities locally;

- (ii) increase the monetary limit for equity shareholdings up to:
    - (a) £20 million in total (from £10 million) and
    - (b) £11 million in an individual business;
  - (iii) allow investment in property funds of not more than £10 million in total and £5 million in an individual fund.
- 32 Any new investments will only be agreed after significant due diligence checks have been carried out.
- 33 A revised list of investments which the Council will be permitted to use, if Members are in agreement, is attached as Appendix 4.
- 34 Members are recommended to approve the aforementioned revisions to the Investment Strategy for 2016/17.
- 35 The following table details the Council's equity shareholdings as at 30 September 2016 and the anticipated holdings at 31 March 2017.

Company	30 Sep 2016	31 Mar 2017
	£ million	£ million
Newcastle International Airport Ltd	10.558	10.558
Chapter Homes	1.410	1.410
Polyphotonix	0.300	0.300
Forrest Park	1.000	1.000
Atom Bank	0.152	0.152
Durham County Cricket Club	0	3.740
<b>Total</b>	<b>13.420</b>	<b>17.160</b>

- 36 The original budgeted investment return for investment income 2016/17 was £1.641 million, however it is now expected that this will be exceeded by around £0.399 million. This is in the main due to higher than anticipated cash balances.

### Investment Risk Benchmarking

- 37 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.
- 38 The following table compares the actual position for the first six months of 2016/17 against the previously agreed benchmarks.

<b>Investment Risk</b>	<b>Measured by</b>	<b>Benchmark</b>	<b>Actual position Apr to Sep 2016</b>
Security	% of historic risk of default	0.08%	0.017%
Liquidity	Weighted average life to maturity	6 months (183 days) average 9 months (274 days) maximum	219 days average
Yield	Internal returns above the 7 day LIBID rate	0.28%	0.77%

### Investment Counterparty Criteria

- 39 The current investment counterparty criteria selection as approved in the Annual Treasury Management Strategy is meeting the requirements of the treasury management function.
- 40 At 30 September 2016 the Council held investments, with a maturity of no longer than one year, totalling £187 million. The following table provides a breakdown of the type of financial institution within which these investments were held at 30 September 2016, split by the maturity period.

<b>Sector</b>	<b>Country</b>	<b>0-3 months</b>	<b>3-6 months</b>	<b>6-12 months</b>
		<b>£m</b>	<b>£m</b>	<b>£m</b>
Banks 1 higher quality	UK	22.090	22.540	0
Banks 1 medium quality	UK	0	0	31.556
Banks 1 lower quality	UK	0	0	0
Banks 2 - part nationalised	UK	0	0	72.129
Council Bank Account	UK	0.167	0	0
Building Societies	UK	0	0	22.540
Central Government	UK	0.901	0	0
Local Authorities	UK	0	0	0
Money Market Funds	UK	15.305	0	0
<b>TOTAL</b>		<b>38.463</b>	<b>22.540</b>	<b>126.225</b>

### Icelandic Bank Deposits

- 41 Prior to Local Government Review, one former District Council had £7 million deposited across the Icelandic banks Glitnir Bank hf (£4 million), Landsbanki (£2 million) and Kaupthing Singer and Friedlander Ltd (£1 million), which all collapsed financially in October 2008. The County Council inherited this position in April 2009.

- 42 The only outstanding balance as at 31 March 2016 is in relation to the investment with Kaupthing Singer and Friedlander Ltd (KSF). All monies with KSF are currently subject to the respective administration and receivership processes. As at 30 September 2016, 83.75% of the outstanding balance has been repaid to the Council; 85.5%-86.5% recovery is ultimately anticipated.

### **Recommendations and Reasons**

- 43 It is recommended that Council:
- (a) approve the proposed changes to the Treasury Management Strategy for 2016/17;
  - (b) note the contents of the mid-year review report for 2016/17.

### **Background papers**

- (a) 24 February 2016 – County Council – Appendix 12: Durham County Council Annual Treasury Management Strategy of the Medium Term Financial Plan, 2016/17 – 2018/19 and Revenue and Capital Budget 2016/17.
- (b) County Council – 23 September 2015 – Treasury Management Outturn 2015/16.
- (c) Capita Treasury Solutions –Strategy Statement and Annual Investment Strategy – Mid Year Review Report 2016/17 – English Authorities.

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## **Appendix 1: Implications**

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### **Finance -**

Details of the overall financing of the Council's anticipated capital expenditure, along with forecast borrowing and investment income returns are provided in the report.

### **Staffing –**

None

### **Risk –**

None

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

None

### **Accommodation -**

None

### **Crime and Disorder -**

None

### **Human Rights -**

None

### **Consultation -**

None

### **Procurement -**

None

### **Disability issues -**

None

### **Legal Implications –**

None

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## Appendix 2: Economic Update provided by Capita

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1. Capita Asset Services, the Council's treasury adviser, has provided the following economic update:
2. UK GDP growth rates in 2013 of 2.2% and 2.9% in 2014 were strong but 2015 was disappointing at 1.8%, though it still remained one of the leading rates among the G7 countries. Growth improved in quarter 4 of 2015 from +0.4% to 0.7% but fell back to +0.4% (2.0% y/y) in quarter 1 of 2016 before bouncing back again to +0.7% (2.1% y/y) in quarter 2. During most of 2015, the economy had faced headwinds for exporters from the appreciation during the year of sterling against the Euro, and weak growth in the EU, China and emerging markets, plus the dampening effect of the Government's continuing austerity programme. The referendum vote for Brexit in June this year delivered an immediate shock fall in confidence indicators and business surveys, pointing to an impending sharp slowdown in the economy. However, subsequent surveys have shown a sharp recovery in confidence and business surveys, though it is generally expected that although the economy will now avoid flat lining, growth will be weak through the second half of 2016 and in 2017.
3. The Bank of England meeting on August 4th addressed this expected slowdown in growth by a package of measures including a cut in Bank Rate from 0.50% to 0.25%. The Inflation Report included an unchanged forecast for growth for 2016 of 2.0% but cut the forecast for 2017 from 2.3% to just 0.8%. The Governor of the Bank of England, Mark Carney, had warned that a vote for Brexit would be likely to cause a slowing in growth, particularly from a reduction in business investment, due to the uncertainty of whether the UK would have continuing full access, (i.e. without tariffs), to the EU single market. He also warned that the Bank could not do all the heavy lifting and suggested that the Government will need to help growth by increasing investment expenditure and possibly by using fiscal policy tools (taxation). The new Chancellor Phillip Hammond announced after the referendum result, that the target of achieving a budget surplus in 2020 will be eased in the Autumn Statement on November 23.
4. The Inflation Report also included a sharp rise in the forecast for inflation to around 2.4% in 2018 and 2019. CPI has started rising during 2016 as the falls in the price of oil and food twelve months ago fall out of the calculation during the year and, in addition, the post referendum 10% fall in the value of sterling on a trade weighted basis is likely to result in a 3% increase in CPI over a time period of 3-4 years. However, the MPC is expected to look thorough a one off upward blip from this devaluation of sterling in order to support economic growth, especially if pay increases continue to remain subdued and therefore pose little danger of stoking core inflationary price pressures within the UK economy.
5. The American economy had a patchy 2015 with sharp swings in the growth rate leaving the overall growth for the year at 2.4%. Quarter 1 of 2016 disappointed at +0.8% on an annualised basis while quarter 2 improved, but only to a



lacklustre +1.4%. However, forward indicators are pointing towards a pickup in growth in the rest of 2016. The Fed. embarked on its long anticipated first increase in rates at its December 2015 meeting. At that point, confidence was high that there would then be four more increases to come in 2016. Since then, more downbeat news on the international scene and then the Brexit vote, have caused a delay in the timing of the second increase which is now strongly expected in December this year.

6. In the Eurozone, the ECB commenced in March 2015 its massive €1.1 trillion programme of quantitative easing to buy high credit quality government and other debt of selected EZ countries at a rate of €60bn per month; this was intended to run initially to September 2016 but was extended to March 2017 at its December 2015 meeting. At its December and March meetings it progressively cut its deposit facility rate to reach -0.4% and its main refinancing rate from 0.05% to zero. At its March meeting, it also increased its monthly asset purchases to €80bn. These measures have struggled to make a significant impact in boosting economic growth and in helping inflation to rise from around zero towards the target of 2%. GDP growth rose by 0.6% in quarter 1 2016 (1.7% y/y) but slowed to +0.3% (+1.6% y/y) in quarter 2. This has added to comments from many forecasters that central banks around the world are running out of ammunition to stimulate economic growth and to boost inflation. They stress that national governments will need to do more by way of structural reforms, fiscal measures and direct investment expenditure to support demand in the their economies and economic growth.
7. Japan is still bogged down in anaemic growth and making little progress on fundamental reform of the economy while Chinese economic growth has been weakening and medium term risks have been increasing.

### Appendix 3: Interest rate forecasts provided by Capita

1. Capita Asset Services, has provided the following interest rate forecast up to June 2019:

Rate	Dec 2016	Mar 2017	Jun 2017	Sep 2017	Dec 2017	Mar 2018	Jun 2018	Sep 2018	Dec 2018	Mar 2019	Jun 2019
	%	%	%	%	%	%	%	%	%	%	%
Bank	0.10	0.10	0.10	0.10	0.10	0.10	0.25	0.25	0.25	0.25	0.50
5 yr PWLB	1.00	1.00	1.10	1.10	1.10	1.10	1.20	1.20	1.20	1.20	1.30
10 yr PWLB	1.50	1.50	1.60	1.60	1.60	1.60	1.70	1.70	1.70	1.70	1.80
25 yr PWLB	2.30	2.30	2.40	2.40	2.40	2.40	2.50	2.50	2.50	2.50	2.60
50 yr PWLB	2.10	2.10	2.20	2.20	2.20	2.20	2.30	2.30	2.30	2.30	2.40

2. Capita Asset Services undertook a quarterly review of its interest rate forecasts after the Monetary Policy Committee (MPC) meeting of 4th August cut Bank Rate to 0.25% and gave forward guidance that it expected to cut Bank Rate again to near zero before the year end. The above forecast therefore includes a further cut to 0.10% in November this year and a first increase in May 2018, to 0.25%, but no further increase to 0.50% until a year later. Mark Carney, has repeatedly stated that increases in Bank Rate will be slow and gradual after they do start. The MPC is concerned about the impact of increases on many heavily indebted consumers, especially when the growth in average disposable income is still weak and could well turn negative when inflation rises during the next two years to exceed average pay increases.
3. The overall longer run trend is for gilt yields and PWLB rates to rise, albeit gently. An eventual world economic recovery may also see investors switching from the safe haven of bonds to equities. However, we have been experiencing exceptional levels of volatility in financial markets which have caused significant swings in PWLB rates. Our PWLB rate forecasts are based on the Certainty Rate (minus 20 bps) which has been accessible to most authorities since 1st November 2012.
4. The overall balance of risks to economic recovery in the UK remains to the downside. Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:
  - Monetary policy action reaching its limit of effectiveness and failing to stimulate significant sustainable growth, combat the threat of deflation and reduce high levels of debt in some major developed economies, combined

with a lack of adequate action from national governments to promote growth through structural reforms, fiscal policy and investment expenditure.

- Weak capitalisation of some European banks.
- A resurgence of the Eurozone sovereign debt crisis.
- Geopolitical risks in Europe, the Middle East and Asia, increasing safe haven flows.
- Emerging country economies, currencies and corporates destabilised by falling commodity prices and / or Fed. rate increases, causing a further flight to safe havens (bonds).
- UK economic growth and increases in inflation are weaker than we currently anticipate.
- Weak growth or recession in the UK's main trading partners - the EU and US.

5. The potential for upside risks to current forecasts for UK gilt yields and PWLB rates, especially for longer term PWLB rates include:

- The pace and timing of increases in the Fed. funds rate causing a fundamental reassessment by investors of the relative risks of holding bonds as opposed to equities and leading to a major flight from bonds to equities.
- UK inflation returning to significantly higher levels than in the wider EU and US, causing an increase in the inflation premium inherent to gilt yields.

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## **Appendix 4: Revised List of Investment Instruments for use in 2016/17**

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### **Specified Investments**

These investments are sterling investments of not more than one year maturity, or those which could be for a longer period but where the Council has the right to be repaid within 12 months if it wishes. These are considered low risk assets where the possibility of loss of principal or investment income is small. These would include sterling investments which would not be defined as capital expenditure with:

- The UK Government (such as the Debt Management Account deposit facility);
- UK treasury bills or a gilt with less than one year to maturity;
- Term deposits with UK banks and building societies;
- A local authority, parish council or community council;
- Certificates of Deposit;
- Pooled investment vehicles (such as money market funds) that have been awarded a high credit rating by a credit rating agency.

### **Non-specified Investments**

These are investments which do not meet the specified criteria outlined above. The Council is required to examine non-specified investments in more detail. The identification and rationale supporting the selection of these other investments and the maximum limits to be applied are set out below.

Non-specified investments would include any sterling investments in the following:

- Gilt edged securities with a maturity of greater than one year.  
These are Government bonds and so provide the highest security of interest and the repayment of principal on maturity.
- The Council's own banker if it fails to meet the basic credit criteria.  
In this instance balances will be minimised as far as is possible.
- Equity shareholding in businesses of not more than £20 million in total, and £11 million in any one company.  
This will be after undertaking significant due diligence checks only. It will facilitate a more balanced approach to investing by diversifying the investment portfolio and reducing concentration risk.
- Local businesses, in order to encourage regeneration and economic development in the area.  
Any new investments will only be agreed after significant due diligence checks have been carried out.
- Property funds of not more than £10 million in total and £5 million in an individual fund.

