

REPORTS FROM THE EXECUTIVE AND COMMITTEES TO COUNCIL

1 REVISED CONTRACT PROCEDURE RULES

- 1.1 This item of business was referred by the Executive on 4 November 2015 to Full Council with a recommendation on adoption of revised Contract Procedure Rules. An extract of the key elements of the report of the Assistant Director, Commercial Services and Section 151 Officer is attached at Appendix A.
- 1.2 The Executive observed that a requirement within the new Regulations that all spend over £25,000 (net of VAT) must be advertised on a central Government website facility could somewhat negate a requirement that Councils be 'encouraged to break contracts into Lots (Councils must have a reason if not doing so). It was also observed that the new Regulations applied to local authorities of all sizes.
- 1.3 It is proposed that Council **RESOLVES** that the revised Contract Procedure Rules, attached at Appendix A1, be adopted. (S151)

2 STATEMENT OF LICENSING POLICY

- 2.1 This item of business was referred by the Licensing Committee on 16 November 2015 to Full Council with a recommendation to approve the amended statement of licensing policy (Licensing Act 2003). An extract of the key elements of the report of the Assistant Director, Legal Services is attached at Appendix B, together with a copy of the amended statement of licensing policy, at Appendix B1.
- 2.2 The Licensing Committee observed that there had been no responses during public consultation on the draft statement of licensing policy relating to the inclusion of a cumulative impact policy for Rayleigh High Street, Rayleigh High Road and Eastwood Road, Rayleigh. The effect of this would be such that new businesses applying for a premises licence in those affected areas would need to demonstrate that their business would not impact on the existing night time economy issues in those areas.
- 2.3 It is proposed that Council **RESOLVES** that the amended statement of licensing policy (Licensing Act 2003) be approved.

3 STATEMENT OF LICENSING POLICY (GAMBLING ACT 2005)

- 3.1 This item of business was referred by the Licensing Committee on 16 November 2015 to Full Council with a recommendation to approve the amended statement of licensing policy (Gambling Act 2005). An extract of the key elements of the report of the Assistant Director, Legal Services is attached at Appendix C, together with a copy of the amended statement of licensing policy (Gambling Act 2005), at Appendix C1.

- 3.2 The Licensing Committee observed that the only responses received during public consultation on the draft statement of licensing policy (Gambling Act 2005) related to typographical errors and new legislation introduced by the Government. The Committee noted that once the current policy was adopted officers would have time to assess future changes that might be needed to the policy in light of the new legislation, which would be reported to Members in due course.
- 3.3 The Licensing Committee did not consider there to be any reason for the Council to exercise its discretion to issue casino licences at this time.
- 3.4 It is proposed that Council **RESOLVES** that the amended statement of licensing policy (Gambling Act 2005) be approved. (AD-LS)

4 2015/16 MID YEAR TREASURY MANAGEMENT REVIEW

- 4.1 This item of business was referred by the Review Committee Treasury Management Task and Finish Group on 24 November 2015 to Full Council with a recommendation on the Mid Year Treasury Management Review. An extract of the key elements of the report of the Section 151 Officer to the Task and Finish Group is at Appendix D.
- 4.2 It is proposed that Council **RESOLVES** that the Mid Year Treasury Management Review be approved. (S151)

5 QUARTER 2 2015/16 FINANCIAL MANAGEMENT REPORT

- 5.1 This item of business was referred by the Executive on 2 December 2015 to Full Council with recommendations on the Revenue and Capital Budget and Key Financial Performance Indicators. An extract of the key elements of the report of the Section 151 Officer to the Executive is at Appendix E.

The Executive observed that it was good to see savings that had already been made and those that were projected.

With reference to the recovery plan it was noted that the grounds maintenance contingency budget had not been utilised in previous years.

(Note: only cases where appendices do not identify a service area with the appropriate portfolio will be corrected for Quarter 3.)

- 5.2 It is proposed that Council **RESOLVES:-**
- (1) That the Quarter 2 2015/16 revenue budget and capital position of the Council, contained in sections 3 and 4 of the report to the Executive and as shown in Appendices 1 and 2, be approved.
 - (2) That the reasons for variations to the previously approved budgets, as detailed in sections 3 and 4 of the report to the Executive, be approved.

- (3) That the latest net revenue budget be set at £9.72m for 2015/16, as outlined in paragraphs 3.1 and 3.6 of the report to the Executive.
- (4) That the general fund balance and transfers sought to and from general reserves, outlined in paragraphs 5.3 and 5.4 of the report to the Executive, be approved.
- (5) That the current financial performance on Key Revenue Financial Indicators, as shown in section 6 and Appendix 3 of the report to the Executive, be noted. (S151O)

6 LOCAL COUNCIL TAX SUPPORT (LCTS) SCHEME – 2016/17

6.1 This item of business was referred by the Executive on 2 December 2015 to Full Council with recommendations on the LCTS. An extract of the key elements of the report of the Section 151 Officer to the Executive is at Appendix F.

6.2 It is proposed that Council **RESOLVES:-**

- (1) That the outcome of the public consultation on the LCTS scheme for 2016/17 be noted.
- (2) That the reduction in the maximum award available to working age people receiving support to 72% (Option 2) from 1 April 2016 be agreed.
- (3) That the Council earmarks £20,000 in reserves for a Discretionary Hardship Fund, to offer additional help and support to those suffering the greatest financial hardship as defined in the Council's Discretionary Reduction in Council Tax Liability Policy.
- (4) That the setting of a minimum Income Floor for self employed persons be part of the LCTS with effect from April 2016 in line with other Welfare Reforms.
- (5) That the remaining scheme provisions for 2016/17 continue as currently published on the Council's website, subject to an inflationary increase in the personal allowances used to calculate LCTS in line with those carried out in 2014/15 and 2015/16. (AD – CR&B/S151O)

REVISED CONTRACT PROCEDURE RULES

1 DECISION BEING RECOMMENDED

- 1.1 That the Executive recommends to Full Council that the revised Contract Procedure Rules, attached as Appendix A1, be adopted.

