



Borough of Tamworth

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LICENSING COMMITTEE

15 June 2022

Dear Councillor

A meeting of the Licensing Committee will be held in **Town Hall, Market Street, Tamworth on Thursday, 23rd June, 2022 at 6.00 pm.** Members of the Committee are requested to attend.

Yours faithfully

A handwritten signature in black ink, consisting of a stylized 'A' followed by a long horizontal line that tapers to a point.

Chief Executive

A G E N D A

NON CONFIDENTIAL

- 1 **Apologies for Absence**
- 2 **Appointment of Vice-Chair**
- 3 **Minutes of the Previous Meeting (Pages 3 - 4)**
- 4 **Declarations of Interest**

To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.

When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.

5 Statement of Principles - Gambling Policy (Pages 5 - 48)

(Report of the Assistant Director, Growth & Regeneration)

6 Hackney Carriage Fare Increase (Pages 49 - 62)

(Report of the Assistant Director, Growth & Regeneration)

7 Delegated powers for urgent revocations or suspensions to taxi licences (Pages 63 - 68)

(Report of the Assistant Director, Growth & Regeneration)

Access arrangements

If you have any particular access requirements when attending the meeting, please contact Democratic Services on 01827 709267 or e-mail democratic-services@tamworth.gov.uk. We can then endeavour to ensure that any particular requirements you may have are catered for.

Filming of Meetings

The public part of this meeting may be filmed and broadcast. Please refer to the Council's Protocol on Filming, Videoing, Photography and Audio Recording at Council meetings which can be found [here](#) for further information.

If a member of the public is particularly concerned about accidental filming, please contact a member of Democratic Services before selecting a seat

FAQs

For further information about the Council's Committee arrangements please see the FAQ page [here](#)

To Councillors: B Price, T Clements, M Bailey, D Cook, C Cooke, S Doyle, M J Greatorex, R Kingstone, J Oates, S Smith, P Thurgood, J Wade and J Wadrup.



MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD ON 12th APRIL 2022

PRESENT: Councillor B Price (Chair), Councillors T Clements (Vice-Chair), D Cook, M Cook, R Claymore, M Oates, M Summers and P Thurgood

The following officers were present: Rebecca Cooper,(Legal representative) Anna Miller (Assistant Director – Growth & Regeneration), Wendy Smith (Head of Environmental Health) and Jodie Small (Environmental Health Technical Support Officer)

Apologies received from: Councillor(s) S Doyle, A Farrell and T Jay

6 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors S Doyle, A Farrell and T Jay

7 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 24th June 2021 were approved and signed as a correct record.

(Moved by Councillor Tina Clements and seconded by Councillor P Thurgood)

8 MINUTES OF ANY SUB-COMMITTEE MEETING

The minutes of the meeting held on 17th March 2022 were approved and signed as a correct record.

(Moved by Councillor R Claymore and seconded by Councillor Tina Clements)

9 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

10 REVIEW OF LICENSING SERVICE IN 2021-2022

Report of the Head of Environmental Health to inform the Committee about the Licensing Teams administration activities during 2021/22.

RESOLVED: That the Committee

1. noted the contents of the report and endorsed future work for 2022/23.
2. Thanked the Licensing Officers for all their hard work over the period of the pandemic, under the challenging circumstances and;
3. Requested a recommendation is sent to Appointments and Staffing on the 21st April to support the request for an additional Officer to support further enforcement work.

(Moved by Councillor D Cook and seconded by Councillor B Price)

Chair

LICENSING COMMITTEE

23rd JUNE 2022

REPORT OF THE ASSISTANT DIRECTOR GROWTH AND REGENERATION

GAMBLING ACT 2005 STATEMENT OF PRINCIPLES (POLICY STATEMENT) 2022 - 2025

Purpose

To approve the Gambling Statement of Principles and agree to its consultation.

Recommendations

It is recommended that:

- the Committee agree to the issuing of the new Gambling Policy and Statement of Principles 2022 – 2025 for consultation.
- the consultation response be brought back to committee for consideration later in the year.

Executive Summary

The Gambling Act 2005 (the Act) requires the Council to prepare and publish a statement of the principles (policy statement) that it proposes to apply in exercising its functions under the Act. The policy statement at Appendix 1 under the Act lasts for a maximum period of 3 years but can be reviewed and revised by the Council at any time.

The Government was reviewing the Gambling Act 2005 and it was originally expected that new legislation would be issued in 2021 but this has not been forthcoming. It is proposed that the Committee agree to a new Policy. The new policy has not varied from the previous policy. Should new legal provisions come into force the policy can be reviewed and amended as required.

Key Changes

In December 2020 The Culture Secretary launched a wide ranging review of the Gambling Act 2005 and current gambling legislation to consider online stake and spend limits, advertising and marketing rules and the powers of the Gambling Commission.

The review was carried out to ensure the regulatory framework can protect children and vulnerable people, prevent gambling related crime, and keep gambling fair and open in the digital age.

As gambling has changed significantly over the past 15 years the review has considered:

- Online restrictions;
- Marketing;
- The powers of the Gambling Commission;
- Protections for online gamblers like stake and spend limits;
- Advertising and promotional offers;
- And whether extra protections for young adults are needed;

The review closed on the 31st March 2021 however an update on proposed new changes and legislation has not been forthcoming as was previously expected.

As a Licensing Authority, the Council is required under the Gambling Act 2005 to prepare/review, every three years, a Statement of Policy and Principles that they propose to apply in exercising their functions under the Act. The Council's current Statement of Policy and Principles was approved by the Committee and subsequently Council in December 2018 and came into effect on 31 January 2019. This policy was then extended for a further two years on 24th June 2021 by the Licensing Committee. The reason for the extension was that as no changes were proposed it was deemed not necessary to consult given that a full review would be undertaken when DCMS had concluded their review. At the time it was felt that DCMS would be reporting quickly and so a 2 year extension of the current statement of principles would be a stop gap before a full review was undertaken. On reflection and in the absence of forthcoming legislation it has been deemed necessary to bring forward a new Statement of Policy and Principles for 2022 – 2025.

Financial Implications

There are no additional resource implications arising from this Consultation; resources required to fulfil the Council's duties in respect of the Licensing process are met from existing budgets.

Legal/Risk Implications

Section 349 of the Gambling Act 2005 requires the Licensing Authority to prepare and publish a Statement of Licensing Policy and Principles every 3 years.

Section 25 of the Gambling act 2005 requires the Authority to have regard to Gambling Commission Guidance when preparing its Statement of Licensing Policy.

Sustainability

The services for the regulation of Gambling contribute to the strategic priority of being healthier and safer in Tamworth.

REPORT AUTHOR

"If Members would like further information or clarification prior to the meeting please contact Wendy Smith, Head of Environmental Health.

LIST OF BACKGROUND PAPERS

1. Guidance to Licensing Authorities 5th edition [Guidance to licensing authorities \(GLA\) \(gamblingcommission.gov.uk\)](http://www.gamblingcommission.gov.uk)
2. Gambling Commission Guidance to Public Health <http://www.gamblingcommission.gov.uk/PDF/public-health-and-gambling-joint-letter-jan-2018.pdf>

APPENDICES

1. The Gambling Act 2005 Statement of Principles (Policy Statement) 2022 - 2025

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STATEMENT OF PRINCIPLES

GAMBLING ACT 2005



2022 – 2025



Revised with effect from

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Statement of Principles – Gambling Act 2005

1. Introduction – Tamworth Borough Council

1.1 Tamworth Borough Council (the Council) is a Licensing Authority under the Gambling Act 2005 and therefore has responsibilities for the administration and enforcement of the Act within the Borough.