**County Council**

**6 December 2016**



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

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**Report of Joanne Waller, Head of Environment, Health and Consumer  
Protection**

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

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**Purpose of the Report**

1. The purpose of this report is for Council to consider a Statement of Principles (Gambling Policy) for 2016 – 2019 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. The revised version is provided in Appendix 5.

**Background**

2. Under the Gambling Act 2005, the Council is responsible for issuing premises licences for 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.
3. 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;
4. Licensing authorities are required to prepare and publish, every three years, a statement of the 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.
5. 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 was undertaken in 2012. This enabled the current policy document to be

adopted on the 9<sup>th</sup> January 2013. This is attached at Appendix 2. At the time of adoption it incorporated all relevant and amended legislation, guidance and reflected good practice.

6. The gambling policy 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 quasi-judicial functions under the Act. As such the policy 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 a policy 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.
7. The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) were revised and published in February 2015 and formalised the need for operators to consider local risks.
8. From 6<sup>th</sup> April 2016 the Gambling Commission's LCCP required gambling premises operators to undertake a risk assessment taking into consideration their 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. Operators will be expected to have 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 policy.
9. Guidance states that where a licensing authority's statement of policy sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.
10. The government also recently introduced changes to the legislation to increase the stake and prizes for certain gaming machines.
11. It is appropriate that these matters are incorporated into the revised Gambling Policy. The revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance.

## **Consultation**

12. A 12-week public consultation exercise on the current statement of principles and proposals amendments took place between 4<sup>th</sup> July and 26<sup>th</sup> September 2016. This consultation was conducted in accordance with the Gambling Commissions guidance to Licensing Authorities and Government's Code of Practice on Consultation.
13. The legislation provides licensing authorities with guidance on those organisations and bodies that the Council must consult with as part of a

review. In addition to the statutory consultees, a number of other individuals, agencies and organisations considered to be affected by the policy were identified and their comments were invited. We made direct contact with all existing Gambling licensees within in the County in an attempt to obtain their views.

14. The draft policy was widely advertised in the local press and it appeared on the Council's website, where e-mail responses were invited. However, despite the lengthy consultation period and the comprehensive consultation methods used by the Council, only one response was received. See Appendix 3. A table of changes highlighting the revisions is shown in Appendix 4.
15. Following the consultation process the General Licensing and Registration Committee was asked to consider the outcome of the consultation exercise and the draft revision with a view to recommending to Council the adoption any amendments and a revised version of the policy. This committee considered the report detailing the proposed policy on Monday 14<sup>th</sup> November 2016 at which time the report was agreed without any amendments.

## **Conclusion**

16. The gambling policy has been reviewed in accordance with the Gambling Act 2005 which requires Licensing Authorities to prepare a Statement of Principles on a three year cyclical basis. The proposed revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance. It is a statutory requirement to prepare a Gambling Policy for the next three years and to publish that policy.

## **Recommendations**

17. That consideration is given to the proposed revised statement of principles attached in Appendix 5.
18. That Council agrees to adopt the revised proposed statement of principles following the agreement and recommendation of 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

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## **Appendix 1: Implications**

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### **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. There are no additional financial implications arising from this report.

### **Staffing**

None - There are no human resources implications from the recommended options.

### **Equality and Diversity**

An Equality and Impact Assessment (EQIA) has been completed on this Policy and has indicated a neutral impact.

### **Accommodation**

None - There are no property implications from the recommended options.

### **Crime and Disorder**

The Council's licensing policy forms a central part of the control and regulation of gambling premises. As such, it can be viewed as having a pivotal role in achieving the three objectives, namely

- 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

The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for gambling to be a source of crime and disorder. 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.

### **Human Rights**

There are no human rights implications from the recommended options

### **Consultation**

The 3 yearly review of the Gambling Act 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.

### **Procurement** None

### **Disability Discrimination Act** None

### **Legal Implications**

The statement of licensing policy must be right. If an appeal concludes it is deficient, Magistrates can declare it illegal. Matters already concluded or ongoing will be lost as the decisions were based on a defective document. Furthermore, a licensing policy can be subject to a judicial review.



**Adult and Health Services**

**Environment Health and Consumer Protection**

# **Durham County Council Gambling Act 2005 Statement of Principles**

*Altogether better*



<b>Version Date</b>	<b>Version ref</b>	<b>Revision History</b>	<b>Reviser</b>	<b>Approved by</b>	<b>Review Date</b>
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

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**The Licensing Authority will delegate its functions under the Gambling Act 2005 as follows:  
.....36**

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## Part A

### 1. Licensing Objective

1. In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
  - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
  - Ensuring that gambling is conducted in a fair and open way,
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

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

Durham County Council is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it 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.

### 2. Introduction

2. 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 a resident population of 513,200. 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.

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

Durham County Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

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

- The Chief Officer of Police,
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in County Durham,
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005:
  - All residents and businesses within the County Durham area, and all Councillors, Parish Councils, MPs and MEPs,
  - Association of British Bookmakers,
  - The Bingo Association,
  - British Amusement Catering Trade Association,
  - British Beer and Pub Association,
  - Gamblers Anonymous, GamCare, The Gordon House Association, Responsibility in Gambling Trust.

Our consultation took place between 7 September 2012 and 30 November 2012 and we followed the HM Government Code of Practice on Consultation (Published July 2008), which is available at: [www.bis.gov.uk/files/file47158.pdf](http://www.bis.gov.uk/files/file47158.pdf)

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Services, PO Box 617, Durham, DH1 9HZ.

The policy was approved at a meeting of the Full Council on 9 January 2013 and was published via our website. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

Licensing Manager  
EHCP (Licensing)  
PO Box 617  
Durham DH1 9HZ  
Email [-licensing@durham.gov.uk](mailto:-licensing@durham.gov.uk)  
Telephone 03000 265107

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

### **3. Declaration**

3. 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.

### **4. Responsible Authorities**

4. 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 Annex 1.

## 5. Interested Parties

5. The specific detail of the policy and any instructions/rules should be described. Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

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

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

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.

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



Licensing Manager  
EHCP (Licensing)  
PO Box 617  
Durham DH1 9HZ  
Email [licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)  
Telephone 03000 265107

## 6. Exchange of Information

6. 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 Data Protection Act 1998 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.

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

Please contact the licensing department for further information on our protocols

## 7. Enforcement

7. 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.

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.

As per the Gambling Commission's Guidance to Licensing Authorities, 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, 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.

## **8. Licensing Authority Functions**

8. Licensing authorities are required under the Act to

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue *Provisional Statements*

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

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

## **Part B**

### **Premises Licences: Consideration of Applications**

#### **1. General Principles**

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

##### **i) Decision-making**

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 a 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

## **ii) Definition of “premises”**

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

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

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

**Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.24 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### **Adult Gaming Centre**

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

### **Betting Shops**

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

### **Tracks**

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

### **Bingo Premises**

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

### **Family Entertainment Centre**

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

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

### **iii) Premises “ready for gambling”**

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

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

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, 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 at paragraphs 7.60-7.67 of the Guidance.

### **iv) Location**

Durham County Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling



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

#### **v) Planning**

The Gambling Commission Guidance to Licensing Authorities states:

7.60 – 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:

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

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

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

### ***Licensing objectives***

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

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

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

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

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

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

Durham County Council has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing

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

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

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

### ***Conditions***

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

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures Durham County Council 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. Durham County Council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

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.

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

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

### ***Door Supervisors***

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

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

## **2. Adult Gaming Centres**

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

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

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.

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.

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

#### **4. Casinos**

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.

#### **5. Bingo premises**

Durham County Council notes that the Gambling Commission's Guidance states:

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

Durham County Council also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two

adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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

## **6. Betting premises**

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

## **7. Tracks**

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.

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.

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

### **Applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan 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).

## **8. Travelling Fairs**

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.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. 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.

## **9. Provisional Statements**

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

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

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

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

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

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

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

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

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

## 10. Reviews

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

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

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

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

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

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

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

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

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

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

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

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

## **Part C**

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

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

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

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

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

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

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

#### **Statement of Principles**

Durham County Council has adopted a Statement of Principles which is available from our website via the following link: [www.durham.gov.uk](http://www.durham.gov.uk)

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

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

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

### **Permit: 3 or more machines**

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

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 will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will

monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

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

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

### **3. Prize Gaming Permits**

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

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.

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

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

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

#### **4. Club Gaming and Club Machines Permits**

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

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

Durham County Council notes that the Gambling Commission's Guidance states:

25.46 The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.47-25.49 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

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.

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. Temporary Use Notices**

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

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

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

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

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

Durham County 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.

## **6. Occasional Use Notices**

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 8 OUNs are issued in one calendar year in respect of any venue.

## **7. Small Society Lotteries**

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.

## Annexe 1 - Delegation of Functions

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

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
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	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

**X - Indicates the lowest level to which decisions can be delegated**

## Annexe 2 - 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 265107 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 Framwellgate Moor Durham DH1 5JR Telephone: 0845 305 8383 e-mail: <a href="mailto:firesafety@ddfir.gov.uk">firesafety@ddfir.gov.uk</a>
Durham County Council - Local Safeguarding Children's Board		Durham LSCB County Hall Durham DH1 5UJ Telephone: 0191 3834065
Durham County Council- Planning		Durham County Council County Hall Durham 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:pollution.control@durham.gov.uk">pollution.control@durham.gov.uk</a>

## **OTHER USEFUL CONTACTS**

<b>Useful Contacts</b>	<b>Name</b>	<b>Contact Details</b>
Durham County Council Policy issues		Durham County Council Telephone: 0300 026 0000
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>

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**Review of Gambling Act Statement of Principles**  
**Consultation Results Report**  
**Adult and Health Services**

29 September 2016

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## 1. Background

Durham County Council's Gambling Act Statement of Principles, more commonly referred to as 'the "gambling policy"' was introduced in 2013.

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

The 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;

Licensing authorities are required to consult with anyone who may be affected by or otherwise have an interest in their statement of policy to enable a comprehensive consultation exercise.

The statement was due to be reviewed in 2016 and a consultation was carried out.

### Policy review

A review of the policy took place in spring 2016 when changes to the policy were considered in the following areas:

- **Inclusion of local risk assessment requirements** – since April 2016, the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require gambling operators to carry out a risk assessment to consider local risks. Licence holders must assess the risks posed to the local area by gambling facilities, taking into consideration the licensing objectives. Operators will be expected to have policies, procedures and control measures in place to reduce those risks
- **Inclusion of information to support applicants to undertake local risk assessments** – further to the above, it is proposed that the new statement will include signposting to local information that will help operators to undertake the required local risk assessments.
- **Inclusion of a reference to the council seeking guidance from primary authorities prior to taking enforcement action** - Primary Authority is a statutory scheme, established by the Regulatory Enforcement and Sanctions Act 2008 (the RES Act). It allows an eligible business to form a legally recognised partnership with a single local authority in relation to regulatory compliance. This local authority is then known as its 'primary authority'.

The new policy will be amended to reflect that if a licensed premises in our area has a primary authority relationship with another local authority in the country, we will liaise with both the premises/business and the primary authority in relation to any enforcement or regulatory related activities.

- **Inclusion of information relating to Government amendments** – it is proposed that the new statement will be inclusive of government changes to the legislation to increase the stake and prizes for certain gaming machines as implemented by the DCMS.

Respondents were also asked for any comments they had on the gambling statement.

## **Consultation**

A 12 week public consultation was held between Monday 4 July and Monday 26 September 2016.

This report describes the consultation process and provides details of the feedback obtained.

## **2. Methodology**

The purpose of the consultation was to obtain feedback on proposed revisions to the gambling act statement of principles as part of a review of the policy.

An engagement plan was developed in line with the council's consultation approach ensuring all appropriate, available communication channels were utilised to maximise awareness and encourage participation in the consultation.

### **Engagement methods**

Respondents were able to take part in the consultation using the following methods:

- 1) Emailing any comments to **[licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)**
- 2) Writing any comments to: **Licensing Services, Annand House, John Street North, Meadowfield, County Durham, DH7 8RS**

Information about the proposed revisions to the gambling policy was published on the Council website. This included a briefing note outlining the changes.

### **Equality and Diversity Impact Assessment**

An equality and diversity initial screening was carried out on this policy review. The screening identified that the impact and outcome of the consultation will have a positive impact across all equality groups and will not affect relations between different communities or groups.

The equality and diversity impact assessment is to be reviewed following consideration of the consultation results.

## Promotional mechanisms

A range of communication mechanisms, open to the council, were used to raise awareness of the consultation and encourage participation. These included:

- A consultation webpage created specifically for the review of Gambling Act Statement of Principles. This page included a briefing note (*appendix 1*) providing details of the proposed changes and details of how to submit comments.
- Press release to the general public at the start of the consultation to prompt participation.
- Social media posts signposting to the Gambling Act Statement of Principles consultation webpage.
- Promotional slides on display in Durham County Council customer access points
- Information in the County Council's staff magazine 'Buzz'.
- Information in the County Council's magazine for local members 'Members Update'.
- Information in the County Council's magazine for residents, 'Durham County News'
- Information in the County Council's newsletter for customer services, 'CSI'
- Letter or email sent to the following stakeholders and consultees:
  - Licensee holders
  - County Durham MPs
  - Local members
  - Area Action Partnerships (AAP) and their networks
  - Town and parish councils
  - The Chief Officer of Police
  - Association of British Bookmakers
  - The Bingo Association
  - British Amusement Catering Trade Association
  - British Beer and Pub Association
  - Gamblers Anonymous, GamCare, The Gordon House Association, Responsibility in Gambling Trust
  - North East Chamber of Commerce (NECC)
  - Area action partnerships
  - Durham BID
  - North East Strategic Licensing Group
  - Citizens Advice County Durham

## 3. Consultation results and feedback

One response was received by email from Gosschalk Solicitors acting for the Association of British Bookmakers (ABB). Please see below.