2 REASONS FOR RECOMMENDATION

- 2.1 The introduction of the Public Contract Regulations (PCR 2015) resulted in the need to revise the Council's existing Contract Procedure Rules to reflect this new legislation.
- 2.2 These regulations represent a significant change to the way Local Authorities must carry out their procurement functions and the opportunity was taken to develop a more robust contract procedure rules document that draws on current best practice.

3 SALIENT INFORMATION

- 3.1 The Public Contract Regulations (PCR 2015) puts in place certain duties that Councils must follow. A key change in the new regulations is the principle of the "most economically advantageous tender" (the "MEAT" criterion). This criterion aims to ensure quality and best value for money by placing greater emphasis on certain considerations, such as environmental, social and innovative characteristics and the experience of staff delivering the contract.
- 3.2 The MEAT principle enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.
- 3.3 Other changes include:-
- All spend over £25,000 (net of VAT) has to be advertised on Contracts Finder (a central Government website with a search facility).
 - There is to be a cost/quality split in the scoring of tenders.
 - Exemptions cannot be granted for anything over £25,000.
 - Councils will be 'encouraged' to break contracts into Lots (Councils must have a reason if not doing so).

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None. The Council has a statutory duty to follow the PCR 2015.

5 RISK IMPLICATIONS

- 5.1 Failure to adopt the revised procurement process, as outlined in the revised Contract Procedure Rules, could open the Council to legal challenge.

6 RESOURCE IMPLICATIONS

- 6.1 There are no direct financial implications arising from the report. Indirect implications include staff time for potential Small or Medium Enterprises (SMEs) and Member training in the revised procedures. In implementing this strategy the Council needs to ensure that it balances its aspirations for local SMEs with its duty to comply with EU procurement rules and that where it proposes to give assistance to local SMEs, either by way of grant aid or otherwise, it gives full consideration to rules relating to State Aid.

7 LEGAL IMPLICATIONS

- 7.1 As stated above, the Council has a statutory duty to follow the PCR 2015.

8 EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 Although the Strategy will have limited direct impact on equality or diversity issues, individual procurement exercises for tenders will include an Equality Impact Assessment where appropriate.

ROCHFORD DISTRICT COUNCIL

Contract Procedure Rules

[Approved by Council on []]

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All costs stated in these Contract Procedure Rules are exclusive of VAT, staff costs and fees.

DEFINITIONS

Agent	a person or organisation instructed to act on behalf of the Council or on behalf of another organisation. This shall also be taken to include consultants.
Approved List	A list drawn up in accordance with Rule 7.2.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a Contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by Value for Money.
Bond	An insurance policy: if the Contractor does not do what it has promised under a Contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the Contract value). A bond is intended to protect the Council against a level of cost arising from the Contractor's failure.
Bidder	Any person who asks or is invited to submit a Quotation or Tender.
Chief Finance Officer	The Officer Designated Chief Finance Officer (Section 151 Officer) by the Council.
Code of Conduct	The code regulating conduct of Officers.
Committee	A Committee which has power to make decisions for the Council, for example a joint Committee with another local authority, but not the scrutiny Committee.
Contract	Means a Relevant Contract under these Contract Procedure Rules. Contract and Relevant Contract may be used interchangeably.
Contracting Decision	<p>Any of the following decisions:</p> <ul style="list-style-type: none">• composition of Approved Lists;• withdrawal of Invitation to Tender;• whom to invite to submit a Quotation or Tender;• Shortlisting;• award of Contract; <p>any decision to terminate a Contract.</p>

Corporate Contract	A Contract let by the Council to support the Council's aim of achieving Value for Money.
Council	means Rochford District Council
Essex Procurement Hub	The Council's central procurement partner charged with providing strategic direction and advice to secure Value for Money in the Council's procurement activities. The hub also has EU regulations legal expertise.
EU Procedure	The procedure required by the EU where the Total Value exceeds the EU Threshold.
EU Threshold	The Contract value at which the EU public procurement directives apply.
Evaluation	The process of selecting Bidders who are to be invited to quote or bid or proceed to final evaluation
Financial Regulations and procedures	The financial regulations and procedures outlining Officer responsibilities for financial matters issued by the Chief Finance Officer in accordance with the Constitution.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Head of Paid Service	The Council's Chief Executive.
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Tender	Invitation to tender documents in the form required by these Contract Procedure Rules.
Key Decision	Decisions that are defined as key decisions in the Constitution.
Members	Persons currently elected to serve on the Council
Monitoring Officer	The Officer defined as such in the Constitution
Nominated Suppliers and Sub-Contractors	Those persons specified in a main Contract for the discharge of any part of that Contract.

Non-commercial Considerations

- a) The terms and conditions of employment by Contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').
- b) Whether the terms on which Contractors Contract with their sub-Contractors constitute, in the case of Contracts with individuals, Contracts for the provision by them as self-employed persons of their services only.
- c) Any involvement of the business activities or interests of Contractors with irrelevant fields of government policy.
- d) The conduct of Contractors or workers in industrial disputes between them or any involvement of the business activities of Contractors in industrial disputes between other persons ('industrial disputes').
- e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, Contractors.
- f) Any political, industrial or sectarian affiliations or interests of Contractors or their directors, partners or employees.
- g) Financial support or lack of financial support by Contractors for any institution to or from which the Council gives or withholds support.

Use or non-use by Contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be Non-Commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings. (Protection of Employment) Regulations 1981 (TUPE) may apply.

Officer

Means an officer of the Council authorised to enter into a Relevant Contract to which these Contract Procedure Rules apply.

Parent Company Guarantee

A Contract which binds the parent of a subsidiary company as follows:

if the subsidiary company fails to do what it has promised under a Contract with the Council, the Council can require the parent company to do so instead.

Procurement Officer

An officer of the Council within the procurement team.

Procurement Strategy

The document setting out the Council's approach to procurement and key priorities as issued from time to time.