The Borough of Tamworth is located in the south-eastern corner of Staffordshire, 15 miles north-east of Birmingham and covers an area of 3,095 hectares. It is situated at the confluence of two rivers, the river Tame and Anker. Tamworth is essentially urban in character, which includes a vibrant town centre and smaller centres within local districts

1.2 Tamworth's resident population of around 76,800 makes it one of the main urban centres in Southern Staffordshire. The urban area density from the 2011 census for Tamworth is 39.6 persons per hectare, which is very similar to Cannock (39.3), and Burntwood (39.5), only slightly higher than Lichfield (37.9) and is less than nearby Polesworth (47). Source ONS Census 2011

1.3 This statement accords with that vision in seeking to promote the licensing objectives set out in the Act which are central to the regulatory regime created by the Act. These 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

1.4 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted.

1.5 This statement must be published at least every three years. The statement can also be reviewed from 'time to time' and any amended parts reconsulted upon

1.6 We intend that this document should provide information and guidance on the general approach that we will take in licensing. A series of advice sheets with more specific guidance is available from our website or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

1.7 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, set out below

2. Gambling Act 2005

- 2.1 This policy reflects and aims to support our strategic purposes and priorities, as set out in the Council Plan.
- 2.2 The Act provides for Gambling to be authorised in a number of different ways.
- 2.3 The Licensing Authority's main functions are to:
- license premises for gambling activities, including the issue of Provisional Statements,
 - regulate and grant permits for gambling and gaming machines in clubs including commercial clubs,
 - regulate gaming and gaming machines in premises licensed to sell alcohol.
 - grant permits to family entertainment centres for the use of certain lower-stake gaming machines,
 - grant permits for prize gaming,
 - receive and endorse notices given for temporary use notices,
 - receive occasional use notices for betting at tracks,
 - register lotteries of small societies,
 - maintain public registers, and
 - provide information to the gambling Commission on the issue of licences.
- 2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. The "National Lottery" is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

3. The Gambling Commission

- 3.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.
- 3.2 The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.
- 3.3 In addition, the Commission's role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.
- 3.4 Information about the Gambling Commission can be found on the Internet at: www.gamblingcommission.gov.uk or by phone: 0121 230 6666.

4. Authorised Activities

4.1 'Gambling' is defined in the Act as gaming, betting, or taking part in a lottery.

- 'Gaming' means playing a game of chance for a prize.
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not.
- A lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

5. General Statement of Principles

- 5.1 In carrying out the licensing functions in accordance with the Act, particularly with regard to premises licences, the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be:
- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
 - in accordance with any relevant Guidance issued by the Gambling Commission;
 - in accordance with this Statement of Principles; and
 - reasonably consistent with the licensing objectives.
- 5.2 The Licensing Authority will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 5.3 The Licensing Authority will ensure that in dealing with applications under the Act the Licensing Authority will follow the required procedures and only take into account issues that are relevant. Specifically, the Licensing Authority will not have regard to “demand” when considering applications for gambling premises; nor will the Licensing Authority consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). The Licensing Authority will not reject an application on moral grounds. If the Licensing Authority does decide to reject an application, the Licensing Authority will make known the reasons for doing so.
- 5.4 The Council has delegated its licensing function to its Licensing Sub-Committee and Licensing Officers. In the remainder of this Statement of Principles they are referred to collectively as the ‘Licensing Authority’.
- 5.5 Where an application is for a new premises licence, the responsible authorities will usually visit to check that gambling facilities meet all necessary legal requirements.
- 5.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 5.7 If there are objections that cannot be resolved informally, or the Licensing Authority intends to impose extra conditions, the Licensing Authority will hold a public hearing at which the Licensing Sub-Committee will hear evidence and make a decision in accordance with the Act.
- 5.8 This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of

any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

6. Preventing Gambling from being a Source of Crime and Disorder

- 6.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before the Licensing Authority will issue a licence to use premises for gambling.
- 6.2 The Licensing Authority will not issue a premises licence to someone who does not hold an operator's licence, and would not generally be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.
- 6.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Licensing Authority will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for door supervisors registered by the Security Industries Association.
- 6.4 'Disorder' is generally a matter for the Police; the Licensing Authority will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers. Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if Police assistance were required to deal with it; the Licensing Authority will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 6.5 When making decisions relating to disorder, the Licensing Authority will give due weight to comments made by the Police.

7. Ensuring Gambling is conducted in a Fair and Open Way

- 7.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 7.2 As betting track operators do not need an operating licence from the Commission, the Licensing Authority may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

8. Protecting children and vulnerable people from being harmed or exploited by gambling

- 8.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.
- 8.2 Codes of Practice – including advice about access by children and young persons – may be published by the Gambling Commission for specific kinds of premises. Applicants are expected to heed this advice where applicable.
- 8.3 The Licensing Authority expects steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 8.4 When determining a premises licence or permit the Licensing Authority will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.
- 8.5 In seeking to protect vulnerable people the Licensing Authority will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 8.6 The Licensing Authority will always treat each case on its individual merits and when considering whether specific measures are required to protect children and other vulnerable people, will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.
- 8.7 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

These principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area.
 - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 8.8 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Staffordshire Safeguarding Children Partnership for this purpose

9. Public Health and Gambling

- 9.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.
- 9.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.
- 9.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.
- 9.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.
- 9.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.
- 9.6 The licensing authority will therefore engage with the local Public Health team in the further development of this Statement of Principles and the Local Area Profile. It is planned that the Public Health team will be able to help the Licensing Authority:
- Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
 - Make decisions that benefit and protect the health and wellbeing of local communities.
 - Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
 - Conduct a health-impact assessment of gambling in the local area or assess any existing information.

10. Local Risk Assessments

- 10.1 Since 6 April 2016 it has been a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.
- 10.2 The Licensing Authority will expect the local risk assessment to consider, for example:
- whether the premise is in an area of deprivation;
 - whether the premise is in an area subject to high levels of crime and/or disorder;

- whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
 - the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
 - how vulnerable persons as defined within this Policy are protected.
- 10.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy.
- 10.4 Other matters that the risk assessment may include are, for example:
- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
 - Where installed, details of CCTV coverage and how the system will be monitored.
 - Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.
 - The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
 - Where only one staff member is employed – in the case of smaller premises, – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
 - Provision of signage and documents relating to games rules, gambling care providers.
 - The mix of gambling provided.
 - Consideration of primary gambling activity and location of gaming machines.
- 10.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary.
- 10.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence, to grant the licence with special conditions or to refuse the application.
- 10.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.
- 10.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that

locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.

- 10.9 The Licensing Authority expects local risk assessments to be kept under review and updated, as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

11. Premises Licences

- 11.1 A premises licence can authorise the provision of facilities at the following:

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

- 11.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.