### 3.1 Email feedback received – Gosschalk Solicitors



Licensing Services

Annand House

John Street North

Meadowfield

County Durham

DH7 8RS

**Please ask for:** Richard Taylor

**Direct Tel:** 01482 590216

**Email:** [rjt@gosschalks.co.uk](mailto:rjt@gosschalks.co.uk)

**Our ref:** RJT / LHF / 097505.00004

#GS932813

**Your ref:**

**Date:** 23 August 2016

Dear Sir/Madam,

#### **Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Our members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft 2016-19 gambling policy statement.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions

(for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2016 were 8,809 - a decline of over 300 since March 2014, when there were 9,137 recorded.
- recent planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

#### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned

they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as *"breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

The ABB welcomes your proposal to amend the policy to indicate that where an operator has a primary activity relationship, the licensing authority will liaise with both the operator and primary authority in relation to any proposed enforcement action.

### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

We note that there is a proposal to include within the new policy signposts to local information to help operators complete local risk assessments. It is important that these signposts focus upon matters that are relevant to the issue of whether the operation of the premises poses a risk to the licensing objectives. Whereas the proximity of the a local school or center to assist those with gambling problems may be relevant, issues such as the proximity of pay day loan shops, pawn shops, transport interchanges etc are not relevant. Similarly references to age, ethnicity or the economic make-up of the area should be avoided as these cannot be relevant to an assessment of whether the premises could pose a risk to the licensing objectives.

### **Best practice**

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both we and our members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to contact us.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe what the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with our smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to

encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

### **Concerns around increases in the regulatory burden on operators**

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

### **Employing additional licence conditions**

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities



## **Other concerns**

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

## **Conclusion**

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



**GOSSCHALKS**

## Gambling Act 2005 Statement of Principles Consultation

Briefing note  
July 2016



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### Introduction

The Council is required by the Gambling Act 2005 to publish a statement of principles (also known as the 'gambling policy') which sets out how we will carry out our work and determine licence applications for a variety of gaming and betting facilities.

The statement includes three objectives which underpin the role of the Gambling Commission and the council in fulfilling their statutory obligations of gambling licensing in County Durham. These 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; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

The current policy was introduced in January 2013 and is now due for review. As part of this review, we intend to maintain the above three objectives and invite comments on proposals for revisions as per the below:

- **Inclusion of local risk assessment requirements** – since April 2016, the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require gambling operators to carry out a risk assessment to consider local risks. Licence holders must assess the risks posed to the local area by gambling facilities, taking into consideration the licensing objectives. Operators will be expected to have policies, procedures and control measures in place to reduce those risks.
- **Inclusion of information to support applicants to undertake local risk assessments** – further to the above, it is proposed that the new statement will include signposting to local information that will help operators to undertake the required local risk assessments.
- **Inclusion of a reference to the council seeking guidance from primary authorities prior to taking enforcement action** - Primary Authority is a statutory scheme, established by the Regulatory Enforcement and Sanctions Act 2008 (the RES Act). It allows an eligible business to form a legally recognised partnership with a single local authority in relation to regulatory compliance. This local authority is then known as its 'primary authority'.

The new policy will be amended to reflect that if a licensed premises in our area has a primary authority relationship with another local authority in the country, we will liaise with both the premises/business and the primary authority in relation to any enforcement or regulatory related activities.

- **Inclusion of information relating to Government amendments** – it is proposed that the new statement will be inclusive of government changes to the legislation to increase the stake and prizes for certain gaming machines as implemented by the Department for Culture, Media & Sport.

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

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**Report of Joanne Waller, Head of Environment, Health and Consumer  
Protection  
Councillor Brian Stephens, Cabinet Portfolio Holder for  
Neighbourhoods and Local Partnerships**

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**Purpose of the Report**

The purpose of this report is for Council to consider a Statement of Principles (Gambling Policy) for 2016 – 2019 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. The revised version is provided in Appendix 5.

**Background**

2. Under the Gambling Act 2005, the Council is responsible for issuing premises licences for 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.
3. 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;
4. Licensing authorities are required to prepare and publish, every three years, a statement of the 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.
5. 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 was undertaken in 2012. This enabled the current policy document to be adopted on the 9<sup>th</sup> January 2013. This is attached at Appendix 2. At the time of adoption it incorporated all relevant and amended legislation, guidance and reflected good practice.

6. The gambling policy 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 quasi-judicial functions under the Act. As such the policy 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 a policy 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.

The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) were revised and published in February 2015 and formalised the need for operators to consider local risks.

From 6<sup>th</sup> April 2016 the Gambling Commission's LCCP required gambling premises operators to undertake a risk assessment taking into consideration their 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. Operators will be expected to have 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 policy.

Guidance states that where a licensing authority's statement of policy sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

The government also recently introduced changes to the legislation to increase the stake and prizes for certain gaming machines.

It is appropriate that these matters are incorporated into the revised Gambling Policy. The revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance.

## **Consultation**

A 12-week public consultation exercise on the current statement of principles and proposals amendments took place between 4<sup>th</sup> July and 26<sup>th</sup> September 2016. This consultation was conducted in accordance with the Gambling Commissions guidance to Licensing Authorities and Government's Code of Practice on Consultation.

~~The legislation provides licensing authorities with guidance on those organisations and bodies that the Council must consult with as part of a review. In addition to the statutory consultees, a number of other individuals, agencies and organisations considered to be affected by the policy were identified and their comments were invited. We made direct contact with all existing Gambling licensees within in the County in an attempt to obtain their views.~~

~~The draft policy was widely advertised in the local press and it appeared on the Council's website, where e-mail responses were invited. However, despite the lengthy consultation period and the comprehensive consultation methods used by the Council, only one response was received. See Appendix 3. A table of changes highlighting the revisions is shown in Appendix 4.~~

~~Following the consultation process and approval by AHSMT, and CMT, the General Licensing and Registration Committee was asked to consider the outcome of the consultation exercise and the draft revision with a view to recommending to Council the adoption any amendments and a revised version of the policy. This committee considered the report detailing the proposed policy on Monday 14<sup>th</sup> November 2016 at which time the report was agreed without any amendments.~~

## **Conclusion**

~~16. The gambling policy has been reviewed in accordance with the Gambling Act 2005 which requires Licensing Authorities to prepare a Statement of Principles on a three year cyclical basis. The proposed revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance. It is a statutory requirement to prepare a Gambling Policy for the next three years and to publish that policy.~~

## **Recommendations**

~~17. That consideration is given to the proposed revised statement of principles attached in Appendix 5.~~

~~18. That Council agrees to adopt the revised proposed statement of principles following the agreement and recommendation of 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~~

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**Contact: Joanne Waller Tel: 03000 260924**

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## **Appendix 1: Implications**

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### **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. There are no additional financial implications arising from this report.

### **Staffing**

None – There are no human resources implications from the recommended options.

### **Equality and Diversity**

An Equality and Impact Assessment (EQIA) has been completed on this Policy and has indicated a neutral impact.

### **Accommodation**

None – There are no property implications from the recommended options.

### **Crime and Disorder**

The Council's licensing policy forms a central part of the control and regulation of gambling premises. As such, it can be viewed as having a pivotal role in achieving the three objectives, namely

- 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

The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for gambling to be a source of crime and disorder. 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.

### **Human Rights**

There are no human rights implications from the recommended options

### **Consultation**

The 3 yearly review of the Gambling Act 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.

### **Procurement** None

### **Disability Discrimination Act** None

### **Legal Implications**

The statement of licensing policy must be right. If an appeal concludes it is deficient, Magistrates can declare it illegal. Matters already concluded or ongoing will be lost as the decisions were based on a defective document. Furthermore, a licensing policy can be subject to a judicial review.



## **Appendix 2**

### **DCC Gambling Act 2005 Statement of Principles 2013 to 2016**



## Table of Changes

### Appendix Gambling Act 2005 Statement of Principles Revision -Table of Changes

No	Page/Paragraph	Change	Reason	Comments
1	Cover page 1	Directorate name change	Change in Directorate	Corporate reorganisation
2	Page 2	Addition to version table	Document control purposes	DCC Policy Controls
3	Page 3	Changes to content page numbers	Changes to page numbering	Revision altered page numbering
4	Page 4	Changes to content page numbers	Changes to page numbering	Revision altered page numbering
5	Part A	Rearrangement of content to show introduction before licensing objectives	Provides a more logical format	Better, more logical arrangement of text
6	Introduction	Changes to layout and formatting of paragraphs	Provides greater clarity and a more logical format	Better, more logical arrangement of text
7		Changes to dates for consultation and adoption	To reflect the recent consultation and to allow for new adoption dates	New dates reflecting recent consultation, revision and adoption dates
8	Licensing Objectives Page 5	Changes to text and additional information on licensing objectives	To give greater clarity and explanation	To give greater clarity and explanation
9	Interested parties page 8	Alterations to text formatting and additional information regarding which organisations and individuals will be deemed to represent those who live sufficiently close to the premises to be likely to be affected	Provides greater clarity, additional information and a more logical format. Inclusion of reference to disclosure of details of persons making representations to applications	Better, more logical arrangement of text together with additional information on in connection with the representation of interested parties by others and information disclosure.

		by the authorised activities.		
10	Exchange of information page 9	Changes to text and additional information regarding information disclosure for interested parties	To give greater clarity and explanation	To give greater clarity and explanation
11	Enforcement page 10	Changes to text and additional information regarding Primary Authority Schemes. Inclusion of a reference to the Licensing Authority seeking guidance from Primary Authorities prior to taking enforcement action	New inclusion to show how DCC would interact with other authorities under the Primary authority scheme should that be relevant to any premises licensed by DCC	To give greater clarity and more detailed explanation
12	Licensing Authority Functions page 11	Changes to text and additional information regarding the delegation of functions under current constitutional arrangements	Extra information on delegations	To give greater clarity and more detailed explanation
13	Part B General Principles page 12	Changes to text and additional information regarding the issuing of premises licenses and important reference to the guidance issued by the Gambling Commission	Additional information regarding premises licenses issued by the Council and the importance of relevant guidance	To give greater clarity and more detailed explanation
14	Part B General Principles page 12	Changes to text and additional information regarding the location of gambling premises and the new requirements regarding local risk	New requirements. Additional information regarding premises licenses issued by the Council and the importance of	New requirements under the Act/approved guidance. To give greater clarity and more detailed explanation.

		<p>assessments. The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) were revised and published in February 2015 and formalised the need for operators to consider local risks.</p> <p>From 6th April 2016 the Gambling Commission's LCCP require gambling premises operators to undertake a risk assessment taking into consideration their local information</p> <p>Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises.</p> <p>Operators will be expected to have policies, procedures and control measures in place to mitigate those risks.</p>	relevant guidance	
15	Decision making page 12	Changes to text and additional, explanatory information regarding conditions and control measures to provide applicants and current licence holders with greater	Additional information regarding premises licenses issued by the Council and the importance of relevant guidance	To give greater clarity and more detailed explanation

		clarification, information, guidance and explanation.		
16	Betting Premises page 23	Statement and information regarding FOBTs and the reporting of damage by customers to aid in the assessment of crime and disorder in relation to the use of these gaming machines within the county	Additional information regarding FOBTs to support the prevention of crime and disorder	The prevention of crime and disorder
17	Annex 1 Delegation of functions by licensing authority. Amendment of table	Option for operators to request a hearing in cases involving the cancellation of club gaming/club machine permits and the cancellation of licensed premises gaming machine permits. Also, change in connection with the decision to give a counter notice to a temporary use notice	Provide additional options for democratic decision making	Increased transparency and choice for operators
18	Annexe 3 – addition of table showing <i>Summary of Gaming Machine Categories and Entitlements</i>	Addition of table relating to gaming machine entitlements taking into account the increase of stakes and prizes in respect of certain categories of machines, as implemented by the DCMS	To provide additional information, explanation and guidance to operators and applicants	To provide additional information, explanation and guidance to operators and applicants

**Adult and Health Services**

**Environment Health and Consumer Protection**

**Durham County  
Council  
Gambling Act 2005  
Statement of  
Principles  
2016 to 2019**

*Altogether better*



<b>Version Date</b>	<b>Version ref</b>	<b>Revision History</b>	<b>Reviser</b>	<b>Approved by</b>	<b>Review Date</b>
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



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## Part A

### 1. Introduction

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 a resident population of 513,200. 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.

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

Durham County Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

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

- I. The Chief Officer of Police
- II. One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in County Durham
- III. One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005:
  - All residents and businesses within the County Durham area, and all Councillors, Parish Councils, MPs and MEPs,
  - Association of British Bookmakers,
  - The Bingo Association,
  - British Amusement Catering Trade Association,
  - British Beer and Pub Association,

- Gamblers Anonymous, GamCare, The Gordon House Association
- Responsibility in Gambling Trust.

Our consultation took place between **4<sup>th</sup> July and 26<sup>th</sup> September 2016** and we followed the HM Government Code of Practice on Consultation (Published July 2008), which is available at: [www.bis.gov.uk/files/file47158.pdf](http://www.bis.gov.uk/files/file47158.pdf)

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Services, PO Box 617, Durham DH1 9HZ.

The policy was approved at a meeting of the Full Council on **[DATE]** and was published via our website. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

Licensing Manager  
EHCP (Licensing)  
PO Box 617  
Durham DH1 9HZ  
Email [licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)  
Telephone 03000 261016

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

## **2. Licensing Objectives**

**The Gambling Act came into force in 2007 and put in place a comprehensive and cohesive regulatory regime based on three fundamental objectives.**

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

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

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

**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 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.

**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.

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.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling – (Protection of children)** - 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.

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 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 D of this policy.

**(Protection of vulnerable people)** - It is difficult to define the term “vulnerable person”. 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:

- 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 to be positioned or designed not to entice passers-by

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.

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.

### **3. 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.

### **4. Responsible Authorities**

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 Annex 1.