Purchasing Guidance	The guidance documents, together with a number of standard documents and forms, which supports the implementation of these Contract Procedure Rules. The guidance is available on the Council's intranet.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these Contract Procedure Rules apply including sales, grants, purchasing, procurement, Relevant Contracts, service level agreements, and Contracts with external parties, including other local authorities or public bodies. This is more fully defined under rule 4.
Standing Orders	Part of the Council's Constitution specifying rules for how business shall be conducted.
Tender	A Bidder's proposal submitted in response to an Invitation to Tender.
Tender Record Log	The log kept by the Director of Commercial Services to record details of Tenders (see Rule 13).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:</p> <ul style="list-style-type: none"> (a) where the Contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period. (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months. (c) where the Contract is for an uncertain duration, by multiplying the monthly payment by 48. (d) for feasibility studies, the value of the scheme or Contracts which may be awarded as a result. <p>for Nominated Suppliers and Sub-Contractors, the total value shall be the value of that part of the main Contract to be fulfilled by the Nominated Supplier or Sub-Contractor.</p>
TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006) (SI 2006 No.246)	<p>Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (e.g. private Contractor, local authority in-house team) to another (e.g. following a Contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>

Value for Money

Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

INTRODUCTION

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability, deter corruption, ensure that the Council achieves Best Value in the way it spends money and act as guidance to Officers and Members.

It is a disciplinary offence to fail to comply with Contract Procedure Rules when undertaking Procurement on behalf of the Council. Council employees and third party service providers have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Monitoring Officer.

These rules apply to all Relevant Contracts.

These rules apply to Officers and Members.

These rules do not apply to the acquisition or disposal of land or any interest in land (although services relating to land could come within the scope of these rules) or for the engagement of barristers. The scope of the rules is definitively set out under rule 4.

Where the Council is entering into a contract as an agent and/or in collaboration with another public body or organisation, these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the body concerned. Where the Council is acting as principal the Contract Procedure Rules will take precedence.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed (unless stated otherwise) to include e-mail and fax transmissions as well as hard copy.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

All procedures must:

- support the Council's corporate aims, policies, and strategic direction
- consider all necessary procurement, legal, financial and professional advice.
- ensure value for money and propriety in the spending of public money; be consistent with the highest standards of integrity
- comply with all legal requirements and these rules
- ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant procurement activity
- consider and incorporate necessary health and safety, inclusion and diversity, and safeguarding children and vulnerable adults requirements.
- not be influenced by Non-Commercial considerations other than those permitted by law.
- comply with the Council's corporate Procurement Strategy.

2. OFFICER RESPONSIBILITIES

2.1 Officers

2.1.1 Officers engaging in Relevant Contracts must comply with the Council's Contract Procedure Rules, the Finance Procedure Rules, Officer's Code of Conduct and with all UK and European Union binding legal requirements. Officers must ensure that any Agents and Contractual partners acting on their behalf also comply.

All officers should undertake Procurement in a manner which avoids any potential conflicts of interest

2.1.2 Officers must:

- ensure to obtain all appropriate authorisations, check that sufficient resources are available, and that appropriate budget provisions exist.
- have regard to the guidance in the Purchasing Guidance
- check whether a suitable Corporate Contract exists before seeking to let another Contract; where a suitable Corporate Contract exists, this must be used unless there is an auditable reason not to keep the records required by Rule 6
- take all necessary legal, financial and professional advice.
comply with the Council's policies on anti-bribery, corruption and whistleblowing as published from time to time.

2.1.3 When any employee either of the Council or of a service provider may be affected by any transfer arrangement, Officers must ensure that TUPE issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotations.

2.2 Assistant Directors

2.2.1 Assistant Directors must:

- ensure that their staff comply with Rule 2.1 to keep registers of Contracts completed by signature (rather than by the Council's seal) (see Rule 16.3) which may be inspected; and will support the annual budget review..
- arrange for original Contracts where the Contract value exceeds £25,000 or are completed by the Council's seal to be passed to the Assistant Director – Legal Services or the Council's procurement team, as appropriate, for safekeeping. All other original Contracts are to be kept safe by the appropriate Assistant Director subject to Data Protection requirements
- ensure exemptions are recorded under Rule 3.5.

3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

- 3.1 An exemption under this rule allows for the procedure under Rule 8 to be dispensed with and can be replaced with direct negotiation with one or more suppliers.
- 3.2 Before seeking an exemption the Officer must take any necessary procurement, legal, financial and professional advice prior to submitting the exemption for authorisation to the Head of Paid Service with the agreement of the Chief Finance Officer.
- 3.3 The Council has the power to dispense with any provision within these Contract Procedure Rules. No exemption can be used if the Contract value exceeds £25,000.
- 3.4 Exemptions from the procedure under Rule 8 may be approved by the Head of Paid Service, in consultation with the Council's Section 151 Officer where:
- (a) it is necessary to forgo the Rule 8 procedure due to an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services. Any such exemption must only be for the minimum required to make the emergency situation safe or to ensure continued Council operations until a compliant procedure can be carried out.
 - (b) the work to be carried out or goods to be supplied comprise repairs, or parts for existing plant equipment, or vehicles, or updating computer software, or are required to be compatible with existing plant, equipment, vehicles or software
 - (c) the Contract is to extend an existing Contract and is the most economical means of obtaining what is required by the Council
 - (d) a consultant is proposed to be re-engaged to carry out further work on a project which they have worked on before and engaging new consultants would be inappropriate, or lead to extra costs
- 3.5 All exemptions, and the reasons for them, must be recorded. Exemptions shall be signed by the relevant Assistant Director and shall be reported to the Leader of the Council as soon as practicable. Records of all recorded decisions shall be held by the Council's 151 Officer and the Council's procurement team.
- 3.6 In order to secure Value for Money, the Council may enter into collaborative procurement arrangements. The Officer must consult the relevant Assistant Director and take any necessary procurement, legal, financial and professional advice where the purchase is to be made using collaborative procurement arrangements with another local Council, government department, statutory undertaker or public service purchasing consortium.