- 11.3 This will allow large multiple unit premises such as shopping malls or service stations to obtain separate premises licences, with appropriate safeguards in place. The Licensing Authority will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. The Licensing Authority will 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. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

- 11.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that separation of the premises is not compromised and people are not allowed to drift accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. The Licensing Authority will also expect customers to be able to participate in the activity named on the premises licence.

- 11.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and / or large casinos may be located. The Borough of Tamworth has not been identified as a suitable location for a casino, consequently the Authority is prevented from granting a licence for casino premises at present.

- 11.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were

considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.

- 11.7 The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 11.8 Other than an application for a betting premises licence for a track, the Licensing Authority are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 11.9 When considering applications for premises licences the Licensing Authority will not take into account the expected 'demand' for facilities; the likelihood of planning permission or building regulation approval being granted or moral objections to gambling. Equally, the grant of a premises licence will not prejudice or prevent any action which may be appropriate under the law relating to planning or building regulations.
- 11.10 The Licensing Authority will only issue a premises licence once it is satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of, or alterations to a premises are not yet complete, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 11.11 The Licensing Authority will apply a two-stage consideration process if there is outstanding construction or alteration works at the premises:
- Should the premises be permitted to be used for gambling?
 - Can appropriate conditions be imposed to cater for the situation that the premises is not yet in a state in which they should be before gambling takes place?
- 11.12 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 11.13 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 11.14 The Licensing Authority will maintain a public register of premises licence applications received which may be viewed at the Council offices during normal office hours which are generally Monday to Friday 9am – until 4.30pm.

12. Responsible Authorities

- 12.1 Responsible authorities are identified in the legislation and have to be notified about licence applications so that they can identify any risk. The responsible authorities that the Licensing Authority currently recognises are as follows:
- The Gambling Commission.
 - Staffordshire Police

- Fire & Rescue Service.
- Tamworth Borough Councils Planning Department.
- Tamworth Environmental Health Pollution
- Children Protection
- HM Revenue and Customs.
- Home Office Immigration
- Any other bodies identified in Regulation by the Secretary of State.
- For vessels – the Environment Agency, British Waterways, Secretary of State.

See Appendix C for full contact details

12.2 Contact addresses and telephone numbers for each of the responsible authorities identified are available on the Council's website and will be sent with application packs and on request.

12.3 Any concerns expressed by a responsible authority cannot be considered unless they are relevant to the application itself and to the licensing objectives. However, each representation will be considered on its merits.

13. Interested Parties

13.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities (including existing gambling premises), or
- represents persons in either of the above two groups.

13.2 The Licensing Authority will generally require written evidence that a person/body, 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 representations is sufficient. Whilst this may not apply to elected Ward Members, Member of Parliament or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal minority.

13.3 In determining in whether a person lives sufficiently close to particular premises as to be affected, the Licensing Authority will take into account among other things:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the person making the representation;
- the nature of the complaint;
- the potential impact of the premises.

13.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:

- the size of the premises;
- the catchment area of the premises; and

- whether the person making the representation has business interests in the catchment area that might be affected.
- 13.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Licensing Authority would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 13.6 The Licensing Authority may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant;
 - whether it raises an issue relevant to the licensing objectives; or
 - whether it raises issues specifically to do with the premises which are the subject of the application.

14. Licence Conditions

- 14.1 In particular cases the Licensing Authority may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use 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. The Licensing Authority will not have recourse to a pool of standard conditions.
- 14.2 The Licensing Authority will ensure that category C machines or above, that are *on offer in premises to which children are admitted, are located in an area of the premises which is separated by a physical barrier. This should be to prevent access other than through a designated entrance: the designated area must be supervised and observed by staff or the licence holder.*
- 14.3 Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours; segregation of gambling from non-gambling areas frequented by children; Security Industry Authority licensed door supervisors; appropriate signage for adult only areas; age limits; or keeping children and young persons away from gaming machines. The Licensing Authority will also expect the applicants to offer their own suggestions as to the way in which the licensing objectives can be promoted effectively.
- 14.4 The Licensing Authority will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;
 - relating to gaming machine categories or method of operation;

- which specify that membership of a club or other body is required; or
- in relation to stakes, fees, winnings or prizes.

14.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

15. Gaming Machines

15.1 Gaming machines include all types of gambling activity, which can take place on a machine, including betting on 'virtual' events.

15.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

15.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises (including tracks)
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

15.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.

15.5 The Licensing Authority will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

16 Gambling in Alcohol Licensed Premises

16.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.

16.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.

16.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

Automatic entitlement to two gaming machines

- 16.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use and must pay the prescribed fee.
- 16.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.
- 16.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 16.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so 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 s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
 - the premises are mainly used for gaming
 - an offence under the Act has been committed on the premises.
- 16.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

Licensed Premises Gaming Machine Permits

- 16.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.
- 16.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

- 16.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the number and category of gaming machines sought.
- 16.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.
- 16.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.
- 16.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.
- 16.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.
- 16.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.
- 16.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.
- 16.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.
- 16.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

Exempt Gaming

- 16.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 16.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 16.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.
- 16.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.
- 16.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:
- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
 - gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
 - the premises are mainly used for gaming
 - an offence under the Act has been committed on the premises.
- 16.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

17 Gambling in Clubs

Defining Clubs

- 17.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:
- members' clubs (including miners' welfare institutes)
 - commercial clubs.
- 17.2 This is an important distinction in respect of the gaming that may take place.

- 17.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.
- 17.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.
- 17.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.
- 17.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

Exempt Gaming

- 17.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 17.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 17.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.
- 17.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However, in order to qualify as exempt gaming, clubs may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.
- 17.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

Club Gaming Permits

- 17.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in

regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.

- 17.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.
- 17.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

Club Machine Permits

- 17.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.
- 17.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.
- 17.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

Applications for Club Gaming Permits and Club Machine Permits

- 17.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.
- 17.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.
- 17.20 The Licensing Authority can 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
 - e) an objection has been lodged by the Commission or the police.
- 17.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.

- 17.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.
- 17.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.
- 17.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.
- 17.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

Determining Applications for Club Gaming Permits

- 17.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.
- 17.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.
- 17.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.
- 17.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

Maintenance of Permits

- 17.30 Club Gaming Permits and Club Machine Permits will have effect for ten years unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.
- 17.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

Cancellation and forfeiture of permits

- 17.32 The Licensing Authority may cancel the permit if:

- the premises are used wholly by children and/or young persons

- an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.

17.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.

17.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.

17.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

Renewal of permits

17.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.

17.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

17.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

18 Unlicensed Family Entertainment Centre Permits

Introduction

18.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.

18.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

Applications for Unlicensed Family Entertainment Centre Permits

18.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.

- 18.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.
- 18.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made. Where the applicant is a company, a Basic Disclosure certificate must be supplied in respect of each director of the company.

Consideration of Applications

- 18.6 The Licensing Authority can grant or refuse an application for a permit but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.
- 18.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children and young persons, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.
- 18.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 18.9 The Licensing Authority may also consider asking applicants to demonstrate:
- that they have suitable policies and procedures in place for the safeguarding of children and young persons.
 - a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
 - that employees at the premises are suitably vetted
 - that employees are trained to have a full understanding of the maximum stakes and prizes.
- 18.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.
- 18.11 The permit will have effect for ten years unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit
- 18.12 The permit may lapse for a number of reasons, namely:
- if the holder ceases to occupy the premises
 - if the Licensing Authority notifies the holder that the premises are not being used as an uFEC

- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist or goes into liquidation.