## 5. Interested Parties

5.1 The specific detail of the policy and any instructions/rules should be described.

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

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

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

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 S.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 then please contact the licensing department:

Licensing Manager  
EHCP (Licensing)  
PO Box 617  
Durham DH1 9HZ  
Email [licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)  
Telephone 03000 261016

## 6. Exchange of Information

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

The principle that 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 Data Protection Act 1998 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.

Please contact the licensing department for further information on our protocols

## 7. Enforcement

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

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.

As per the Gambling Commission's Guidance to Licensing Authorities, 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, 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.

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.

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

## 8. Licensing Authority Functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines

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

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

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.

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.

## **Part B**

### **Premises Licences: Consideration of Applications**

#### **1. General Principles**

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

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

- (a) casino premises,
- (b) bingo premises"
- (c) betting premises including tracks and premises used by betting intermediaries,
- (d) adult gaming centre premises, or
- (e) family entertainment centre premises.

Premises licences are subject to the requirements set out in the Act 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.

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.

#### **2. 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.

### **3. 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.

The 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. With regards to these licensing objectives it is the council's policy, upon receipt of any relevant representation to look at specific location issues which include:

- the possible impact that a gambling premises may have on any sensitive premises that provide services to children or young people or vulnerable people; eg a school, vulnerable adult centre;
- the possible impact a gambling premises may have on a residential area where there is a high concentration of families with children;
- the nature and size of the gambling activities taking place;
- any levels of crime in the area.

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.

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 to take account of significant changes in local circumstances. 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.

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**

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. 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.

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
- CCTV
- entry controls
- supervision of entrances / machine areas
- signage / notices
- specific opening hours
- physical separation of areas
- location of entry
- requirements that children must be accompanied by an adult
- enhanced disclosure and barring service (DBS) checks of the applicant and/or staff
- self-barring schemes
- provision of information for organisations such as GamCare (leaflets / helpline numbers)
- measures and training for dealing with children on the 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.

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.

## 5. Definition of “premises”

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

The Gambling Commission states in the 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.

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

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

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.24 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### **Adult Gaming Centre**

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

### **Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing

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

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

- a casino
- an adult gaming centre

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

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

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

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

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

## 6. Premises “ready for gambling”

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

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

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, 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.

## **7. Planning**

The Gambling Commission Guidance to Licensing Authorities states:

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

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.

## **8. Duplication with other regulatory regimes**

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

**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 and some comments are made below.

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

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

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

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

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

Durham County Council has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are,

particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

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

### ***Conditions***

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

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures Durham County Council 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. Durham County Council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

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.

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

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

## **9. Door Supervisors**

The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young

persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

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

## **10. Adult Gaming Centres**

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

## **11. (Licensed) Family Entertainment Centres**

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.

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.

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

## **12. Casinos**

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.

## **13. Bingo premises**

Durham County Council notes that the Gambling Commission's Guidance states:

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

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

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

## 14. Betting premises

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

**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.

## 15. Tracks

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.

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.

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

### **Applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan 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).

## **16. Travelling Fairs**

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.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. 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.

## **17. Provisional Statements**

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises

licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

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

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

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

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

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

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

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or

- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 18. 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

## Part C

### Permits / Temporary & Occasional Use Notice

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

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

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

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

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

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

## **Statement of Principles**

Durham County Council has adopted a Statement of Principles which is available from our website via the following link: [www.durham.gov.uk](http://www.durham.gov.uk)

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

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

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

### **Permit: 3 or more machines**

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

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 will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

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

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

### **3. Prize Gaming Permits**

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

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.

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

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

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

#### **4. Club Gaming and Club Machines Permits**

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

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

Durham County Council notes that the Gambling Commission's Guidance states:

25.46 The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.47-25.49 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

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.

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. Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable

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

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

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

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

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

Durham County 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.

## **6. Occasional Use Notices**

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 8 OUNs are issued in one calendar year in respect of any venue.

## **7. Small Society Lotteries**

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.



## Annexe 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

## Annexe 2 - 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@ddfir.gov.uk">firesafety@ddfir.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:pollution.control@durham.gov.uk">pollution.control@durham.gov.uk</a>

### **OTHER USEFUL CONTACTS**

<b>Useful Contacts</b>	<b>Name</b>	<b>Contact Details</b>
Durham County Council Policy issues		Durham County Council Telephone: 0300 026 0000
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>

### Annexe 3 – 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	Maximum Prize	Allowed premises
A	Unlimited	Unlimited	Regional casino
B1	£5	£10,000 (with the option of £20,000 linked progressive jackpot on premises basis only)	Large casino, small casino, pre-2005 Act casino and regional casinos
B2	£100 (in multiples of £10)	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, adult gaming centre and all of the above
B3A	£2	£500	Members' club or miners' welfare institute only
B4	£2	£400	Members' club or miners' welfare club, commercial club and all of the above
C	£1	£100	Family entertainment centre (with commission operating licence) qualifying alcohol licensed premises (without additional gaming machine permit) qualifying alcohol licensed premises (with additional LA gaming machine permit) all of the above
D (money prize)	10p	£5	Travelling fairs, unlicensed (permit) family entertainment centre and all of the above
D – non-money prize (other than a crane grab machine)	30p	£8	All of the above
D – non-money prize (crane grab machine)	£1	£50	All of the above

D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be money prize)	All of the above
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be money prize)	All of the above

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**County Council**

**7 December 2016**



**Report of the Audit Committee for the  
Period November 2015 to November  
2016**

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**Councillor Edward Bell, Chairman of the Audit Committee**  
**Councillor James Rowlandson, Vice Chairman of the Audit  
Committee**

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**Purpose of the Report**

1. To inform the Council of the work of the Audit Committee during the period November 2015 to November 2016 and how the Committee continues to provide for good governance across the Council.

**Background**

2. The role, membership and terms of reference of the Audit Committee are set out within the Constitution and approved by Council.
3. Good corporate governance requires independent and effective assurance processes to be in place to ensure effective financial management and reporting in order to achieve the Council's corporate and service objectives. It is the responsibility of the Audit Committee to undertake these aspects of governance on behalf of the Council.
4. The specific objectives of the Audit Committee set out in the Council's Constitution are to provide independent assurance to Cabinet and Full Council over the:
  - Adequacy and effectiveness of the Council's governance arrangements, including the effectiveness of the risk management framework and the associated control environment.
  - Financial Reporting of the Council's Statement of Accounts ensuring that any issues arising from the process of finalising, auditing and certifying the Council accounts are dealt with properly.

5. The membership of the Committee changed in May 2016 as the two co-opted member's terms of office had expired, as a result an external advertisement for new members led to an interview process where the calibre of applicant was excellent. Two new co-opted members were appointed and the membership is currently as follows:

Chairman: Cllr Edward Bell

Vice Chairman: Cllr James Rowlandson

Members Cllr Lawson Armstrong  
Cllr Colin Carr  
Cllr Joanne Carr  
Cllr Mark Davinson  
Cllr John Robinson  
Cllr Watts Stelling  
Cllr Owen Temple

Co-opted: Mr David Beavis  
Mr Clive Robinson

6. The committee passed on its thanks to Ms Kathryn Larkin-Bramley and Mr Thomas Hoban for all of their work and contribution to the committee as co-opted members over the past nine years.

### **Summary of meetings**

7. A summary of Committee business considered at the meetings held during the period is provided at Appendix 2.

### **How the Audit Committee has made a difference during the period November 2016 to November 2016.**

8. The Committee believe they have made a significant difference to the Council's governance, control and risk framework during the period by :
- Striving to help support the Council deliver its objectives and priorities by being both a proactive and reactive body encouraging the early reporting of any risk and control issues to ensure that appropriate and timely action is taken to address them.
  - Continuing to raise the profile of the Internal Audit and Risk Management Service through the Service's reports to Audit Committee.
  - Independent questioning and contributing to the development and control of internal audit plans.
  - Seeking assurance on the effectiveness of corporate risk management arrangements.
  - Improving the accountability of service managers to respond to outstanding internal audit reports and the implementation of agreed



internal audit recommendations thereby helping to drive improvement in controls to manage risks effectively.

- Continuing to provide regular challenge and demanding accountability on the effectiveness of the implementation and operation of key financial systems.
- Challenging the level of internal audit resources and their work to ensure that the service is effective and a reliable assurance opinion on the Council's controls framework is provided.
- Challenging how the Council responds to the risk of fraud and the receiving information on the levels of detection of fraud and the Council's response.
- Receiving and commenting on the work of the External Auditor, Mazars.
- Challenging how the Annual Governance Statement has been prepared, reviewing the assurance framework that is in place and ensuring that the Council's corporate governance arrangements are effective.

### **Recommendations and reasons**

9. Members note the report and the work undertaken by the Audit Committee during the period November 2015 to November 2016.

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**Contact: Paul Bradley, Chief Internal Auditor and Corporate Fraud Manager,  
Tel 03000 269645**

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## **Appendix 1: Implications**

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**Finance** - There are no direct financial implications arising for the Council as a result of this report.

**Staffing** - None.

**Risk** – Not a key decision

**Equality and Diversity/ Public Sector Equality Duty** - None

**Accommodation** - None

**Crime and disorder** - The Audit Committee provide independent assurance that the Council's arrangements to combat the risk of loss through fraud are effective and all reported potential fraudulent acts are appropriately investigated and reported to the police where it is appropriate to do so.

**Human rights** - None

**Consultation** - None

**Procurement** – None.

**Disability issues** – None.

**Legal Implications** – None.

## Summary of Meetings of the Audit Committee

### **30 November 2015**

The Committee considered:

- (i) A presentation from the Head of Technical Services (Neighbourhoods) on the implications Whole of Government Accounts would have on Technical Services to produce an annual valuation of the Council's Highways Assets.
- (ii) The Council's external auditor, Mazars presented the Annual Audit letter for 2014/15 to the Committee which included the overall messages from the audit work that they had completed, the challenges and areas of focus for the future and illustrated the fees for the work they had completed.
- (iii) A report of the Corporate Director, Resources which highlighted the strategic risks facing the Council and that gave an insight into the work carried out by the Corporate Risk Management Group during July to September 2015. Members were informed of new risks, those that had been removed and the status of all current key risks.
- (iv) A report from the Technical Services Manager, ICT updating the Committee of an audit that was completed by the Council's external auditor, Mazars. The report set out the areas covered, the process that was followed and the recommendations that were made. The Committee were further given the assurance that the recommendations made would be implemented.
- (v) A report of the Corporate Director, Resources informing the Committee of consultation from Chartered Institute of Public Finance and Accountancy (CIPFA) and Society of Local Authority Chief Executives (SOLACE) on their revised framework for delivering good governance in local government. The report also provided for information the Council's proposed response to the consultation.
- (vi) A report of the Chief Internal Auditor and Corporate Fraud Manager which informed members of the work carried out by Internal Audit during the period July to September 2015 and the assurance on the control environment provided.
- (vii) A report of the Chief Internal Auditor and Corporate Fraud Manager detailing to members the Counter Fraud work completed over the period April to September 2015 in order to protect the public purse.

## **29 February 2016**

The Committee considered:

- (i) A report of the Corporate Director, Resources which informed the Committee of the expiry of the appointments of its two co-opted members following nine years of service. The Committee recorded its thanks to the outgoing members for their service and contribution and were also informed of the process for appointing two new co-opted members.
- (ii) A report of the Corporate Director, Resources which presented the Accounting Policies the Council intends to have in place to prepare the 2015/16 financial statements.
- (iii) A report of the Corporate Director, Resources which detailed the timetable for the preparation of the Council's Final Accounts process for 2015/16 including the key milestones for the completion of the financial statements.
- (iv) A report of the Corporate Director, Resources regarding the changes that have been made nationally to the Code of Practice for Local Authority Accounting in the UK for 2015/16. The changes made to 'the Code' affect the methodology and preparation of the Council's financial statements.
- (v) A report of the External Auditor, Mazars giving the Committee an update on their progress with regards to planning for the 2015/16 audit and updating the Committee on national issues and developments that were worthy of attention.
- (vi) A report of the External Auditor, Mazars presenting their findings from their work on grant certification. This included Housing and Council Tax Benefit Subsidy, Housing Capital Receipts and Teacher's Pension Return.
- (vii) A report of the Corporate Director, Resources regarding changes to the Local Code of Corporate Governance.
- (viii) A report of the Chief Internal Auditor and Corporate Fraud Manager detailing an update to the Council's Counter Fraud and Corruption Strategy. The Strategy had been reviewed to ensure its compliance with best practice and made the relevant links to any other updated corporate policies.

- (ix) A report of the Chief Internal Auditor and Corporate Fraud Manager detailing an update to the Council's Anti-Money Laundering Policy. The Policy had been reviewed to ensure its compliance with the law and best practice.
- (x) A report of the Chief Internal Auditor and Corporate Fraud Manager presenting the emergent Internal Audit Plan for the year 2016/2017 for members comments and input. The report detailed the proposed direction and process for the development of the emergent Internal Audit Plan which would be discussed with Senior Management and brought back for the Committee's formal approval in May 2016.
- (xi) A report of the Corporate Director, Resources which highlighted the strategic risks facing the Council and that gave an insight into the work carried out by the Corporate Risk Management Group during October to December 2015. Members were informed of new risks, those that had been removed and the status of all current key risks.
- (xii) A report of the Chief Internal Auditor and Corporate Fraud Manager which informed members of the work carried out by Internal Audit during the period October to December 2015 and the assurance on the control environment provided.