- 3.7.1 All purchases made via a local Council purchasing consortium are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the EU Threshold must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting their Contract in accordance with the EU Procedures on behalf of the Council and other consortium members.
- 3.7.2 Any Contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required. However, any relevant procurement, legal, financial and professional advice must be sought.
- 3.8 The use of e-procurement technology does not negate the requirement to comply with all elements of these Contract procurement rules, particularly those relating to competition and Value for Money.

4. RELEVANT CONTRACTS

- 4.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- (a) The supply or disposal of goods;
- (b) The hire, rental or lease of goods or equipment;
- (c) The delivery of services, including (but not limited to) those related to:
 - The recruitment of agency staff i.e. those members of staff without a direct employment Contract with the Council
 - Land and property transactions
 - Financial and consultancy services

- 4.2 Relevant Contracts do not include:

- (a) Contracts of employment which make an individual a direct employee of the Council
- (b) Agreements regarding the acquisition, disposal, or transfer of land
- (c) The engagement of barristers
- (d) The recruitment of non-agency Council staff i.e. those with a direct employment Contract with the Council

4.3 CONTRACT VALUE CALCULATION

Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract.

Where the contract term is without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with Regulation 8 of the EU Regulations.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules or English law. Please refer to the Code of Practice for further information.

Where a Framework Agreement is planned the contract value must be calculated to include the total value of all the individual contract arrangements envisaged under the Framework Agreement.

4.4 EXTENSIONS and VARIATIONS

Contracts may only be extended or varied if all of the following conditions have been met

- the extension or variation is in accordance with the terms and conditions of the existing contract;
- the contract has not been extended before
- the extension or variation has an approved budget allocation;

For advice regarding acceptance thresholds for contract extensions and variations please contact the Procurement Team.

SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

- 5.1 The Officer must appraise the purchase, in a manner proportionate with its complexity and value and taking into account any relevant guidance and advice, by:
- Taking into account the requirements from any relevant Best Value review appraising the need for the expenditure and its priority defining the objectives of the purchase.
 - Assessing the risks associated with the purchase and how to manage them considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local Council, government department, statutory undertaker or public service purchasing consortium.
 - Consulting users as appropriate about the proposed procurement method, Contract standards and performance and user satisfaction monitoring.
 - Drafting the terms and conditions that are to apply to the proposed Contract setting out these matters in writing if the Total Value of the purchase exceeds £50,000
- 5.2 **And by confirming that:**
- There is Council or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution

6. RECORDS (ACQUISITIONS AND DISPOSALS)

6.1 Where the Total Value is greater than £500 but less than £50,000, the following records must be kept:

- Invitations to quote and Quotations;
- A record:
 - of any exemptions and the reasons for them (if Total Value is less than £25,000);
 - of the reason if the lowest price is not accepted (if Total Value is less than £25,000).
- Written records of communications with the successful Contractor or an electronic record if a written record of the transaction would normally not be produced.

6.2 **Where the Total Value exceeds £50,000 the Officer must record:**

- The method for obtaining bids (see Rule 8.1);
- Any Contracting Decision and the reasons for it;
- The Award Criteria in descending order of importance;
- Tender documents sent to and received from Bidders;
- Any pre-tender market research;
- Clarification and post-tender negotiation (to include minutes of meetings);
- The Contract documents;
- Post-Contract evaluation and monitoring;
- Communications with Bidders and with the successful Contractor throughout the period of the Contract.

6.3 Records required by this rule must be kept for six years after the end of the Contract. However, written documents which relate to unsuccessful Bidders may be electronically scanned or stored by some other suitable method after 12 months from award of Contract, provided there is no dispute about the award.

7. ADVERTISING AND APPROVED LISTS

7.1 Officers are responsible for ensuring that all Bidders for a Relevant Contract are suitably assessed. The assessment process shall establish that the potential Bidders have sound:

- Economic and financial standing;
- Technical ability and capacity to fulfil the requirements of the Council.

7.2 This may be achieved by selecting organisations from

- a. Framework agreements maintained on behalf of Essex Procurement Hub, Central Government or any other public body
- b. A shortlist of Contractors assessed from expressions of interest in a particular Contract submitted in response to a public advertisement (for any Contract below £25,000).
- c. Advertised on Contracts Finder (for any Contract over £25,000)

- 7.3 Where the value of the proposed Contract is less than £25,000 appropriate enquires will be made, based on the degree of risk to which the Council will be exposed.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The Officer must calculate the Total Value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice from the Council's procurement or legal services departments.

8.1 Purchasing – Competition Requirements

- 8.1.1 Where the Total Value for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Evaluation shall be done by the persons specified in the third column.

Total Value	Award Procedure	Evaluation Panel
Up to £10,000	Quotations in writing should be obtained for purchases and it is recommended that more than one written quotation is obtained if reasonably practicable. However, if the value of the purchase is estimated as not likely to exceed £500, then at least one oral quotation will suffice. Officers must be able to demonstrate both Best Value and probity in the process. Existing Contractual arrangements must be used if they are in place.	Officer
£10,001 to £24,999	The Receipt of three written Quotations (this requirement may be waived with the written consent of the relevant Assistant Director in consultation with the Chief Finance Officer).	Officer
£25,000 to £50,000	Quotations sought by advertisement on Contracts Finder	Officer and Procurement Co-Ordinator / Procurement Consultant
£50,001 to EU Threshold	Invitation to Tender by advertisement on Contracts Finder	Officer, Procurement Co-Ordinator / Procurement

Above EU
Threshold

EU Procedure or, where this does
not apply, Invitation to Tender by
advertisement on Contracts Finder

Consult the Essex
Procurement Hub –
see Rule 8.1.4

- 8.1.2 Where it can be demonstrated that there are sufficient suitably qualified Bidders to meet the competition requirement, all suitably qualified Bidders must be invited.
- 8.1.3 An Officer must not enter into separate Contracts nor select a method of calculating the Total Value in order to minimise the application of these Contract Procedure Rules.
- 8.1.4 Where the EU Procedure is required, the Officer shall consult the Essex Procurement Hub to determine the method of conducting the purchase.

8.2 Assets for Disposal

- 8.2.1 Assets for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting Quotations and Tenders. These may be invited by advertising on the Council's internet site. In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets must be formally agreed with the relevant Assistant Directors/Directors.