Renewal of a Permit

- 18.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:
- an authorised local authority officer has been refused access to the premises without reasonable excuse
 - renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.
- 18.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

19 Prize Gaming Permits

- 19.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.
- 19.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

Applications for Prize Gaming Permits

- 19.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.
- 19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.
- 19.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

Consideration of Applications

- 19.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 19.7 The Licensing Authority can grant or refuse an application for a permit but cannot add conditions.
- 19.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.
- 19.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.
- 19.10 A permit cannot be issued in respect of a vessel or a vehicle.
- 19.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:
- they understand the limits to stakes and prizes that are set out in regulations
 - the gaming offered is within the law.
- 19.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it and given them an opportunity to make representations orally or in writing or both.
- 19.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.
- 19.14 The permit may lapse for a number of reasons:
- if the holder ceases to occupy the premises
 - if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
 - if a company holding the permit goes into liquidation
 - if the holder (for example a partnership) otherwise ceases to exist.

Renewal of a Prize Gaming Permit

- 19.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.
- 19.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew.

20. Temporary Use Notices

- 20.1 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. The Licensing Authority would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.
- 20.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chance to all participants. Example of equal chance gaming includes games such as: Backgammon, Mahjong, Rummy, Kalooki, Dominoes, Cribbage, Bingo and Poker.

21. Occasional Use Notices

- 21.1 The Licensing Authority have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.
- 21.2 The Licensing Authority will share information with the Gambling Commission in relation to any Occasional Use Notices received. The Licensing Authority may also work in partnership with the Gambling Commission to carry out test purchase operations involving licensed operators that are providing facilities for betting in reliance on an Occasional Use Notice.

22. Lotteries

Introduction

- 22.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.
- 22.2 An arrangement is a simple lottery if:
- persons are required to pay to participate
 - one or more prizes are allocated to one or more members of a class
 - the prizes are allocated by a process which relies wholly on chance.
- 22.3 An arrangement is a complex lottery if:
- persons are required to pay to participate
 - one or more prizes are allocated to one or more members of a class
 - the prizes are allocated by a series of processes

- the first of those processes relies wholly on chance.
- 22.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
 - exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.
- 22.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on “small society lotteries.” Information on other forms of exempt lotteries is available from the Gambling Commission website.
- 22.6 The Licensing Authority defines ‘society’ as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.
- 22.7 Section 19 of the Act defines a society as such if it is established and conducted:
- for charitable purposes, as defined in s.2 of the Charities Act 2006
 - for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
 - for any other non-commercial purpose other than that of private gain.
- 22.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Registration Applications

- 22.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society’s principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.
- 22.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application.
- 22.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:
- A list of the members of the society

- The society's constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
- A written declaration from the applicant stating that they represent a bona fide non-commercial society.

22.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application—

- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
- an application for an operating licence made by the applicant for registration has been refused.

22.13 The Licensing Authority may refuse an application for registration if they think that—

- the applicant is not a non-commercial society,
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with the application for registration is false or misleading.

22.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

22.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society would be consistent with the Act
- Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission

Promotion of small society lotteries once registered

22.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.

22.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.

22.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- checking the age of apparently underage purchasers of lottery tickets

- taking action where there are unlawful attempts to purchase tickets.
- 22.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:
- the name of the promoting society
 - the price of the ticket, which must be the same for all tickets
 - the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
 - the date of the draw, or information which enables the date to be determined.
- 22.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
- 22.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.
- 22.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:
- 22.23 Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.
- 22.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

Financial Returns

- 22.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.
- 22.26 The limits are as follows:
- at least 20% of the lottery proceeds must be applied to the purposes of the society
 - no single prize may be worth more than £25,000
 - rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
 - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed

22.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

22.28 The following information must be submitted:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

22.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of ‘instant lotteries’ (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

22.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority’s website.

22.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

22.32 The Licensing Authority will notify the Commission if returns reveal that a society’s lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

Revocation of a registration

22.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

22.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to

revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

22.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act
- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

23. Exchange of Information

23.1 To ensure the licensing objectives are met, the Licensing Authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

23.2 Subject to the provisions of relevant data protection legislation, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Project and Information Co-Ordinator.

23.3 The Licensing Authority is committed to being open about what it does and how it comes to a decision, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment.

23.4 Individual requests should be made in writing via the Council's website freedomofinformation@tamworth.gov.uk

23.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

24. Enforcement Protocols

24.1 The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about

manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

- 24.2 The Licensing Authority will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 24.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 24.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- 24.5 The Licensing Authority will also be mindful of future developments as regard the work of the Better Regulation Executive whilst carrying out its regulatory functions.
- 24.6 The Licensing Authority will endeavour to be accountable, consistent, transparent and targeted, as well as proportionate in its actions and avoiding duplication with other regulatory regimes so far as possible.
- 24.7 In order to ensure compliance with the law, the Licensing Authority will carry out regular 'routine' day time programmed inspections and will also carry out 'non-routine' evening programmed inspections. Where a one-off event takes place under a temporary use notice or occasional use notice, the Licensing Authority may also carry out inspections to ensure the licensing objectives are being promoted.
- 24.8 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

25. Reviews

- 25.1 A request for a review of a premises licence can be made by interested parties or responsible authorities, however, the Licensing Authority will decide if the review is to be carried out on the basis of the following:
- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission,
 - Consistent with the licensing objectives,
 - In accordance with the statement of principles.
- 25.2 The Licensing Authority will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether it would wish to alter/revoke or suspend the licence.

25.3 The Licensing Authority can also initiate a review of a premises licence on the basis of any reason which it thinks is appropriate, including if 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.

25.4 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 the statutory consultation period. The purpose of the review will be to determine whether it should take any action in relation to the licence. The options available are to:

- add, remove or amend a licence condition;
- remove or amend a default condition, such as opening hours;
- suspend the premises licence for a period not exceeding 3; or months
- revoke the licence.

26. The Licensing Process

26.1 The powers of the Council as a Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub -Committee or, instead, by one or more Council officers acting under delegated authority. The Council has adopted the following scheme of delegation:-

Matter to be Dealt With	Full Council	Cabinet	Licensing Committee/ Sub Committee	Officers
3 year licensing policy	X			
Policy not to permit casinos	X			
Fee Setting when		X		

Matter to be Dealt With	Full Council	Cabinet	Licensing Committee/ Sub Committee	Officers
appropriate				
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn

Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence			X	
Application for club gaming / club machine permits			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming / club machine permits			X	
Applications for other permits				Refer to * below
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary				X

Matter to be Dealt With	Full Council	Cabinet	Licensing Committee/ Sub Committee	Officers
use notice				
Decision to give a counter notice to a temporary use notice			X	

Determination as to whether a person is an Interested Party				X
Determination as to whether representations are relevant				X
Determination as to whether a representation is frivolous, vexatious or repetitive				X

X Indicates at the lowest level to which decisions can be delegated.