### **17 May 2016**

The Committee considered:

- (i) A report of the External Auditor, Mazars detailing their Audit Plan notifying the Committee of the work that they are proposing to undertake in respect of the audit of the financial statements and value for money conclusion for the financial year 2015/16 for the Council.
- (ii) A report of the External Auditor, Mazars detailing their Audit Plan notifying the Committee of the work that they are proposing to undertake in respect of the audit of the financial statements and value for money conclusion for the financial year 2015/16 for the Pension Fund.
- (iii) A report of the External Auditor, Mazars giving the Committee an update on their progress with regards to planning for the 2015/16 audit and updating the Committee on national issues and developments that were worthy of attention.
- (iv) A report of the Corporate Director, Resources which highlighted the strategic risks facing the Council and that gave an insight into the work carried out by the Corporate Risk Management Group during October to December 2015. Members were informed of new risks, those that had been removed and the status of all current key risks.

- (v) A report of the Chief Internal Auditor and Corporate Fraud Manager which outlined the finalised internal audit plan for the period April 2016 to March 2017. This also included the Internal Audit Strategy and Charter for the coming year. Progress on delivering the plan will be regularly monitored by the Committee.
- (vi) A report of the Chief Internal Auditor and Corporate Fraud Manager which informed members of the work carried out by Internal Audit during the period October to December 2016 and the assurance on the control environment provided.

### **30 June 2016**

The Committee considered:

- (i) A report of the Interim Corporate Director of Resources assessing whether the Council can be considered a 'going concern' organisation and if the Council's accounts can be compiled on that basis. The assessment concluded that the County Council has a history of stable finance and ready access to financial resources in the future. It was also felt there are no significant financial, operating or other risks that would jeopardise the County Council's continuing operation and that the accounts could be prepared on this basis.
- (ii) A report of the Chief Internal Auditor and Corporate Fraud Manager which presented the Annual Internal Audit Report for 2015/2016 that provided a 'moderate' opinion on the adequacy and effectiveness of the Council's control environment for 2015/2016.
- (iii) A report of the Interim Corporate Director of Resources that sought approval of the draft Annual Governance Statement to be published as part of the Council's audited Statement of Accounts 2015/2016.
- (iv) A report of the External Auditor, Mazars giving the Committee an update on their progress with regards to planning for the 2015/16 audit and updating the Committee on national issues and developments that were worthy of attention.
- (v) A report of the Chief Internal Auditor and Corporate Fraud Manager detailing to members the Counter Fraud work completed over the period October 2015 to March 2016 in order to protect the public purse.

### **29 July 2016**

The Committee considered:

- (i) A report of the Interim Corporate Director, Resources which provided details of the final outturn for both the General Fund and the Housing Revenue Account 2015/2016 including the Annual Treasury Management Review.
- (ii) A report of the Interim Corporate Director, Resources which presented the draft un-audited Statement of Accounts for the year ended 31 March 2016. The Corporate Director, Resources confirmed that the draft accounts had been certified and provided to external audit within the statutory deadline of 30 June 2016.
- (iii) A report of the External Auditor, Mazars giving the Committee an update on their progress with regards to planning for the 2015/16 audit and updating the Committee on national issues and developments that were worthy of attention.
- (iv) A report of the of the Chair that provided a response, sent on behalf of the Audit Committee, to a letter from the external auditors, relating to compliance with International Auditing Standards. This was a requirement of the final accounts process, and a response from the Corporate Director, Resources in relation to a similar request from management's perspective was also considered for information.
- (vi) A report of the Interim Corporate Director, Resources which highlighted the strategic risks facing the Council and that gave an insight into the work carried out by the Corporate Risk Management Group during April to June 2016. Members were informed of new risks, those that had been removed and the status of all current key risks.
- (vii) A report of the Chief Internal Auditor and Corporate Fraud Manager which presented the Committee with a review of the effectiveness of Internal Audit and assurance that it complies with Public Sector Internal Audit Standards (PSIAS). The review was carried out by way of a peer review by Newcastle City Council as it is a requirement that the Internal Audit service is externally assessed once every five years. The review concluded that the service was compliant with the standards and raised a small number of recommendations for future improvement which were welcomed.

### **30 September 2016**

The Committee considered:

- (i) The Audit Completion Reports of the External Auditor relating to both Durham County Council's 2015/2016 Statement of Accounts and those of the Pension Fund. The Committee were pleased to note the comments of the External Auditor in relation to the audit process and the significant improvement that have been made over the year.

- (ii) A report of the Interim Corporate Director of Resources that sought approval of the final Annual Governance Statement to be published as part of the Council's audited Statement of Accounts 2015/2016.
- (iii) A report of the Corporate Director of Resources which presented the Statement of Accounts for the year ended 31 March 2015 for approval. The overall improvements that continue to be made in the preparation of the accounts and the reporting process was acknowledged by the Committee who thanked all those involved.
- (iv) The Committee considered a report of the Chief Internal Auditor and Corporate Fraud Manager which informed members of the work carried out by Internal Audit during the period April to June 2016. The report also provided an update on progress made by management on the implementation of recommendations required to address audit findings. The Committee also discussed the lessons learned from the Council report presented in July surrounding the outcomes of the Employment Tribunal review.

## **28 November 2016**

The Committee considered:

- (i) A presentation by the Head of ICT and Chief Internal Auditor and Corporate Fraud Manager detailing the risk of Cyber Security, what the Council is doing to protect itself and how the role of Internal Audit gives assurance to the Audit Committee.
- (ii) The Council's external auditor, Mazars presented the Annual Audit letter for 2015/16 to the Committee which included the overall messages from the audit work that they had completed, the challenges and areas of focus for the future and illustrated the fees for the work they had completed.
- (iii) A report of the External Auditor, Mazars giving the Committee an update on their progress and updating the Committee on national issues and developments that were worthy of attention.
- (iv) A report of the Corporate Director, Resources which highlighted the strategic risks facing the Council and that gave an insight into the work carried out by the Corporate Risk Management Group during July to September 2016. Members were informed of new risks, those that had been removed and the status of all current key risks.
- (v) A report of the Corporate Director, Resources regarding changes to the Local Code of Corporate Governance.
- (vi) A report of the Chief Internal Auditor and Corporate Fraud Manager which informed members of the work carried out by Internal Audit during



the period July to September 2016 and the assurance on the control environment provided.

- (vii) A report of the Chief Internal Auditor and Corporate Fraud Manager detailing to members the Counter Fraud work completed over the period April to September 2016 in order to protect the public purse.

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**County Council**

**7 December 2016**

**Report of the Independent  
Remuneration Panel**



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**Report of the Independent Remuneration Panel**

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**Purpose of the Report**

- 1 The purpose of this report is to advise the Council of the outcomes of the review of Members' Allowances carried out by the Independent Remuneration Panel for 2017/18 and to ask the Council to agree a scheme of allowances for that financial year, taking into account the views of the Panel.

**Background**

2. Under the Local Authority's (Members' Allowances England), Regulations 2003 ( the "Regulations") the County Council shall make a scheme in accordance with the Regulations which provide for the payment of an allowance in respect of each year to each member of the Council. This is referred to as the "basic allowance".
3. The scheme may also provide for special responsibility allowances to such Members of the authority that carry out special responsibilities in relation to the authority as are specified in the scheme and fit within one or more of the categories set out in the Regulations.
4. The Regulations also provide that before the beginning of each year the authority shall review the scheme and before confirming or amending it, members shall have regard to the recommendations made in relation to it by the Independent Remuneration Panel.

**Independent Remuneration Panel**

5. On 9 September 2016, the following Members of the Panel met to review the allowances for 2015/16:-  
  
John Cuthbert, Joyce Drummond-Hill, Alan Fletcher, John Hitchman, Ian Machin and Kate Welch
6. The Panel was advised of representations made by Members. In this case, only two Members had submitted views. One was that the council had too many councillors and urged a comparison between the annual basic allowances paid in each council and an annual allowance

cost per resident figure across the region. The writer suggested that such a figure would be likely to put Durham at a higher rate per resident and in such circumstances the writer favoured no increase. Another member was of the strong view that the mileage rate should be capped and reduced per mile: that the Broadband allowance should be should be reconsidered in the light of free deals now being more readily available. The same councillor also expressed concern that the fact that the basic allowance has not risen for six/seven years would lead to erosion of the allowance and a danger of the allowance being perceived as below minimum wage and a disincentive to potential new members. The suggestion as also made that the arrangement for group leader allowances was not credible for small groups, such as two members and should be replaced by one of a basic amount pule a figure based on the numbers in the group and these were not supportive of any increase in allowances during the current period of austerity.

7. The Panel was advised that no further representations had been received in relation to allowances for the Police and Crime Panel or the Health and Wellbeing Board.
8. Details of the appointments made by the Council to the North East Combined Authority (NECA) were provided to the Panel. At the time of the preparation of the report, the outcome of the NECA Leadership meeting on whether to consult on the scheme of Governance in relation to the Devolution Agreement was not known and the report of the Panel was written in the context of it not being clear what workload changes would be. The Panel was advised of the outcome at the meeting.
9. The Panel took into account the current background of austerity and the reductions in services that that could entail. It also considered the number of members and was reluctant to recommend any changes to the allowances at this time. An agreed note of the meeting is attached at Appendix 2
10. The current scheme of allowances is appended at Appendix 3. If the Council was to agree with the recommendations of the Panel, then it may simply agree that that allowance scheme is made. The recommendation in this report is therefore based upon the acceptance of the Panel's recommendation.

### **Recommendations and reasons**

11. That Council make the allowance scheme as appended and in doing so take account of the Report of the Independent Remuneration Panel.

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<b>Contact:</b>	<b>Colette Longbottom</b>	<b>Tel: 0191 383 5643</b>
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**Appendix 1: Implications**

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**Finance** – None specific within the report.

**Staffing** – None specific within the report.

**Risk** – None specific within the report.

**Equality and Diversity / Public Sector Equality Duty** – None specific within the report.

**Accommodation** - None specific within the report.

**Crime and Disorder** - None specific within the report.

**Human Rights** - None specific within the report.

**Consultation** – None specific within the report.

**Procurement** - None specific within the report.

**Disability Issues** – None specific within the report.

**Legal Implications** – None specific within the report.

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**Durham County Council**

**At a meeting of the Independent Remuneration Panel** held in the Corporate Director, Resources Room, County Hall, Durham on **Friday 9 September 2016** at **10.00 a.m.**

**Present:**

**Members of the Panel** – John Cuthbert, Joyce Drummond-Hill, Alan Fletcher, John Hitchman, Ian Machin and Kate Welch

**Officers** – Paul Darby and Ian Croft

Apologies for absence were received from Professor Ray Hudson and Colette Longbottom.

**1. Notes of the Meeting held on 21 September 2015**

The notes of the meeting held on 21 September 2015 were agreed by the Panel.

**2. Review of Members Allowances Scheme for 2017/18**

The Panel considered a report of the Head of Legal and Democratic Services which provided information regarding the Members' Allowances Scheme.

Paul Darby, in presenting the report, highlighted the following to the Panel:

- The continued impacts of the Government's austerity programme was having on the Councils finances
- That a two-year pay agreement for Council officers for 2016/17 and 2017/18 had been agreed at a level of an increase of approximately 1% each year
- The Panel had previously agreed that membership of the Health and Wellbeing Board should not attract allowances as this was part of other SRA's
- The report had been written on the basis of the Combined Authority progressing. Since the production of the report the situation had changed somewhat, with four of the seven local councils voting against progressing with a proposed devolution agreement on 6 September. There was currently a state of limbo regarding devolution and governance. Although the Combined Authority was a legal entity, it currently had no powers.

Officers had canvassed the opinion of elected Members. Feedback on the Members Allowances Scheme had been received from two Members and details of this were provided to the Panel.

One Member had raised the issue of the number of Members on the Council, although this was not within the remit of the Panel to consider. The Member had

also suggested that a tabulated comparison of allowances between Authorities be provided and that this be shown as an allowance cost per resident. John Hitchman informed the Panel that comparison tables had previously been provided, but never by cost per resident.

Paul Darby informed the Panel that the number of Members had not changed since LGR, when the number had increased from 63 to 126. However, pre-LGR, including District Councils, the number of Members within County Durham was significantly higher. The number of members had been considered by the Boundary Commission as part of the LGR process.

Another Member had raised the issue that the basic allowance had not risen for the past 6/7 years which could mean that this was now below the minimum wage/living wage. Paul Darby reminded the Panel that the basic allowance was not an hourly rate but was an allowance and that comparison with minimum wage/living wage rates was not appropriate. The same Member had raised the issue of the Council being more stringent when paying the mileage allowance.

John Cuthbert questioned how mileage claims were monitored. Paul Darby replied that claims were submitted to and then checked by Business Support. Internal Audit also carried out reasonableness tests. Joyce Drummond-Hill considered that such claims would be difficult to monitor. John Cuthbert was assured that reasonableness checks were carried out on mileage claims.

Joyce Drummond-Hill asked how much mileage claims cost the Authority. Paul Darby replied that due to austerity Members now travelled a lot less than in previous years because of such things as fewer conferences being attended.

*Post Script Note: Members total mileage/travel costs for the last two financial years are as follows:*

*2014/15 – £124,904*

*2015/16 – £125,016*

Alan Fletcher asked how Members were performance managed to ensure they provided value for money and what sort of performance management the Authority had over Councillors. Paul Darby replied that the Council did not employ Members per se and as such were not treated like employees. Members were elected to represent constituents in their Wards. The Council did however support and develop members in terms of induction training when they come onto the Council and via member seminars. In reality, the performance of a Member takes place through their political group structure and ultimately at the ballot box. Attendance data for meetings was available and is reviewed by the individual parties.

Paul Darby informed the Panel that information had been requested from neighbouring Authorities regarding their current schemes and their proposals for 2017/18. Two had replied, stating that the review of their Members Allowances Scheme was underway but no changes were being proposed. Five had not replied.



John Hitchman informed the Panel that previously it had been provided with information from both neighbouring and national comparative Authorities. Paul Darby replied that the information provided had been from their published Members Allowances Scheme rates, whereas the information requested for the Panel today had been about what other Authorities were planning to do.