8.3 Providing Services to External Purchasers

- 8.3.1 The relevant Assistant Directors/Directors, as well as the relevant Financial Regulations, procedures and legislation, must be consulted where Contracts to work for organisations other than the Council are contemplated.

8.4 Collaborative and Partnership Arrangements

- 8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these Contract Procedure Rules.
- 8.4.2 If in doubt, Officers must seek advice of the Essex Procurement Hub.

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 9.1 The Officer responsible for the purchase:
- May consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, Contract packaging and other relevant matters, provided this does not prejudice any other potential Bidder. Prior to any such consultation, Officers should seek advice from the Assistant Director – Legal Services and/or the Essex Procurement Hub.
 - May seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, unless this may prejudice the equal treatment of all potential Bidders or distort competition, and should seek advice from the Assistant Director – Legal Service, and/or the Essex Procurement Hub.

10. STANDARDS AND AWARD CRITERIA

- 10.1 The Officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the Contract. The Officer must include those standards which are necessary properly to describe the required quality. The Director must be consulted if it is proposed to use standards other than European standards.
- 10.2 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the Council. The basic criteria shall be:
- 'Lowest price' where payment is to be made by the Council (this will only be applicable to Contracts under £25,000);
 - 'Highest price' if payment is to be received; or
 - 'Most economically advantageous', where considerations other than price also apply (applicable to all Contracts over £25,000).

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations.

These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

- 10.3 Award Criteria must not include:
- Non-commercial Considerations (except where such consideration will be integral to the Contract)
 - Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

11. INVITATIONS TO TENDER / QUOTATIONS

- 11.1 The Invitation to Tender or Quotation shall state that no Tender or Quotation will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No Tender or Quotation delivered in contravention of this clause shall be considered except in exceptional extenuating circumstances and with adequate notification to the Council's procurement team.
- 11.2 All Invitations to Tender shall include the following:
- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers.
 - (b) A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).

- (c) A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion.
 - (d) Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
 - (e) A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms and if possible in descending order of importance.
 - (f) A stipulation that any Tenders submitted by fax or other electronic means shall not be considered with the exception of the Council's electronic tender portal.
- 11.3 All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of Contract that will apply (see Rule 16).
- 11.4 The Invitation to Tender or Quotation must state that the Council is not bound to accept any Quotation or Tender.
- 11.5 All Bidders invited to Tender or Quotation must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

12. SHORTLISTING

- 12.1 Where Approved Lists are used, Evaluation may be carried out by the Officer in accordance with the Evaluation criteria drawn up when the Approved List was compiled (see Rule 7.2.2). However, where the EU Procedure applies, Approved Lists may not be used.

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

- 13.1 Bidders must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the urgency and complexity of the Contract requirement. All Tender documents will be published on Contracts Finder for a minimum of 35 days. The EU Procedure lays down specific time periods (see guidance published on the Procurement section of the Intranet).
- 13.2 All Tenders must be returned to the Council's Procurement Team where they will be stored securely.
- 13.3 Tenders received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Assistant Director of Commercial Services.
- 13.4 The Officer must not disclose the names of Bidders to any staff involved in the receipt, custody or opening of Tenders.
- 13.5 The Assistant Director – Commercial Services or the Council's procurement team (as applicable) shall be responsible for the safekeeping of Tenders until the appointed

time of opening. Each Tender must be: Suitably recorded so as to subsequently verify the date and precise time it was received; adequately protected immediately on receipt to guard against amendment of its contents; and recorded immediately on receipt in the Tender Record Log.

13.6 Submission and receipt of Paper Tenders

The Assistant Director – Commercial Services or the Council's procurement team (as applicable) must ensure that all Tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two nominated officers representing the relevant Assistant Director/Director, neither of whom can be the Officer. Where the Total Value is more than the EU Threshold, one must be an Assistant Director.

There is no legal requirement for Members to be present at tender openings. However, where the total value is more than £50,000 a maximum of 2 Members can (should they wish to) observe. A list of Councillors available to attend tender openings will be collated. The relevant Portfolio Holder for the service and one other Councillor (by rota) will be made aware of the opening arrangements, by email, should they be sufficiently independent and wish to observe the opening process.

A record shall be maintained of all persons invited and present at each tender opening and declaration of interest form signed by the Councillors in attendance demonstrating that they are an independent party. The independent Councillor(s) and nominated officer shall initial each tender opened and shall sign and date a list of all tenders opened.

No person shall disclose the value, number or any other detail of the tenders received to any tenderer or anyone not involved with the tender evaluation procedure

Submission of Electronic Tenders

With the implementation of the Council's E-Procurement System all tenders for the Procurement of supplies services and works will be submitted securely through the Council's electronic tender portal and will be opened through the e-procurement portal no earlier than one hour after the time specified in the invitation for the submission of tender.

- 13.7 Upon opening, a summary of the main terms of each Tender (i.e. significant issues that are unique to each Tender submission and were not stated in the Tender invitation documents such as Tender sum, construction period, etc.) must be recorded in the Tender Record Log. The summary must be initialled on behalf of the Assistant Director.

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

- 14.1 Providing clarification of an Invitation to Tender to potential or actual Bidders or seeking clarification of a Tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a Tender and before the award of a Contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price. Officers should consult the Council's procurement and legal teams for confirmation on when and what is permitted.

- 14.2 If post-tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage Tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best Tender and after all unsuccessful Bidders have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents. Officers appointed by the relevant Assistant Director to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 14.3 Post-tender negotiation must only be conducted in accordance with the guidance issued by the Assistant Director – Legal Services who, together with the Assistant Director – Commercial Services, must be consulted wherever it is proposed to enter into post-tender negotiation.
- 14.4 Where post-tender negotiation results in a fundamental change (e.g. a change which introduces terms or conditions which, if they had been part of the initial award procedure, would have allowed for the admission of bidders other than those initially admitted or allowed; a change which extends the scope of the specification (or Contract terms) to encompass services not initially covered; or a change in the economic balance of a Contract in favour of the Contractor in a manner not provided for under the specification/Contract terms) to the specification (or Contract terms) the Contract must not be awarded but re-tendered. Advice on what constitutes a fundamental change should be sought from the Council's legal and procurement teams.