* In respect of applications for amusement with prizes machines in alcohol licensed premises, the following procedure will be adopted:

- i) Officers will determine under delegated authority, applications for amusement with prize machines where the application is for not more than 5 machines.
- ii) Applications for more than 5 amusement with prize machines will be referred to Chair of Licensing Committee for determination in consultation with Assistant Director, Growth and Regeneration, Head of Environmental Health/Environmental Health Staff.

26.2 Application forms will be in the format prescribed by regulations. The form will need to contain information that describes the gambling activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the three licensing objectives. Applicants must carry out a risk assessment before they apply for a premises licence or to vary a premises licence.

26.3 The Authority will expect the local risk assessment to consider as a minimum:

- The location of services for children such as schools, playgrounds. Leisure/community centres and other areas where children will gather;
- The demographics of the area in relation to vulnerable groups;
- Whether the premises is in an area subject to high levels of crime and/or disorder.

Local risk assessments should show how vulnerable people, including people with gambling dependencies, are protected

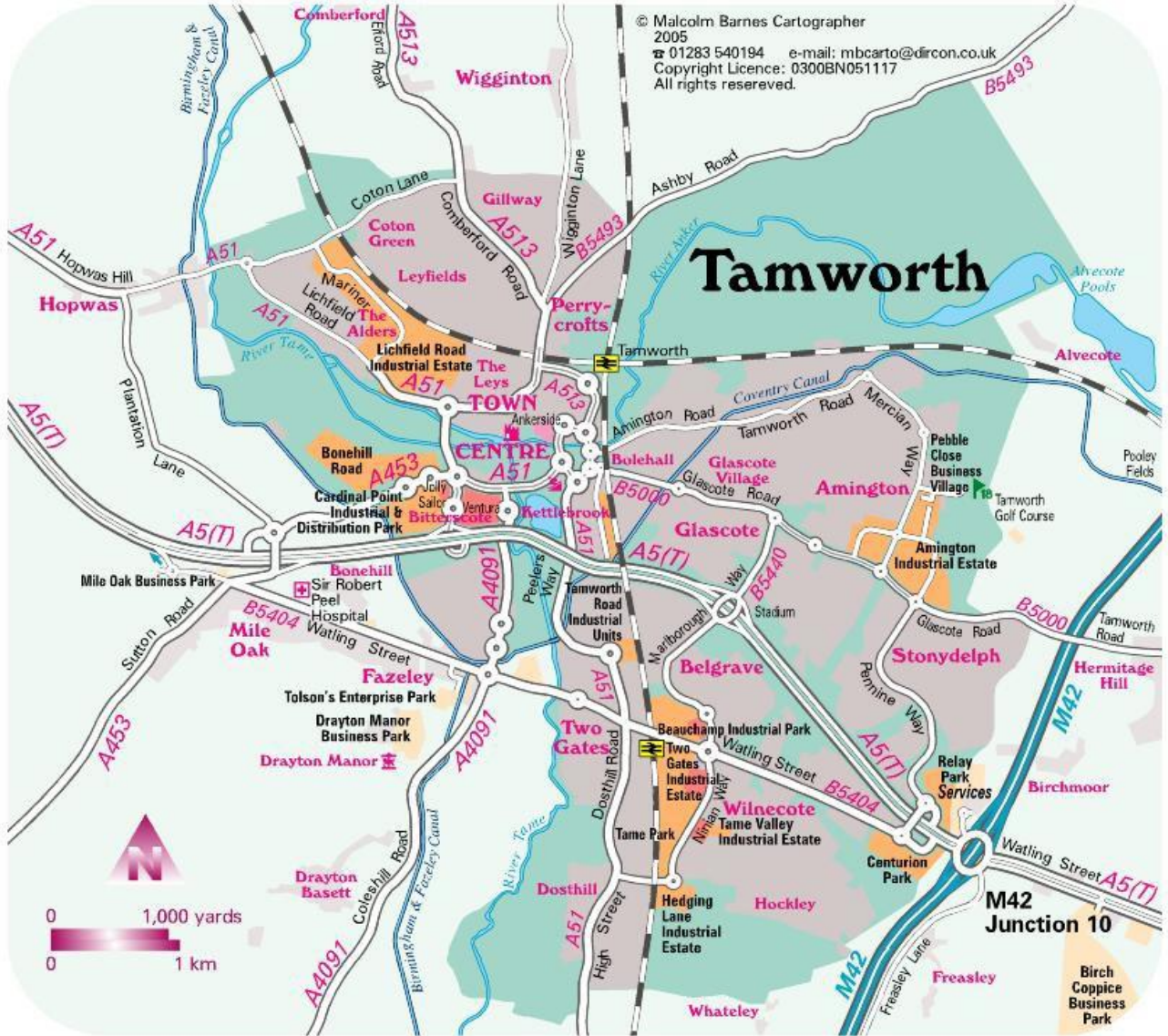
26.4 Applicants are encouraged to fully consult the Police and other responsible authorities well in advance of submitting their applications. Application forms and guidance leaflets will be available from the Licensing Authority, including contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.

26.5 The Act requires licensing authorities to maintain a register of premises licences issued. The register must be available at any reasonable time to the public, who can request copies of the entries. The register will be located at:

Tamworth Borough Council
Marmion House
Lichfield Street
TAMWORTH
B79 7BZ

Map of Tamworth Borough Boundary

Map of Tamworth Borough



- | | | | | |
|--------------------------|------------------------|--------------------------------|--------------------------|------------------------------|
| Tamworth Borough Council | Urban Area in Tamworth | Industrial Estates in Tamworth | Retail Parks in Tamworth | Shopping Centres in Tamworth |
| Castle | Hospital | Railway Station | Snow Dome | Theme Park & Zoo |
| Golf Course | | | | |

Appendix B

List of Consultees

Chief Officer of Staffordshire Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005

Staffordshire Safeguarding Children Partnership

District Councillors

Holders of Premises Licences issued by the Council under the Gambling Act 2005

Gambling Trade Associations:

Betting and Gaming Council

Bacta

Bingo Association

Lotteries Council

Hospice Lotteries Association

Organisations working with those who have 'problem gambling':

GamCare

Gamblers Anonymous

Appendix C

Gambling Act 2005 - Names & Addresses of Responsible Authorities

The addresses and other contact details of the responsible authorities for applications made under the Gambling Act 2005 are given below. We recommend that you consult these organisations before you send your application.