Paul Darby informed the Panel that North Tyneside were about to review their Scheme with a report to be submitted to Council in November. Newcastle City Council had made no changes to their Scheme in the current year and no changes were proposed. John Cuthbert informed the Panel that he sat on the Remuneration Panel for Sunderland City Council and thought that their proposals would be the same.

John Hitchman asked whether views of younger Members had been sought. Paul Darby replied that views of all Members of the Council had been sought and as previously stated only two responses had been received. Kate Welch added that she had recently spoken to one of the Council's younger Members who considered the current Scheme to be working fine.

Alan Fletcher informed the Panel that there did not seem to be a desire from Members for an increase to allowances.

John Cuthbert reminded the Panel that it had previously discussed the possibility that a recommendation of no increase in allowances could eventually lead to an increased pressure for a larger increase in future. However, the Panel noted that it had previously recommended a 1% increase and this had been declined by Members. He considered that the case for change to the Members Allowances Scheme was not strong at this stage.

Mr Fletcher asked about the cost of the Allowances Scheme against the Council's revenue budget. Paul Darby replied that the Net Revenue Budget of the Council was approximately £420m and Gross Expenditure approximately £850m. The Members Allowances Scheme annual cost was just under £2m.

Kate Welch considered that changes to the Allowances Scheme could only be made if the number of Members changed. Paul Darby replied that Durham was the 7<sup>th</sup> largest Authority in the country by both population and spend. John Cuthbert considered that an analysis of the total cost of the Allowances Scheme versus population and revenue spend would be interesting, but that he was unsure how this would translate into assisting the Panel make decisions.

Paul Darby informed the Panel that benchmarking had been done on democratic representation and how costs compared.

John Hitchman asked whether any representations had been made by Central Government on the number of Members on the County Council. Paul Darby replied that there had not been and that any changes to boundaries and numbers of Members would need to involve the Council inviting the Boundary Commission to review the County and then, ultimately, the approval of the Council.

In reply to a question from John Hitchman, Paul Darby confirmed there were no representations from Town or Parish Councils to present to the Panel.

Paul Darby asked the Panel to confirm its recommendation was that there should be no change to the Members Allowances Scheme for 2017/18.

The Panel agreed that this was its recommendation.

John Hitchman asked whether the list of Outside Bodies in the Scheme was up to date and also whether any feedback had been received from Members of the Police and Crime Panel (PCP). Paul Darby replied that the Outside Body list had been updated and, referring to the PCP, the Panel had previously said it would consider workloads as the Panel became established, however as no feedback had been received from PCP Members, it was considered that this was within the remit of the role of Members.

**Resolved:**

That the Panel recommends no increase to the Members Allowances Scheme for 2017/18.

**DURHAM COUNTY COUNCIL**

**MEMBERS' HANDBOOK**

**AND**

**ALLOWANCES GUIDE**

**Allowances as at 1 April 2016**



# **Preface**

This booklet is intended to provide Councillors with a detailed guide to the rules governing the payment of allowances together with details of the amounts payable and the procedures to be followed in making claims, etc.

# **CONTENTS**

**Allowances Payable**

**Definition of Approved Duties**

**Claim Forms**

**Members Appointed to Other Bodies**

**Income Tax**

**Pensions**

**Insurance**

**Social Security**

**Sick Pay**

**Members' Surgeries**

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Distribution of Special Responsibility Allowance

### **Appendix B**

Ground rules for Travel and Subsistence

### **Appendix C**

Travelling Allowances

Subsistence Allowances for Approved Duties

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Schedule of Outside Organisations which pay  
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### **Appendix G**

Association of North East Councils Members'  
Allowances Scheme

**Appendix H**

North East Regional Employers' Organisation  
Scheme

**Appendix I**

LGA Members' Allowances Scheme

**Appendix J**

List of ABI approved insurance companies

## ALLOWANCES PAYABLE

1. The Local Authorities (Members' Allowances) (England) Regulations 2003 require that an authority shall make a scheme in respect of the succeeding financial year on or before 31st March each year. The scheme may be amended at any time but may only be revoked with effect from the beginning of a year.

2. Under these regulations Councils are required to establish and maintain an independent remuneration panel to provide the local authority with advice on its scheme and the amounts to be paid. Local authorities must have regard to this advice.

3. The prescribed components of the County Council Scheme are as follows.

### Basic Allowance

4. Payable to each Member of the authority who is a County Councillor. Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a financial year the amount of basic allowance due is calculated as follows:

$$\frac{\text{Number of days in office}}{\text{Number of days in year}} \times \text{annual basic allowance}$$

5. Basic Allowance is intended to recognise the time commitment of all Councillors, including such inevitable calls on their time as meeting with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes. The allowance is also intended to cover the cost of meals and other incidental expenses incurred within the region.

6. The amount of allowance per Member as at 1st April 2016 is £13,300 per annum and is to be paid at £1108.33 per month.

### Special Responsibility Allowance

7. Payable to Members of the Council specified in the Scheme who have special responsibilities. Where a Councillor takes up or relinquishes any special responsibility otherwise than at the beginning or end of the financial year the amount of special responsibility allowance payable is calculated as follows:

$$\frac{\text{Number of days performing special responsibility}}{\text{Number of days in year}} \times \text{annual special responsibility allowance}$$

No Member can receive more than one Special Responsibility Allowance.

8. The amounts currently payable are shown in Appendix A.



## SCHEME AMENDMENTS

9. The amounts specified in paragraph 6 and Appendix A of this document are subject to an annual review by the Independent Remuneration Panel.

### Foregoing Allowances

10. A member may, by notice in writing given to the Corporate Director of Resources, elect to forego any part of his/her entitlement to an allowance under this scheme.

### Co-opted Members

11. Co-opted Members (including Parent Governor Representatives) are entitled to claim travelling allowance at the rates given in Appendix C. This allowance is taxable. A claim form should be completed and forwarded to the Committee Services Contact as soon as practicable after the duty has been performed.

### Dependant Carers' Allowance

12. A dependant carers' allowance is payable at a rate not exceeding £6.50 an hour to those Councillors who incur expenditure for the care of dependent relatives or children whilst undertaking approved duties. "Approved duties" are specified in the Regulations and are as follows:

- A meeting of the executive.
- A meeting of a committee of the executive
- A meeting of the authority
- A meeting of a committee or sub-committee of the authority.
- A meeting of some other body to which the authority make appointments or nominations, or
- A meeting of a committee or sub-committee of a body to which the authority make appointments or nominations.
- A meeting which has **both** been authorised by the authority, a committee, or sub-committee of the authority or a joint committee of the authority and one or more other authorities, or a sub-committee of a joint committee,
- **and** to which representatives of more than one political group have been invited (if the authority is divided into several political groups) or to which two or more councillors have been invited (if the authority is not divided into political groups).
- A meeting of a local authority association of which the authority is a member.
- Duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises.
- Duties undertaken on behalf of the authority in connection with arrangements made by the authority for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996.

Payment is claimable in respect of children aged 16 or under and in respect of other dependants where there is medical or social work evidence that care is required. Evidence would take the form of a letter from a doctor or social worker stating the maximum time that the dependant could be left without care.

The allowance is paid against actual expenditure evidenced by receipts. The allowance is not payable to a member of the claimant's household. The maximum rate payable will be increased each October in line with the national minimum wage. (The hourly rate is paid in line with national minimum wage at age 21). This will be increased each October in line with national changes.

## **DEFINITION OF APPROVED DUTIES**

### **Travelling and Subsistence Allowances**

13. Payable in respect of expenditure incurred in the performance of approved duties. Subsistence allowance is not payable for duties performed within the boundaries of the counties of Durham (including Darlington) and Northumberland, and the former administrative counties of Tyne & Wear and Cleveland.

14. The definition of an approved duty is as follows:

- (a) A meeting of the County Council or of the Cabinet or of any committee, or sub-committee of the County Council, or of any body to which the County Council makes appointments or nominations, or of any committee or sub-committee of such a body.

A list of bodies covered by this paragraph is given in Appendix D.

A number of such bodies operate their own schemes of allowances. A list of these is given at Appendix F.

- (b) Any other meeting the holding of which is authorised by the County Council, a committee or sub-committee of the County Council, or a joint committee of the County Council and one or more other authorities, or a sub-committee of such a joint committee, provided that it is a meeting to which Members of at least two political groups have been invited.
- (c) A meeting of any association of authorities of which the County Council is a member.
- (d) The performance of any duty in connection with arrangements made by the County Council for the attendance of pupils at any school approved for the purposes of Section 342 (approval of non-maintained special schools) of the Education Act 1996.
- (e) Any other duty approved by the County Council in connection with the discharge of the functions of the Council or of any of its committees or sub-committees including the making of official and

courtesy visits on behalf of the authority. Tasks so approved are shown below:

- (i) Attendance by County Councillors at County Hall to read official papers and deal with correspondence.
- (ii) Attendance by chairmen and vice-chairmen of committees and sub-committees at pre-meeting discussions with officers.
- (iii) Attendance at a meeting to which the Member is invited whether as chairman, vice-chairman or otherwise, by or on behalf of the Chief Executive, the Director of Resources or another chief officer to discuss matters or consider issues relating to the functions of the County Council, including meetings with third parties such as government departments, statutory bodies, other local authorities, trade unions and the public.
- (iv) Attendance at press conferences to which the Member is invited by the Corporate Director, Resources in consultation with the appropriate chairman or vice-chairman.
- (v) Attendance by a Member at the request of the Local Government Ombudsman, for interview by an officer of the Ombudsman in relation to a complaint against the County Council.
- (vi) Attendance at a meeting with the appropriate officer(s) of any of the bodies listed in Appendix D to which the Member is invited by the body, or attendance at a meeting with third parties when representing the body by virtue of his or her position as chairman or vice-chairman of the body or one of its committees or sub-committees, the purpose of his or her attendance being to discuss matters arising for the purpose of or in connection with the functions of the body.
- (vii) Attendances at conferences or meetings held inside or outside the United Kingdom and convened by any person or body (other than a person or body convening it in the course of a trade or business or a body the objects of which are wholly or partly political) for the purpose of discussing matters which in their opinion relate to the interests of their area or any part of it or the interests of the inhabitants of their area or any part of it.
- (viii) Official openings of County Council establishments, Developments and Exhibitions at the invitation of the

appropriate Chief Officer in consultation with the Leader or Deputy Leader of the County Council. This is intended to cover situations where Members are required to perform a duty such as perform an opening ceremony, make a speech, give prizes etc. Courtesy invitations issued to several or all Members are functions which do not qualify for payment. Members are advised to seek guidance from appropriate Chief Officers.

Invitations from groups or bodies to attend meetings as a Local Member are not approved duties for the payment of travelling and subsistence allowances. These duties are constituency matters not connected with the discharge of the functions of the County Council.

15. Details of the travelling and subsistence allowances currently payable are shown in Appendix C.

#### **Travelling to conferences, seminars, etc.**

16. Members who in their capacity as a County Councillor receive an invitation directly to a conference, seminar etc. should, if they wish to attend, contact Member Development on 03000 265 346 who will consult with the appropriate designated Member.

#### **Payment of expenses of official and courtesy visits, etc.**

17. Subject to paragraph 17 the County Council will pay the cost of any travelling or other expenses reasonably incurred by or on behalf of any members in making official and courtesy visits, whether inside or outside the United Kingdom, on behalf of the County Council.

18. In the case of a visit within the United Kingdom, the amount paid under this section in respect of the expenses of any member of the County Council shall not exceed the payments which he would have been entitled to receive by way of travelling allowance or subsistence allowance if the making of the visit had been an approved duty of that member.

#### **Groundrules for travel**

19. Groundrules for Members' Claims for Travel and Subsistence are set out in Appendix B.

#### **Meals on Trains**

20. Members may claim full reimbursement of the reasonable cost (including VAT) of a main meal (full breakfast, lunch or dinner) taken on a train. Members wishing to claim must submit receipts. Where full reimbursement is claimed the allowance for the meal provided cannot also be claimed, i.e. breakfast, lunch, dinner, etc.

## **Travel outside the United Kingdom**

21. Members may claim for reimbursement of reasonable expenses incurred. Receipts for all expenses must be submitted with any claim, as set out in Appendix B.

## **Out of Pocket Expenses**

22. Where the attendance fee for a course or conference includes accommodation and meals, an out-of-pocket expense allowance is payable in place of the normal subsistence allowances.

23. The current rates are set out in Appendix C.

## **Special Functions and Occasions**

24. Elected Members on occasions are invited or feel it necessary to attend functions or occasions which have a social element. No allowances are paid to Members of the Council on these occasions unless the Member is undertaking the performance of a specific duty, e.g. making a speech or distributing prizes when travel and subsistence allowances may be paid. Courtesy invitations issued to several or all Members are functions which do not qualify for payments.

# **CLAIM FORMS**

## **Completion**

25. The attention of Members is drawn to the following points when completing a claim form:

- (a) The claim form must be completed and signed in ink.
- (b) Full details/description of an approved duty must be given
  - (i) if the reason for claiming travelling or subsistence allowances is a qualifying meeting, the full title of the meeting should be given;
  - (ii) for conferences, seminars, etc., full details must be given, including names of any officers involved, conference title and location, etc;
  - (iii) VAT receipts for purchase of petrol should be attached to all claims

## **Submission**

26. Payment of allowances is made monthly. All deadlines and payment dates are published in advance and are available to view on the Councillors page of the Intranet.

27. All travel and subsistence claims are paid along with any allowances direct into a bank/building society of your choice. There is no facility for cheque payment in relation to Allowances or claims.

28. The Local Authorities (Members' Allowances) (England) Regulations 2003 prescribe that claims **must** be submitted within two months of the date of the meeting for which the claim is made.