15. EVALUATION, AWARD OF CONTRACT, & DEBRIEFING BIDDERS

- 15.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of Quotations, Tenders and the identity of Bidders must be preserved at all times and information about one Bidder's response must not be given to another Bidder.
- 15.2 Contracts must be evaluated and awarded in accordance with the specified Award Criteria.
- 15.3 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender, rather than the overall price, were stated within the Tender invitation as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.
- 15.6 The Officer or a Procurement Officer should notify in writing all those Bidders who submitted a Tender or Quotation about the reasons they were unsuccessful. No information, other than the following, should be given without taking the advice of the Council's legal and procurement teams.
- Pricing score / Total price (not the breakdown of individual priced elements)
 - Their individual quality score (as an average from the evaluation panel)
 - What was good about their submission and areas for improvement
 - Only compare themselves and the winner, not any other Bidders
- 15.7 If a Bidder requests in writing further reasons for a Contracting Decision, the Officer must give the reasons in writing within 15 days of the request. If requested, the

Officer may also give the debriefing information at Rule 15.6 above to Bidders who were deselected in a pre-tender Shortlisting process.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16. CONTRACT DOCUMENTS

16.1 Relevant Contracts

16.1.1 All Relevant Contracts that exceed £5,000 shall be in writing in a form agreed by the Assistant Director – Legal Services and Assistant Director – Commercial Services.

16.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:

- what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- the provisions for payment (i.e. the price to be paid and when);
- the time, or times, within which the Contract is to be performed;
- the provisions for the Council to terminate the Contract
- ownership of Intellectual Property created by the contract.

16.1.3 The Council's order form (electronic order system) or standard terms and conditions issued by a relevant professional body must be used wherever possible.

16.1.4 In addition, every Relevant Contract of purchase over £50,000 must also state clearly as a minimum:

- that the Contractor may not assign or sub-Contract without prior written consent;
- any insurance requirements;
- health and safety requirements;
- ombudsman requirements;
- data protection requirements, if relevant;
- that charter standards are to be met if relevant;
- Equality Act requirements;
- Freedom of Information Act requirements;
- Whistleblowing requirements;
- where Agents are used to let Contracts, that Agents must comply with the Council's Contract Procedure Rules;
- a right of access to relevant documentation and records of the Contractor for monitoring and audit purposes if relevant.

16.1.5 The formal advice of the Assistant Director – Legal Services must be sought for the following Contracts:

- where the Total Value exceeds EU Threshold;
- those involving leasing arrangements;
- where it is proposed to use a supplier's own terms;

- those involving the purchase of application software with a Total Value of more than £50,000;
- those that are complex in any other way.

16.1.6 The following clause must be inserted in every written Council Contract

“The Council may terminate this Contract with immediate effect and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things.

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done); or
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972
- (c) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
- (d) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council members, Contractors or employees.

Any clause limiting the Contractor’s liability shall not apply to this clause”

16.2 Contract Formalities

16.2.1 Agreements (Contracts and Orders) shall be completed as follows:

Total Value	Method of Completion	By
Up to £5,000	Electronic order	Authorised buyer (see Rule 16.2.3)
£5,001 to £50,000	Electronic order	Authorised Buyer approved by the relevant Assistant Director (see Rule 16.2.3)
Above £50,001	Signature on written Contract	Assistant Director – Legal Services (see Rule 16.2.3)

16.2.2 All Contracts must be concluded in writing or by email before the supply of goods, provision of services or construction work begins; except in exceptional circumstance, and then only with the written consent of the relevant Assistant Director and a Procurement Officer.

16.2.3 The Officer responsible for securing signature of the Contract must ensure that the person signing for the other Contracting party has authority to bind it.

16.2.4 All Contract documents must be placed in the central repository in accordance with Financial Regulations and Rule 2.2.1.

16.3 Sealing

16.3.1 Where Contracts are completed by each side adding their formal seal, such Contracts shall be signed in accordance with the Council's Standing Orders (Assistant Director – Legal Services).

16.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

16.3.3 A Contract must be sealed where:

- the Council may wish to enforce the Contract more than six years after its end;
- the price paid or received under the Contract is a nominal price and does not reflect the value of the goods or services.

17. BONDS AND PARENT COMPANY GUARANTEES

17.1 Bonds and Parent company guarantees are used as a means of insuring the Council against the risk of a contractor failing to fulfil contractual obligations and is prudent in contract management; particularly as an organisation's financial viability can be prejudiced through no fault of its own through the default/failure of other parties.

17.2 The Officer must consult the Chief Finance Officer about whether a Parent Company Guarantee is necessary when a Bidder is a subsidiary of a parent company and:

- the Total Value exceeds £250,000; or
- award is based on evaluation of the parent company; or
- there is some concern about the stability of the Bidder.

17.3 Contractors who wish to be considered for larger projects must have a performance bond facility in place.

17.4 Contractor's will be asked to price for a performance bond in every tender that is over **£50,000** regardless of the financial risk rating. If a Contractor has more than one contract where the cumulative value is **£50,000** or more and the project/s are at an early stage on site a bond must be taken out for the new contract under consideration.

17.5 The requirement for a bond must be stated in the tender documents. This must be shown as a separate line in the tender breakdown and the Contractor must be able to evidence the performance bond before award of contract. Contractors may take a commercial decision to absorb the price of the bond, in the same way that they decide on their profit margins for each job. It is therefore perfectly acceptable to enter a nil cost for the bond as long as the Contractor makes sure the bond is provided in a timely manner before the contract is awarded.

17.6 Following consideration of the economic uncertainty, evaluation results and complexity / risk associated to the contract the Chief Finance Officer will determine whether a Bond is needed.

17.7 Please note, where a performance bond is requested this is a non-negotiable part of the contract award process. The Council does not expect to experience time delays

before the contract is awarded. Therefore the Contractor must make sure they are able to provide a bond during the tender pricing period so that they are ready to produce it if the award is made in their favour.