1) Police

Staffordshire Police Licensing
Early Intervention and Prevention Unit
Block 9 Ground Floor
Weston Road
Staffordshire
ST18 0YY

Tel - 01785 235699
Email - licensinghq@staffordshire.pnn.police.uk

2) Fire and Rescue Authority

Eastern Service Delivery Group
Staffordshire Fire & Rescue Service
Lichfield Fire Station
Birmingham Road
LICHFIELD
Staffordshire
WS13 6HU

Tel - 01785 898 958
Email - esdg.protect@staffordshirefire.gov.uk

3) Gambling Commission

Gambling Commission
Victoria Square House
Victoria Square
BIRMINGHAM
B2 4BP

Tel - 0121 230 6666
Fax - 0121 230 6720
Email - info@gamblingcommission.gov.uk

4) HM Revenue & Customs

HM Revenue & Customs
National Registration Unit
Portcullis House
21 India Street
GLASGOW
G2 4PZ

Tel - 0141 555 3492
Fax – 0141 555 3506
Email - nrubetting&gaming@hmrc.gov.uk

5) Local Planning Authority

Planning Team
Tamworth Borough Council
Marmion House
Lichfield Street
Tamworth
Staffordshire
B79 7BZ

Tel - 01827 709 312
Email – cp&padmin@tamworth.gov.uk

6) Environmental Pollution

Pollution Team
Tamworth Borough Council
Marmion House
Lichfield Street
Tamworth
Staffordshire
B79 7BZ

Tel - 01827 709 445
Email - environmentalprotection@tamworth.gov.uk

7) Children Protection

Deputy Corporate Director
(Partnerships & Service Development)
Children & Lifelong Learning
Walton Building
Martin Street
Stafford
ST16 2LH

Tel - 01785 223121
Email - sscb.admin@staffordshire.gov.uk

8) Licensing Authority - Address to which completed applications should be sent:

Licensing Team
Public Protection
Tamworth Borough Council
Marmion House
Lichfield Street
TAMWORTH
Staffordshire
B79 7BZ

Tel - 01827 709 445
Email - publicprotection@tamworth.gov.uk

9) Home Office (Immigration Enforcement)

Home Office (Immigration Enforcement)
Alcohol Licensing Team
Lunar House
40 Wellesley Road
Croydon
CR9 2BY

Tel - 0300 123 7000
Email - Alcohol@homeoffice.gsi.gov.uk

THURSDAY, 23 JUNE 2022

REPORT OF THE ASSISTANT DIRECTOR**APPLICATION FOR AN INCREASE TO PRESCRIBED HACKNEY CARRIAGE FARE RATES****EXEMPT INFORMATION**

No exempt information

PURPOSE

To consider an application from Tamworth Hackney Carriage and Private Hire Association for an increase in the prescribed Hackney Carriage fare rate.

RECOMMENDATIONS

1. That the Hackney Carriage fare rates, Appendix 3 be considered, approved and implemented or amended by the committee.
2. Approve the issuing of Notice of the intention to increase hackney carriage fares by advertising in local press for a consultation period of 14 days.
3. If no objections are received, the Assistant Director Growth & Regeneration be authorised to bring the new fare structure into force on a day deemed suitable to re-calibrate taximeters.
4. In the event of objections being received delegate authority to the Assistant Director Growth and Regeneration and the Chair of the Licensing Committee to consider any objections.

EXECUTIVE SUMMARY

A hackney carriage is a taxi with a meter which is licensed to collect passengers from a taxi rank and is available to be hailed in the street. A private hire vehicle, such as a minicab, is not licenced to collect passengers from ranks or to be hailed in the street, but is licensed only to be hired by prior arrangement only. Fares are only set by the council for hackney carriages to which this report relates. Private hire operators set their own fares.

Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 empowers the Council to fix fare rates for taxi services provided by hackney carriage proprietors licensed by the Authority.

In Tamworth, there are 190 hackney carriage and private hire drivers licensed by Tamworth Borough Council of which 99 or 52% are members of the Tamworth Hackney Carriage and Private Hire Association (THCPA). The THCPA is a voluntary body that represents those drivers with membership and historically, it is the taxi body that Tamworth Borough council recognises for the purpose of consultation. It should also be stated that the Borough Council equally recognises and consults the views of all drivers licensed by Tamworth Borough

Council.

The THCPA submitted an application to the Borough Council for an increase in the prescribed fare rate as outlined in Appendix 3.

A tariff increase amounting to the following is applied for; (Appendix 3)

50 pence on the initial flag (370.526 yds)

30 pence on the running mile (1760 yds)

Between 10:30pm and 6am and Bank holidays:

50 pence on the initial flag (370.526 yds)

45 pence on the running mile (1760 yds)

Midnight on Christmas Eve and Midnight on Christmas day
Midnight on New Year's Eve to Midnight on New Year's Day:

50p for the flag drop (370.526 yds)

60 pence on running mile (1760 yds)

RESOURCE IMPLICATIONS

The proposed increase, if granted would be advertised in the local press at a cost of £200.00 excluding VAT which can be met from existing budgets.

LEGAL/RISK IMPLICATIONS

Councils must adopt taxi fares in a prescribed manner as contained with the Local Government (Miscellaneous Provisions) Act 1976 providing that the procedure detailed in recommendations 1 - 4 are followed. Keeping fares reasonable would encourage the use of taxis thereby reducing private vehicular use, reducing pollution and congestion and assisting in promoting the night time economy however, if fares are set too high there is a risk that those most reliant on public transport are priced out of the market, this could also have an adverse impact on the night time economy and public safety

EQUALITIES

The fare structure specifically excludes extra charges made for the carriage of wheelchairs. The law prevents charges for assistance dogs.

SUSTAINABILITY IMPLICATIONS

The taxi trade is an important part of the local economy and the level of fares directly impacts on those local businesses. There has been a significant loss of licensed drivers following the Covid 19 pandemic, due to illness, better pay in other sectors and the effect of inflation. However, public safety is an important consideration regarding the night time economy, which can be sensitive to price increases.

BACKGROUND INFORMATION

Tamworth Hackney Carriage and Private Hire Association have applied for an increase in the prescribed hackney carriage fare rates. (Appendix 1). The current rates have not increased since December 2017 at which time an application for a 10p increase per mile between 06:00hrs and 24:00hrs, 15p per mile between 00:00 midnight and 06:00hrs and 20p per mile for Christmas and New Year's Day tariff of was approved by Licensing Committee. (Appendix 2)

The Association contends that apart from the above increase there has been no other increase in fare rates for almost five years. There has been a significant increase in the price of fuel because of the Covid 19 pandemic, having a significant impact on the trade. Insurance and maintenance costs have risen and the Consumer Price Index (based on September figures used for pay rises) shows an increase over the last five years of 16.5%. The increase set out in Appendix 3 represents an increase of 20% for the flag drop and 15% for the running mile. Flag drop is 3.5% higher than the CPI for the same period. Running mile is 1.5% lower than CPI for the same period. See Appendix 4 and 5 for a comparison of Tariff Tables.

Although this increase has been requested by the Taxi Association, this is the maximum fare that can be charged by a hackney carriage within the Borough, however a lower fare can be charged at each driver's discretion. Any change to the fare tariff only affects hackney carriage licensed vehicles regardless of whether the driver is a member of the taxi association. Private hire vehicles are not affected by this proposal.

REPORT AUTHOR

Wendy Smith

Appendices

- **Appendix 1; Letter from Tamworth Hackney Carriage and Private Hire Association requesting tariff increase**
- **Appendix 2; Current Hackney Carriage Tariff 2017**
- **Appendix 3; Proposed Hackney Carriage Tariff**
- **Appendix 4; Comparison Tariff Table**
- **Appendix 5; Comparison Chart of Tariffs with Local Authorities**

APPENDIX 1

TAMWORTH HACKNEY CARRIAGE AND PRIVATE HIRE ASSOCIATION

FAO Mr John Morgan

On behalf of the above association I would like to inform you that a meeting was held on the 29th March 2022 at the Globe Inn Tamworth. At this meeting members voted on an increase for the trade. We have spoken to members and we request that the increase is as follows:

50p on the "flag"

30p on the running mile

Time and a half Christmas and New Years Eve from 1800-24.00

Double time from 2400 Christmas Eve to 2400 Christmas Day

Double time from 2400 New Years Eve to 2400 New Years Day

Time and a half after 2230 until 0600 every day

Time and a half for all Bank holidays

We are applying for this increase at this time because we have had no increase in the last 5 years. As you are aware all costs have risen by between 10 and 50%. The cost of buying or renting vehicles suited to the job, insurance, servicing costs, tyres and obviously fuel etc.