### **Advances**

29. In exceptional cases, payment of an advance can be arranged via the Business Support Team on 03000 263 751

### **Avoidance of Duplication of Allowances**

30. A councillor performing approved duties as a member of more than one body or becoming entitled to payments under any other legislation must ensure that only one claim is made for that duty.

### **Withholding Allowances**

31. Where a Member is suspended or partially suspended from his responsibilities or duties as a member of the County Council in accordance with Part III of the Local Government Act 2000 (as amended) or regulations made under that Part, the part of basic and/or special responsibility allowance payable to him in respect of the period for which he is suspended or partially suspended shall be withheld by the County Council.

32. Where payment of any allowance has already been made in respect of any period during which the member concerned is -

- (a) suspended or partially suspended from his responsibilities or duties as a member of the County Council in accordance with Part III of the Local Government Act 2000 (as amended) or regulations made under that Part;
- (b) ceases to be a member of the County Council, or
- (c) is in any other way not entitled to receive the allowance in respect of that period, the County Council requires that such part of the allowance as relates to any such period be repaid to the County Council.

## **MEMBERS APPOINTED TO OTHER BODIES**

33. Special arrangements apply to Members who are appointed to certain bodies, such as the Local Government Association, the North East Regional Employers' Organisation and the Association of North East Councils, which operate their own allowances schemes. Notes are attached in Appendices G to I which deal with the individual schemes. Attendance allowances payable under these schemes are in addition to the basic allowance from the County Council.

## **INCOME TAX**

34. Tax is payable on basic allowances, special responsibility allowance, attendance allowance payable by other bodies, dependant's carers' allowance and co-optees' allowance. Her Majesty's Revenue & Customs (HMRC) is notified of all new Members. However, as Members' circumstances vary, and their tax may be dealt with at other HMRC offices, it is advisable for Members to make arrangements with their Tax Inspector for a tax code number to be allocated.

## **PENSIONS**

35. With effect from 1 April 2014 access to the Local Government Pension Scheme (LGPS) was removed for new councillors and will be removed for existing councillors after the next local elections in 2017.

## **INSURANCE**

### **Members' Travel Insurance**

36. The County Council has arranged travel insurance for its Members while travelling abroad on County Council business. Cover is provided for medical expenses, baggage, cash and personal public liability: details are available from the Insurance Officer on **(03000) 269 666**.

## **SOCIAL SECURITY**

### **National Insurance Contributions**

37. National Insurance contributions are payable on all basic allowances, special responsibility allowances, attendance allowances payable by other bodies, plus elements of mileage allowances, provided the aggregate amount of these allowances reaches a lower earnings limit (£112 per week or £485.33 per month) and the Member is under state pension age. Members who are state pension age – are not liable to pay National Insurance contributions provided confirmation is provided of their age in the form of a birth certificate or passport (originals only) which should be sighted by the Business Support Officer. Alternatively a certificate of non-liability could be supplied by the local office of the Department of Work and Pensions.

38. There is an annual maximum contribution liability for people with more than one job and, in some instances, Members in this position may be entitled to a refund of contributions; alternatively they may apply to the DWP to defer payment of contributions in their capacity as councillors.

### **Benefits**

39. The National Insurance contributions paid by Members count towards the full range of contributory benefits, including statutory sick pay, state pensions, unemployment benefits, etc.

### **Advice**

40. Advice on contributions and benefits can be obtained from the local office of the Department of Work and Pensions.

## **SICK PAY**

41. Members who fall ill will receive their basic allowance and special responsibility allowance, as normal. As there is no deduction for being off sick, Statutory Sick Pay is not payable in addition to these allowances and it is not necessary to submit a self-certification of sickness form or a doctor's sick note when you are ill.

## **MEMBERS' SURGERIES**

42. The County Council will pay the cost for one surgery per month. Invoices for room hire can be sent to Durham County Council for payment or alternatively can be reclaimed from Resources, Business Support on production of a receipt.

43. Please note that attendances at surgeries **DO NOT** qualify for travelling and subsistence, and other expenses such as advertising costs must be borne by the Members who incur them.



## MEMBERS' ALLOWANCES

## SPECIAL RESPONSIBILITY ALLOWANCE

## Members' Allowances 2016/17

Designation	Annual Amount £
Chairman of the County Council	6650
Vice-Chairman of the County Council	3325
Leader of the County Council	36575
Deputy Leader of the County Council	19950
Cabinet Member (x8)	13300
Chairman of Overview and Scrutiny Management Board	13300
Vice-Chairman of Overview and Scrutiny Management Board	7980
Chairman of Appeals and Complaints Committee	2660
Vice-Chairman of Appeals and Complaints Committee	1330
Chairman of Audit Committee	2660
Vice-Chairman of Audit Committee	1330
Chairman of Corporate Parenting Panel	2660
Vice-Chairman of Corporate Parenting Panel	1330
Chairman of Highways Committee	2660
Vice-Chairman of Highways Committee	1330
Chairman of Human Resources Committee	2660
Vice-Chairman of Human Resources Committee	1330
Chairman of General Licensing and Registration Committee	3325
Vice-Chairman of General Licensing and Registration Committee	1662
Chairman of Statutory Licensing Committee	3325
Vice-Chairman of Statutory Licensing Committee x 2	1662

Chairman of General Licensing and Registration Sub-Committee (1)		3325
Chairman of General Licensing and Registration Sub-Committee (2)		3325
Chairman of General Licensing and Registration Sub-Committee (3)		3325
Chairman of County Planning Committee		3325
Vice-Chairman of County Planning Committee		1662
Chairman of Area Planning Committee (North Durham)		3325
Vice-Chairman of Area Planning Committee (North Durham)		1662
Chairman of Area Planning Committee (Central and East Durham)		3325
Vice-Chairman of Area Planning Committee (Central and East Durham)		1662
Chairman of Area Planning Committee (South and West)		3325
Vice-Chairman of Area Planning Committee (South and West)		1662
Chairman of Pension Fund Committee		2660
Vice-Chairman of Pension Fund Committee		1330
Chairman of Children and Young People's Scrutiny Committee		2660
Vice- Chairman of Children and Young People's Scrutiny Committee		1330
Chairman of Safer and Stronger Communities Scrutiny Committee		2660
Vice-Chairman of Safer and Stronger Communities Scrutiny Committee		1330
Chairman of Environment and Sustainable Communities Scrutiny Committee		2660
Vice-Chairman of Environment and Sustainable Communities Scrutiny Committee		1330

Chairman of Economy and Enterprise Scrutiny Committee		2660
Vice-Chairman of Economy and Enterprise Scrutiny Committee		1330
Chairman of Adults, Wellbeing and Health Scrutiny Committee		2660
Vice-Chairman of Adults, Wellbeing and Health Scrutiny Committee		1330
Chairman of Corporate Issues Scrutiny Committee		2660
Vice-Chairman of Corporate Issues Scrutiny Committee		1330
Chairman of Standards Committee		2660

<b>Where an Opposition Group has 20% or more of the Council Members allowance is £6650, where Group has less than 20% membership allowance is £3325</b>		
Leader of Opposition Group (Conservative)membership		3325
Leader of Opposition Group (Liberal Democrats) membership		3325
Leader of Opposition Group (Durham Independent Group) membership		3325
Leader of Opposition Group (DCC Independent Group) membership		3325

## **GROUND RULES FOR MEMBERS' CLAIMS FOR TRAVEL AND SUBSISTENCE**

### **1. Travel by Rail**

Rail tickets should be requested from the Business Support Team in the Resources Service Grouping in advance of travel, as the Council's contract provides for a discount.

Members should either contact Members' Support who will liaise directly with Business Support on your behalf, or members can go direct to the Business Support Team.

Standard Class rail travel is the approved class of travel, although first class rail can sometimes be the cheaper option dependent upon the time of booking.

Members wishing to travel first class when it is not the cheapest option can choose to do so but will be required to pay the difference between that cost and the standard cost. The difference will be recovered by payroll deduction.

Tickets can be booked up to 3 months in advance of date of travel. Members should make their requests as far in advance as possible in order to maximise savings and should you have any special requirements to assist you with your journey please advise Members' Support or the Business Support Team at the time of the request.

Members eligible for a Senior Citizens Railcard or any other concessionary travel railcard and who may be required to travel as part of their duties are encouraged to buy one as this results in a further discount on the ticket cost. The cost of the railcard will be reimbursed upon receipt of your first claim for travel and subsistence.

### **2. Overnight Accommodation**

Where it is considered that an overnight stay is required, then accommodation should be organised in advance by the Business Support Team.

Members should contact Members' Support who will liaise with Business Support to organise for you. Alternatively, please contact the Business Support Team direct who will also be able to satisfy any specific queries or special requirements which you may have.

Accommodation along with Breakfast and Evening meal, if required, will be booked and paid for in advance. Members should make their requests as far in advance as possible in order to achieve best prices and should you have any special requirements in relation to your booking please advise us at the time of the request.

Reimbursement for any additional meals purchased up to the maximum amounts detailed below i.e. breakfast, lunch, tea or evening meal can be claimed retrospectively (less any meals provided) on the production of receipts. Should it not be possible to obtain subsistence within these limits then actual costs can be claimed up to a reasonable amount in liaison with Business Support Manager and upon the production of receipts.

In exceptional circumstances an advance can be given to cover incidental subsistence/travel requirements i.e. lunch, evening meal, taxis, where it has not been possible to organise these prior to travel. Receipts should be retained to cover all advance expenditure and this can be reconciled on return.

Rates are set out below and also for reference shown on members' claim forms.

Allowance	Minimum absence from home	Rate £
Breakfast	2 hours which must be before 11.00am	6.75
Lunch	2 hours which must be between 12 noon and 2.00pm	9.27
Tea	3 hours which must include 3.00pm to 6.00pm	3.65
Evening Meal	3 hours which must be after 7.00pm	11.48

**Nb.** No reimbursement for alcohol purchased will be made – should this be included on your receipt it will be deducted from the amount claimed.

Whilst it is appreciated that most travel is planned and can be organised in advance there may be exceptional circumstances where Members may need to organise themselves. In such circumstances, retrospective claims for travel or accommodation will be paid when submitted on monthly claim forms and on the production of receipts.

The current rates are laid out below and are intended to cover the costs of accommodation and associated subsistence during a 24 hour period. However, it is also recognised that on occasion it may not be possible to obtain accommodation and subsistence within these limits and therefore higher amounts can be claimed up to a reasonable amount upon presentation of receipts. However only in exceptional circumstances should this be the case.

Overnight allowance		Rate £
London	Up to a maximum claim on production of receipts	£124.76
Outside London	Up to a maximum claim on production of receipts	£109.39

### **3. Travel by car as an alternative to Rail**

As a general rule, journeys outside the locality should be undertaken by rail as this is usually the cheapest mode of travel for someone travelling alone.

The ability to get to a particular destination by rail needs to be taken into account. Where the venue for the meeting is some distance from the railway station, the advantages and disadvantages of alternative methods of travel should be considered. Where Members choose to travel by car on a journey that would be reasonable to travel by rail either mileage or the cost of the cheapest available rail fare will be paid, whichever is the cheaper.

### **4. Air Travel**

The cost of travel by air shall not exceed the cost applicable to travel by appropriate alternative means of transport. Unless in circumstances where the saving in time is so substantial as to justify payment of the fare for travel by air.

All arrangements should be made by contacting Members' Support who will liaise with Business Support to organise for you. Alternatively, please contact the Business Support Team in relation to any specific queries or special requirements which you may have.

### **5. Travel outside the United Kingdom**

The same procedure as shown above will apply.

## **MEMBERS' ALLOWANCES**

### **Travelling Allowances**

Travelling allowances are payable for journeys undertaken in the performance of official duties. The rates are as follows from 1 April 2016:

1. The rate for travel by a Member's own private motor vehicle, or one belonging to a member of his/her family or otherwise provided for his use, will be paid at 45.0p a mile
2. The rate for travel by a hired motor vehicle, other than a taxi-cab or cab, shall not exceed the value of the claim which would have been applicable had the vehicle belonged to the Member who hired it.
3. The rate for travel by taxi-cab or cab shall not exceed:
  - in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid (receipts should be obtained where possible);
  - in any other case, the amount of the fare for travel by appropriate public transport.

### **Motor Vehicle Insurance**

Members are advised that when using their own vehicle for meetings they will be deemed to be using it on County Council business. It is therefore essential that vehicles should be adequately insured, and Members are therefore required to ensure that insurance covers business use as well as for the usual social, domestic and pleasure categories.

The Association of British Insurers provide a list of approved insurance companies which indemnify local authorities against all third party claims arising out of the use of their vehicle. A copy of the list is shown at Appendix J.

If a Member is covered for business use by a company not on the list, they should contact their insurer and arrange the necessary indemnity, which should be supplied in the form of a letter. An example is given in appendix J. Insurance companies not on this approved list, although they would insure for business use, would not cover injuries to a third party unless the necessary indemnity had been arranged.



## Subsistence Allowances

### *Duties performed within the United Kingdom*

When carrying out approved duties “Out of Region”, Members may claim up to the approved rates as follows on production of receipts:

1. For an absence not involving an absence overnight from the usual place of residence:

<b>Allowance</b>	<b>Minimum absence from home</b>	<b>Rate</b>
Breakfast Allowance	2 hours which must be before 11.00 a.m.	£ 6.75
Lunch Allowance	2 hours which must include 12 noon to 2.00 p.m.	9.27
Tea Allowance	3 hours which must include 3.00 p.m. to 6.00 p.m.	3.65
Evening Meal Allowance	3 hours which must be after 7.00 p.m.	11.48

## Travel Outside the United Kingdom

Members may claim for reimbursement of reasonable expenses incurred. **Receipts for all expenses must be submitted with the claim**, as set out in Appendix B.