18. PREVENTION OF CORRUPTION

18.1 The Officer must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any Contract. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below.

18.2 The following clause **must** be put in every written Council Contract:

“The Council may terminate this Contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done), or
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or
- (c) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council members, Contractors or employees. Any clause limiting the Contractor’s liability shall not apply to this clause.”

19. DECLARATION OF INTERESTS

19.1 If it comes to the knowledge of a Member or an employee of the Council that a Contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer. The Monitoring Officer shall report such declarations to the appropriate Committee.

19.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a Contract to which the member or employee is directly a party.

19.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.

19.4 The Monitoring Officer shall maintain a record of all declarations of interests notified by members and Officers.

19.5 The Monitoring Officer shall ensure that the attention of all members is drawn to the National Code of Local Government Conduct.

SECTION 5: CONTRACT MANAGEMENT

20. MANAGING CONTRACTS

- 20.1 Assistant Directors/Directors in sponsoring departments are to name Contract managers for all new Contracts. All Contracts must have a named Council Contract manager for the entirety of the Contract.
- 20.2 Contract Managers must follow the procedures set out in the Council's Purchasing Guidance to ensure continuous improvement and Value for Money is achieved. Directors and Assistant Directors must ensure that those responsible for managing contracts ensure:
- contract performance and key performance indicators are met;
 - compliance with specification and contract terms; and
 - cost management including reconciliation of payments against work done, supplies or services delivered and, where payments are made in stages, keeping a contract register showing the state of account on each contract in accordance with Financial Regulations.

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 21.1 A business case must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the Contract, for its entirety, must be identified in the business case.
- 21.2 For all Contracts with a value of over £50,000, Contract managers must:
- maintain a risk register during the Contract period;
 - undertake appropriate risk assessments and for identified risks;
 - ensure contingency measures are in place.

22. CONTRACT MONITORING, EVALUATION AND REVIEW

- 22.1 All Contracts which have a value higher than the EU Threshold limits, or which are High Risk, are to be subject to monthly formal review with the Contractor. The review may be conducted quarterly if permitted by the Assistant Director - Commercial Services.
- 22.2 For all Contracts with a value higher than the EU Threshold limits, or which are High Risk, an annual report must be submitted to the relevant Committee.
- 22.3 The Council's approved project management methodology must be applied to all Contracts deemed to be High Risk, High Value, or High Profile.
- 22.4 During the life of the Contract, the Officer must monitor in respect of:
- contract performance and key performance indicators are met;
 - compliance with specification and Contract terms;

- cost management including reconciliation of payments against work done, supplies or services delivered and, where payments are made in stages, keeping a contract register showing the state of account on each contract in accordance with Financial Regulations;
- user satisfaction and risk management.

22.5 Where the Total Value of the Contract exceeds £250,000, the Officer must make a written report to the Executive evaluating the extent to which the purchasing need and the Contract objectives (as determined in accordance with Rule 5.2) were met by the Contract. This should be done normally when the Contract is completed. Where the Contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent Contract.

CONSULTATION ON LICENSING ACT DRAFT STATEMENT OF LICENSING POLICY

1 PURPOSE OF REPORT

- 1.1 This report details proposed amendments to the draft Statement of Licensing Policy that was approved for consultation by the Licensing Committee on 13 July 2015.
- 1.2 It proposes no changes to the original draft and seeks Members' approval for placing before Council on 15 December 2015.

2 INTRODUCTION

- 2.1 Section 5 (1) of the Licensing Act 2003 requires the Council to determine and to publish its licensing policy every 5 years. The Council's current policy for the period ending 6 January 2016 was reviewed, revised and approved for consultation between 17 August and 6 November 2015.
- 2.2 The Act requires the Council to keep the policy under review throughout each period and to revise it as necessary. Prior to making any changes, or in advance of a new 5 year period, the Council must carry out a consultative process with Responsible Authorities defined by the Act and others who the Authority considers would have an interest in the policy.
- 2.3 The draft policy was circulated for consultation to those identified in the report and the draft policy was displayed at the Council offices and on the Council's website.
- 2.4 A copy of the draft policy consulted upon is attached.

3 RESPONSE TO CONSULTATION

- 3.1 One response has been received from Mrs Faulkner regarding typing errors.

4 RISK IMPLICATIONS

- 4.1 There is a statutory obligation for the statement of licensing policy to be published by 6 January 2016. The draft policy has to be implemented for consideration and ratification by Council on 15 December 2015.
- 4.2 The Committee is bound by the provisions of the Act, the statutory guidance issued by the Home Office and its own statement of licensing policy in the administration of the licensing regime and in determining licensing issues.

5 LEGAL IMPLICATIONS

- 5.1 There may be a potential for decisions made in determining licensing applications to become subject to an appeal if an up to date statement of licensing policy has not been approved by Full Council and published by 6 January 2016, or the policy itself subject to legal challenge.

For the period 31 January 2016
to 30 January 2021

Statement of Licensing Policy

Licensing Act 2003



If you would like this information in large print, Braille or another language, please contact 01702 318111.

Preface

This Statement of Licensing Policy is the fifth that has been approved by the Licensing Authority in accordance with the Licensing Act 2003.

Since the adoption of the fourth statement the Act has been amended. The amendments allow the imposition of additional mandatory conditions and provide for certain licensable activities to be deregulated; procedure for annual fee late payment suspension, introduction of the Public Health Authority as a responsible authority, provide procedure for late temporary event notices and the Safety Advisory Group, expand temporary, event and interim authority notices limitations; remove the vicinity test for representations and introduce other persons and the new closure powers. References in this statement to the Licensing Act 2003 are references to the Act as amended.

In reviewing this Statement of Licensing Policy, the Licensing Authority took account of the revised guidance issued by the Secretary of State for the Department of Culture, Media & Sport under Section 182 of the Licensing Act 2003 approved in March 2015.

The revised policy was offered for consultation between 17 August 2015 – 6 November 2015.