We would appreciate it if our request be placed before the Licensing Committee at the earliest opportunity so that it can be implemented as a matter of urgency due to the current situation we find ourselves in. Hopefully this will help us to maintain and gain more drivers as we have a shortage at this time.

Kind regards

Jon O'Gara


Chairman of the Association

Appendix 2

	Borough of Tamworth Hackney Carriage Fare Rates HC Plate 01/12/2017 H
i) MILEAGE - RATE 1 - Between the hours of 06:00 and midnight	
For the first 370.526 yards (338.80897m), or part thereof	£2.50
For each subsequent 88 yards (80.4672m) or uncompleted part thereof	£0.10
ii) MILEAGE - RATE 2 - Between the hours of midnight & 05:59	
For the first 370.526 yards (338.80897m), or part thereof	£3.45
For each subsequent 88 yards (80.4672m) or uncompleted part thereof	£0.15
iii) MILEAGE - RATE 3 Between the hours of midnight on 24 December & midnight on 25 December & midnight on 31 December & midnight on 1 January	
For the first 370.526 yards (338.80897m), or part thereof	£4.30
For each subsequent 88 yards (80.4672m) or uncompleted part thereof	£0.20
iv) WAITING TIME	
Waiting time only applies to:	
i) any delay caused by the passenger when the taxi arrives	£0.20
ii) when the passenger specifically asks the driver to wait	
For each period of 1 minute or uncompleted part thereof	
v) EXTRA CHARGES	
The rate advertised at ii) above will also apply as follows: For hirings commencing between 18:00 hours and midnight on 24 December and 1800 hours and midnight on 31 December & midnight to midnight on all Bank Holidays	£80 at drivers discretion
Fouling of Car	

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APPENDIX 3

	Borough of Tamworth Hackney Carriage Fare Rates HC Plate 01/09/2022 H	
i) MILEAGE - RATE 1 - Between the hours of 06:00 and midnight		
For the first 370.526 yards (m), or part thereof	£3.00	
For each subsequent yards (m) or uncompleted part thereof	£0.10	
ii) MILEAGE - RATE 2 - Between the hours of 22:30 & 05:59		
For the first 370.526 yards (338.80897m), or part thereof	£3.95	
For each subsequent yards (m) or uncompleted part thereof	£0.15	
iii) MILEAGE - RATE 3 Between the hours of midnight on 24 December & midnight on 25 December & midnight on 31 December & midnight on 1 January		
For the first 370.526 yards (338.80897m), or part thereof	£4.80	
For each subsequent 88 yards (80.4672m) or uncompleted part thereof	£0.20	
iv) WAITING TIME		
Waiting time only applies to:		
i) any delay caused by the passenger when the taxi arrives		
ii) when the passenger specifically asks the driver to wait		£0.20
For each period of 1 minute or uncompleted part thereof		
v) EXTRA CHARGES		
The rate advertised at ii) above will also apply as follows: For hirings commencing between 18:00 hours and midnight on 24 December and 1800 hours and midnight on 31 December & midnight to midnight on all Bank Holidays		£80 at drivers discretion
Fouling of Car		

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Appendix 4

1st Tariff Present		
Flag Drop	Flag Drop to 370.526 yards	£2.50
Running Mile		
1 Mile	1760	£2.00
Total Cost for journey of 1 mile and 370.526 yards		£4.50

1st Tariff Proposed		
Flag Drop	Flag Drop to 370.526 yards	£3.00
Running Mile		
1 Mile	1760	£2.30
Total Cost for journey of 1 mile and 370.526 yards		£5.30

2nd Tariff Present		
Flag Drop	Flag Drop to 370.526 yards	£3.45
1 Mile	1760	£3.10
Total Cost for journey of 1 mile and 370.526 yards		£6.55

2nd Tariff Proposed		
	Flag Drop to 370.526 yards	£3.95
1 Mile	1760	£3.10
Total Cost for journey of 1 mile and 370.526 yards		£7.05

3rd Tariff Present		
Flag Drop	Flag Drop to 370.526 yards	£4.30
1 Mile	1760	£4.00
Total Cost for journey of 1 mile and 370.526 yards		£8.30

3rd Tariff Proposed		
Flag Drop	Flag Drop to 370.526 yards	£4.80
1 Mile	1760	£4.60
Total Cost for journey of 1 mile and 370.526 yards		£9.40

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Appendix 5

Authority	2 Mile Fare	Last Increase	National League position out of 366
North Warwickshire	£6.10	2017	180
Tamworth	£6.10	2017	182
Tamworth (proposed)	£7.12	2022	42
Lichfield	£5.80	2021	240
East Staffordshire	£6.00	2013	193

Private Hire Taxi Monthly publish an updated hackney taxi fare league table on Tariff 1 nationally every month. Above is information obtained in May 2022 which ranks 355 Councils from 1st being most expensive to 355 being the cheapest.

It must be noted that many number of authorities have recently increased their fares and many more are looking to increase fares but have yet to do so.

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LICENSING COMMITTEE

23rd JUNE 2022

REPORT OF THE ASSISTANT DIRECTOR GROWTH AND REGENERATION

Delegated powers for urgent revocations or suspensions to taxi licences

Purpose

To approve that the proposal is made to full Council that Council delegates the power for urgent suspensions and revocations as set out in this report in order to ensure public safety.

Recommendation

1. That Licensing Committee recommends to full Council that full Council delegates to Assistant Director Growth and Regeneration (or Head of Environmental Health) in consultation with the Chair (or vice chair) the delegation to **immediately** suspend or revoke a Hackney Carriage / Private Hire vehicle drivers licence where it is considered necessary in the interest of public safety and:
2. That Licensing Committee recommends to full Council that a 'fast track' procedure be adopted to re-licence those drivers who have had their licence revoked but have subsequently been found to be fit and proper.

Reason for Recommendations

To ensure the safety of the travelling public and fairness and proportionality for those accused but subsequently found to be fit and proper to hold a licence.

Executive Summary

Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council, as Licensing Authority has the power to suspend, revoke or refuse to renew a hackney carriage / private hire driver's licence.

Tamworth Borough Council's Constitution does not at present delegate the decision to revoke/suspend a licence with immediate effect.

There can be situations when it is necessary for immediate action to be taken, when any delay in making a decision would potentially give rise to an unacceptable risk to the public.

The recommendation is that where officers are of the view that an incident or allegation is so serious then the Assistant Director of Growth and Regeneration and Head of Environmental Health in the absence of the AD be given delegated authority to suspend or revoke licences with immediate effect, in consultation with the Chair (or vice chair) of the Licensing Committee.