### Out of Pocket Expenses

Where the attendance fee for a course or conference includes accommodation and meals, an out-of-pocket expense allowance is payable, as follows:

	£ per day
Courses or conferences within the UK	5.00
Courses or conferences overseas	18.00

the day of arrival and departure being counted as one day.

### Taxable and Non-Taxable Mileage

Below are some examples of how to complete your mileage form following new guidance from HMRC.

**Any mileage travelled from home to a place of work should be shown as taxable.**

ie. Councillor X travels from Home(Bowburn) to County Hall, Durham and then returns Home – all mileage travelled should be shown as taxable.

**Any mileage travelled from a place of work to another place of work should be shown as non-taxable.**

ie. Councillor X travels from County Hall, Durham to Crook Civic Centre for a meeting – this mileage should be shown as non-taxable.

**Further examples (see completed claim form example)**

Councillor X travels from Home (Bowburn) to County Hall, Durham to Crook Civic Centre and returns Home – this mileage should be shown as follows:

Home (Bowburn) to County Hall – taxable mileage of 4 miles  
County Hall, Durham to Crook Civic Centre then return home – non-taxable mileage of 11 miles for the journey from County Hall to Crook then 14 taxable miles from Crook to home.

Date	Times		Journey (each journey from home or HQ to destination(s) and return must be shown) Please show all destinations visited	Purpose of Approved Duty (include the names of any official passengers carried)	No of miles for Return Journey			
	Depart	Return			Normal Taxable	Normal Non-Taxable	Conference Taxable	Conference Non-Taxable
19/09/2013	9.00		Home(bowburn) to County Hall, Durham	Meeting with Officer	4			
19/09/2013	12.00	16.00	County Hall, Durham to Crook Civic Centre to Home	Planning meeting	14	11		

## MEMBERS' ALLOWANCES

**Schedule of other bodies, attendance at meetings of which (subject to the approval of a committee or other body) entitles a County Councillor to claim travelling and subsistence allowance.**

### Outside Bodies

#### Name of Body

Admissions Forum  
 Annfield Plain Gleemen  
 Association for Public Service Excellence  
 Association of North East Councils – Collaborative Procurement Board  
 Association of North East Councils – North East Culture Partnership Board  
 Association of North East Councils – Resources Task and Finish Group  
  
 Association of North East Councils - Leaders and Elected Members Board  
  
 Barnard Castle School Governing Body  
 Beamish Museum Board  
 Bishop Auckland Community Partnership (Four Clocks)  
 Bowes Museum  
 Business Durham Advisory Board - Directors  
 Business Durham Advisory Board - Members  
  
 Castle Eden Dene Nature Joint Advisory Committee  
 CDC Enterprise Agency  
 Central Durham Joint Crematorium Committee  
 Cestria Community Housing Association  
 Chapter Homes  
 Charter Trustees for the City of Durham  
 Chester le Street Unit of Sea Cadet Corps  
 Child Benefit Centre Customer Panel  
 Children in Care Council  
 Chilton and Windlestone Community College  
 Citizens Advice County Durham  
 Cong Burn Wood Nature Reserve Management Committee  
 Consett Churches Detached Youth Project  
 Cornforth Partnership  
 County Councils Network  
 County Councils Network - Executive Committee  
 County Durham and Darlington Fire and Rescue Authority  
 County Durham and Darlington NHS Foundation Trust Council of Governors  
 County Durham Children and Families Partnership  
 County Durham Housing Group Board  
 County of Durham School Benevolent Fund  
 Coxhoe and Quarrington Hill Tarmac Quarries Liaison Committee  
 Crook Community Partnership

Dale and Valley Homes  
Derwent Valley Landscape Partnership- the Land of Oak and Iron in North East England  
Derwentside Bereavement Support  
Derwentside District Scout Council  
Derwentside Enterprise Agency Board  
Derwentside Homes  
Durham City Access for All  
Durham City Homes  
Durham Heritage Coast Partnership  
Durham Johnston Educational Foundation  
Durham Tees Valley Airport  
Durham Tees Valley Airport Consultative Committee  
Durham Villages Regeneration Limited

Easington Colliery Regeneration Partnership  
Easington Social Welfare Centre  
East Durham Business Service  
East Durham Homes  
English Heritage - Historic Environment Local Management

Gay Advice Durham and Darlington (GADD) Management Committee

Heart of Teesdale Landscape Partnership  
Henry Smith's Charity  
Horden Regeneration Partnership

Industrial Communities Alliance

Joint Health Overview and Scrutiny Committee of North East Local Authorities  
Joint Health Scrutiny Committee – Better Health Programme

Lanchester Bowling Club  
Laurel Avenue Community Association  
Leisureworks Sport and the Arts  
Limestone Landscape Partnership  
Livin Homes Limited  
LMC (Formerly North East England Objective 2 Programme Monitoring Committee)  
Local Access Forum  
Local Government Association  
Lord Crewe's Durham Educational Foundation - Representative Trustees

Middleton in Teesdale Community Association  
Middleton Plus Development Trust  
Mountsett Crematorium Joint Committee

National Association of Councillors  
National Railway Museum at Shildon

Newbiggin and District Village Hall Association  
Newcastle International Airport Consultative Committee  
Newcastle International Airport Local Authority Holding Company  
NEWCO  
North East Combined Authority- Leadership Board  
North East Combined Authority - Governance Committee  
North East Combined Authority - Overview and Scrutiny Committee  
North East Combined Authority - Transport for North East Committee  
North East Combined Authority- Economic Development and Regeneration Advisory Board

North East Disability Resource Centre  
North East Local Enterprise Partnership  
North East Purchasing Organisation  
North Eastern Inshore Fisheries and Conservation Authority  
North Eastern Regional Employers Organisation (NEREO)  
North Eastern Regional Employers Organisation (NEREO) - Executive Committee  
North of England Reserve Forces and Cadets Association  
North Pennines AONB Partnership  
North Regional Association for Sensory Support  
North Regional Brass Band Trust  
North Tees and Hartlepool NHS Foundation Trust Council of Governors  
Northern Architecture - Design Champions for the North East  
Northumbria Regional Flood and Coastal Committee

Pelton Fell Community Partnership  
Police and Crime Panel  
Project Genesis

Roseberry Grange Golf Course Committee  
Ruth First Educational Trust Executive Committee

Sacrison Community Development Group  
Safe Durham Partnership  
Sherburn House Charity  
Standing Advisory Committee for Religious Education  
Stanhope Hartwell Educational Foundation

Teesdale Development Company Limited  
Teesdale Village Halls Consortium  
The Bow Trust (Durham) Ltd  
Thrislington Quarry Liaison Committee  
Trimdon Community College Association

United Charities of Romaldkirk

Visit County Durham

Wear Valley Women's Aid Limited  
Weardale Open Air Swimming Pool Association

Witham Hall Limited  
Witton Gilbert Educational Foundation (formerly Jane Finney Trust)

## MEMBERS' ALLOWANCES

**Schedule of outside organisations which pay travelling and subsistence allowances directly to Members for attendance at meetings convened by the organisation, subject to the Members' attendance having been authorised.**

North East Regional Employers' Organisation  
Committees  
*(for further details see Appendix H, paragraph 3)*

## MEMBERS' ALLOWANCES

**Schedule of outside organisations which are recharged by the County Council in respect of attendance allowance paid to Members for attendance at meetings convened by the organisation, subject to the Members' attendance having been authorised.**

Association of North East Councils  
North East Regional Employers' Organisation



## ASSOCIATION OF NORTH EAST COUNCILS MEMBERS' ALLOWANCES SCHEME

1. **Eligible Members**

Those eligible for the ANEC scheme are representatives of member authorities at the meetings of the Association, Executive and Standing Committees and the Regional Assembly.

2. **Approved Duties**

For the purposes of the Association's scheme, approved duties include:

- attendance at meetings of the Association, Executive and Standing Committees and the Regional Assembly;
- duties carried out by Members as the Association's appointed representatives on any public body, charity, voluntary body or other body formed for a public purpose (and not for the personal benefit of its members) except where such remuneration would be prohibited by another enactment;
- attendance on behalf of the Association at briefing meetings, Chairman's meetings and at meetings with Ministers, Government Departments or other bodies.

3. **Rate of Allowance 2015/16**

An allowance of £22.00 for a twenty-four hour period will be payable, irrespective of the number of duties undertaken.

Travelling and subsistence allowance in respect of attendance at the meetings outlined in paragraph 2 above will be reimbursed by the County Council.

4. **Payment Arrangements**

The County Council will meet the cost of attendance allowance initially with subsequent reimbursement from the Association.

The County Council is requested to submit invoices monthly, or for longer periods in arrears, to the Association. Each invoice should be supported by a schedule which sets out the following details:

- name of Association representative
- dates of approved duties
- detail of approved duties
- amount of claim

The County Council will be responsible for making the appropriate returns to the Her Majesty's Revenue & Customs (HMRC) and Department for Work and Pensions (DWP).

## **NORTH EAST REGIONAL EMPLOYERS' ORGANISATION MEMBERS' ALLOWANCES SCHEME**

### **1. Eligible Members**

Those eligible for the North East Regional Employers' Organisation Scheme are representatives of member authorities at meetings of the full North East Regional Employers' Organisation, Councils and Committees.

### **2. Approved Duties**

For the purposes of the Organisation's scheme, approved duties include attendance at meetings of the full North East Regional Employers' Organisation, Councils and Committees.

### **3. Rate of Allowance 2015/16**

An allowance of £21.00 for a twenty-four hour period will be payable, irrespective of the number of duties undertaken.

Members who attend **ALL** meetings of North East Regional Employers' Organisation Committees will be reimbursed the necessary travelling and subsistence expenses, in cash, by the North East Regional Employers' Organisation.

Members who **DO NOT** attend **ALL** meetings of North East Regional Employers' Organisation Committees will be reimbursed travelling and subsistence allowances by the County Council.

### **4. Payment Arrangements**

The County Council will meet the cost of attendance allowance initially with subsequent reimbursement from the Organisation.

The County Council is requested to submit invoices, in arrears, to the Association. Each invoice should be supported by a schedule which sets out the following details:

- name of Member
- date
- association/council/committee attended

The County Council will be responsible for making the appropriate returns to the Her Majesty's Revenue & Customs (HMRC) and Department for Work and Pensions (DWP)

## **LOCAL GOVERNMENT ASSOCIATION MEMBERS' ALLOWANCES SCHEME**

### **Introduction**

1. The Constitution of the Local Government Association empowers the LGA Executive to establish a scheme for payments to members attending meetings and other approved duties of the Local Government Association and in the light of independent advice to make payments to office holders of the Association and such other members as may be specified in recognition of duties carried out on the Association's behalf.
2. In June 1998, the Management Sub-Committee of the LGA appointed an Independent Panel to consider the existing arrangements and to establish a framework on which a suitable scheme for adoption by the Association could be based. The LGA accepted the principles on which the Panel's recommendations were based, and the recommendations themselves, and formally adopted the recommended scheme with the full support of all political parties represented on the Association.
3. The scheme has now been independently reviewed to reflect the changes to the member structure agreed by the General Assembly in July 2004. The proposed changes were agreed by the LGA Executive on 29 July 2004. The revised scheme is set out in the following paragraphs.

### **Key Features of the Scheme**

- Members of all bodies listed in the Annex to the Scheme are paid an allowance reflecting both the time which might be spent and the level of responsibility involved in carrying out these posts (payments agreed by the LGA are set out below).
- The LGA does not pay Travel and Subsistence for attendance at its own meetings (i.e. Boards, Panels, Policy Review Groups, Task Groups), with the exception of the Chairman, 2 Vice chairs and 4 Deputy Chairs of the Association; and the Chairs of the LGA Boards.
- The LGA does not pay Travel and Subsistence for General Assembly, conferences, seminars, etc. where members are representing their local authorities; and
- Allowances are index-linked to the principal local government pay settlement.

## MOTOR CONFERENCE

### Motor Conference

Motor Conference is the body that represents members of ABI transacting motor insurance business and the motor syndicates of Lloyd's Motor Underwriters Association (LMUA). Motor Conference is representative of some 98% of the motor insurance business transacted in the UK. Many of ABI's activities – for example, representations to Government – are carried out under the auspices of Motor Conference.

A number of undertakings have been given on behalf of all members of Motor Conference to various bodies e.g. Government Departments, local authorities and voluntary organisations. The undertakings allow an individual with motor insurance which includes use for personal business to use his or her own vehicle for the business of their employer. They also provide that the receipt of a mileage allowance will not constitute use for "hire or reward". This is to ensure that individuals in receipt of such an allowance continue to be covered under their insurance policy, notwithstanding any general exclusion of hire and reward use.

Please note that there may be a small number of insurance policies issued by certain insurers that are covered by the undertakings. To check whether any individual insurer not currently listed is a subscriber, contact [motor@abi.org.uk](mailto:motor@abi.org.uk)

To check whether your insurer is a member of the Association of British Insurers please click this link

[Member directory ABI](#)

## **SAMPLE**

Dear Sirs

Motor Policy No.

It is hereby declared and agreed that the policy, which permits the use of the vehicle by the Policyholder in person in connection with his business, shall be deemed to permit such use of the vehicle on the business of the employer and the receipt of an allowance from such employer for such use or in respect of the carriage by him of official passengers shall not be deemed for the purpose of the policy to constitute use hiring or for the carriage of passengers for hire or reward.

We will indemnify Durham County Council in the terms of the Third Party section of the Policy in respect of such use provided that:

- (a) this indemnity does not apply in connection with a vehicle belonging to Durham County Council
- (b) Durham County Council is not entitled to indemnity under any other policy
- (c) Durham County Council shall as though it were the Policyholder observe fulfil and be subject to the terms and exceptions and conditions of the Policy insofar as they can apply.

Yours faithfully

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