Financial Implications

Any decision, whether by Committee or officer can be appealed with the associated risk of costs to both parties

Legal/Risk Implications

The existing constitutional arrangements prevent officers from taking immediate enforcement action to secure public safety. This could result in a risk to the public and the council's reputation.

Sustainability

The services for the regulation of Taxi Licensing contribute to the strategic priority of being healthier and safer in Tamworth.

REPORT AUTHOR

"If Members would like further information or clarification prior to the meeting please contact Wendy Smith, Head of Environmental Health.

Background

The Council as a Licensing Authority has a duty under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to licence private hire and hackney vehicle drivers, vehicles and operators.

The powers to grant driver/operator licences are included in Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (The Act) and the Licensing Authority is required to ensure that an individual applying for a driver's/operator's licence, or applying for the renewal of such a licence, is a 'fit and proper' person to hold that licence.

Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend, revoke or refuse to renew a hackney carriage / private hire driver's licence. This may be for the following reasons:

- a) since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence; or
- b) any other reasonable cause.

Under this Section the driver has 21 days to appeal against the decision to the Magistrates' Court and, during the appeal period, the licence holder can continue to drive hackney carriage / private hire vehicles.

Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a hackney carriage / private hire driver's licence with immediate effect, should the Council believe it to be necessary in the interests of public safety. This means the driver cannot continue to drive hackney carriage / private hire vehicles during the appeal period.

An immediate revocation under Section 61 (2B) may take place when licensing officers have been made aware of information concerning a driver which indicates they are no longer fit and proper. In this situation the decision to suspend or revoke must be made relatively quickly and a full investigation may not be possible until after the suspension or revocation. In this situation further evidence may come to light which either substantiates the initial decision to suspend or revoke the licence or alternatively, exonerates the driver and indicates they are fit and proper to hold a licence. A licence holder will always be given an opportunity to respond to any allegations prior to a decision being made.

In this scenario, and when a driver is once again adjudged to be fit and proper, a procedure must be in place that allows them to regain the licence as quickly as possible and with minimal fuss. It would be unfair for the driver to have to re-apply for a new licence in line with the current

policy as this would imply they have to pay an application fee and supply a new DBS form, medical etc.

To assist the Licensing Committee examples of situations where immediate suspension or revocation might be warranted are listed below. It should be noted that this list is not exhaustive but as relevant examples as to the likely use of the delegated authority: -

- (a) Allegations of violence against a passenger or person wishing to travel;
- (b) Allegations of indecency, including sexual assault and rape, against a passenger or person wishing to travel;
- (c) Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol;
- (d) Admitted sexual contact with a passenger in the vehicle;
- (e) An immediate suspension may take place when a driver no longer meets Group 2 medical standards. In these circumstances the suspension could have effect until the driver could provide evidence to show they were 'fit' to the required standard.

The delegation requested is designed to enable urgent decisions to suspend or revoke (likely to be revocation) to be made with immediate effect, in order to protect the public, which are complaint with relevant case law e.g. *Singh and Reigate and Banstead v Pawlowski*. The public might be put at risk if the driver was continuing to exercise use of his/her taxi driver licences. Revocation is a significant step and it is expected that this power will be used sparingly. The decision must still be taken in consultation with the Chair or Vice-Chair of Licensing which means that member scrutiny of the exercising of this power is preserved.

In order to maintain the opportunity for the licence holder to have a fair hearing they will be offered the opportunity of making representations before the Assistant Director of Growth and Regeneration prior to a decision being taken. In some instances the driver may be in police custody however a representative of his/her may make representations in person or in writing.

it is expected that the Assistant Director of Growth and Regeneration will nominate the Head of Environmental Health to exercise the delegation on their behalf if absent.

Relevant Case Law & Guidance

On 21 July 2020, the Department of Transport issued new standards to improve safety for taxi and private hire vehicle passengers. Paragraph 5.11 states “...**all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence**. It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.” This reinforces that the Council's proposed scheme of delegation is in line with government guidance and best practice.

The case of *R. (on the application of Singh) v Cardiff City Council [2012]* suggested that the practice of using suspension of a taxi driver licence on an interim basis and then revoking at a later date should not be followed. Instead a “once and for all” decision should be made. The driver licence should either be suspended or revoked but not suspended with a view to a possible later revocation in the light of further developments. This was because suspension was, according to the Judge not a protective or holding power but a power of final suspension as an alternative to a power of final revocation. There is an ongoing debate about whether *Singh* was generally applicable or peculiar to its own facts but many Licensing Authorities follow the principle of a single decision at the point in time of the allegation being made known.

Typically the “once and for all” decision is revocation with immediate effect (i.e. so the driver could not drive a taxi even having lodged an appeal). The revocation would be authorised by a senior officer under delegated powers as the risk to the public would mean that an immediate decision is required. The driver would still enjoy rights of appeal to the Magistrates' Court against the revocation.

In a more recent case (13 July 2017) Reigate and Banstead Borough Council sought the definitive view of the High Court on this issue. The Judge in *Reigate and Banstead Borough Council v Pawlowski* [2017] made it clear that suspension is a sanction which is an alternative to revocation and not an interim step pending a further decision. A synopsis of the case for members' attention is included below

“...a local authority could not lawfully suspend by reason of criminal charge on a “wait and see” basis.....Once it was seen that suspension was not a holding operation but a substantive decision, it became apparent that suspension would rarely be the appropriate course where a driver was charged with a matter for which, if convicted, he would be subject to revocation of his licence. If such a charge merited action, and if the action was not by way of an interim measure pending determination of the facts at criminal trial, revocation would generally be the appropriate course. To suspend a licence because an allegation was made and then revoke it because the allegation was proved was contrary to the decision in *Singh*....Further, if it should later transpire, for example by reason of acquittal at trial, that the former licence holder was indeed a fit and proper person to hold a licence, provision could be made for expeditious relicensing, *Singh* considered”

The Judge in *Reigate and Banstead v Pawlowski* referred to the scenario where a Council revokes the licence of a taxi driver accused of something serious who is subsequently exonerated. He said in that case there should be “expeditious re licensing”. As the licence will have been revoked it cannot in the normal course of events be quickly restored. There is the application fee for the grant of the licence, and other processes as applicable e.g. medical fitness and/or Disclosure and Barring Service Checks. These take time especially as the involvement of third parties may be involved. Clearly if a driver is exonerated in the criminal process or the complaint is found to be unsubstantiated it would be unfair if that driver whose licence was revoked was to suffer an undue delay in being relicensed, especially if he had recently renewed his licence prior to it being revoked with immediate effect.

The Committee may therefore wish to recommend that Council approve a fast track process for the relicensing of such drivers which will amount to the “expeditious relicensing” referred to by the Judge, in those cases where licensing officers consider that fresh checks are unnecessary in the circumstances because they have recently been carried out. The renewal fee will not be charged in such circumstances, however if a renewal is due in any event then it will proceed as normal with the full fee payable.

Should Council decide to establish such provision, the Licensing Team would seek to implement as soon as reasonably practicable.

Background Papers

Tamworth Borough Council's Constitution Scheme of Delegation

[Document Constitution - 19th Edition :: Tamworth Borough Council](#)

Tamworth Borough Council Taxi Licensing Policy

[Taxi and private hire forms | Tamworth Borough Council](#)