The policy was approved by the Licensing Authority on 15 December 2015 and has effect from 7 January 2016 to 6 January 2021 unless reviewed and revised during that period.

Any comments on the contents of this policy should be sent to:

Rochford District Council
Licensing Unit
3–19 South Street
Rochford
Essex
SS4 1BW

or by email to **licensing@rochford.gov.uk**

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Foreword

Rochford District covers an area of 65 square miles within an area bounded by the River Crouch in the north, the A127 Arterial Road in the south, the North Sea in the east and the A130 route in the west.

The area is predominantly rural in character with many smaller towns and villages and two main urban centres at Rochford and Rayleigh. It has a population of approximately 79,000 people.

The District offers a wide and developing variety of culture, history, recreation and dwellings with transport infrastructure provided by the mainline railway, to London and Southend, and local bus services.

The Licensing Act 2003 affects all premises that are used to supply alcohol, to carry on permitted club activities, to provide regulated entertainment or to provide hot food and drink between 2300hrs and 0500hrs. The effect is that potentially a larger number of premises will require licences including itinerant and take-away food businesses that trade after 2300hrs. The majority of premises are spread throughout the District with the main concentrations being in Rayleigh and Rochford.

In the more rural areas, public houses, village halls and community centres form focal points for the community and local convenience stores, off-licences, garages and take-away restaurants make an important contribution to local communities by providing outlets to buy food and drink.

The Council will monitor the continuing expansion of the leisure industry, which provides an essential contribution to the local economy in jobs and revenue in the District, in order to maintain a balance between those interests and the interests of preserving the heritage of the area and protecting the interests of residents.

This 'Statement of Licensing Policy' sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications. It also sets out information about the application process, what is expected of applicants and how people can make representation about applications. It also sets out the types of controls that are available to the Council when decisions are made about licence applications and explains what action can be taken if complaints are received.

There are specific sections of the 'Statement of Licensing Policy' that deal with each of the four 'licensing objectives'.

The Licensing Act 2003, as amended, provides the means for leisure and recreational activity to increase within a more liberal regime of licensing that has, nevertheless, the ability to safeguard local amenity.

1 Introduction

- 1.1 Under the Licensing Act 2003, Rochford District Council is the Licensing Authority for the Rochford District and, in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment, is responsible for granting premises licences, club premises certificates and personal licences and for administering the system of temporary events notices.
- 1.2 The Licensing Authority is required to discharge its licensing function through a committee of between 10 and 15 members – the Licensing Committee.
- 1.3 In this policy, bold type refers to matters that the Licensing Authority considers to be of particular importance for applicants to consider in preparing an application. Passages of text that are not in bold type are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of that outcome and the control measures that could be implemented by the applicant to achieve that outcome.
- 1.4 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11.00 pm. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

The Licensing Objectives

- 1.5 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. These are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 1.6 **Applicants should consider what measures are required to be implemented and maintained in respect of each of the four licensing objectives that are relevant to the individual style and characteristics of their premises and the types of licensable activities and events that are to be carried out in them. Where appropriate, applicants should consider whether or not any additional measures are required in respect of occasional or specific events that it is intended or are likely to attract larger audiences.**

Statement of Licensing Policy

- 1.7 The 2003 Act requires the Licensing Authority to publish a ‘Statement of Licensing Policy’ for each five year period that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.8 This ‘Statement of Licensing Policy’ has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act. It has been drafted in partnership with the Essex Joint Licensing Officers’ Forum, the Rochford Community Safety Partnership. This partnerships provides links to the Essex Chief Executives’ Association’s Crime and Disorder Steering Group, who will maintain a strategic overview of issues associated with permissions issued under the Licensing Act 2003.
- 1.9 The 2003 Act further requires the Licensing Authority to monitor, review and, where appropriate, amend its Statement of Licensing Policy. The Licensing Authority will consult with those groups mentioned in paragraph 1.13 below, prior to amending any part of the policy and in preparing its Statement of Licensing Policy for each future five-year period.
- 1.10 This ‘Statement of Licensing Policy’ was reviewed in May 2015 circulated for consultation between 17 August 2015 – 6 November 2015 before being ratified by Full Council on 15 December 2015. It has effect until 6 January 2021.

Disclaimer

- 1.11 The advice and guidance contained in the appendices attached to this Statement of Licensing Policy is intended only to assist readers in consulting the policy and should not be interpreted as legal advice or as constituent of Rochford District Council’s Statement of Licensing Policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Licensing Act 2003, or of the Guidance or Regulations issued under the Act.

Consultation

- 1.12 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.13 In developing this Policy Statement, the Licensing Authority consulted widely. The views of the Divisional Commander of South-Eastern Police Division, Essex County Fire and Rescue Service, representatives of existing licence holders, businesses, voluntary groups and residents were taken into account. Due consideration was also given to the views of all those who responded to the consultation process.

Responsible Authorities

- 1.14 The Licensing Act 2003, as amended, prescribes the Responsible Authorities that have statutory functions or are considered to be consultees under the Act.
- 1.15 In addition, paragraph 13.52 of the guidance issued by the Secretary of State under Section 182 of the Act recommends that the Licensing Authority should indicate the body that is competent to advise it about the protection of children from harm.
- 1.16 The Authority has applied the following considerations in discharging this responsibility:
- the competency of the body to advise the Licensing Authority;
 - 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 persons who are duly elected through a statutory process rather than any particular invested interest group etc.
- 1.17 The Licensing Authority designates the Essex Safeguarding Children's Board for this purpose.

Links to other Strategies

- 1.18 In preparing this statement of licensing policy, the Licensing Authority has taken into account other relevant strategic documents, e.g. the Council's Corporate Plan, the local Community Safety Partnership plan, the Council's Cultural Strategy, its Local Development Plan and Economic Development Strategy to ensure proper co-ordination and integration of aims and actions. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy.
- 1.19 Further, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of local tourism to ensure that these are reflected in their considerations. The Licensing Committee will also be apprised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.20 To ensure proper integration with the Council's planning policies, the Licensing Committee, when appropriate, will provide reports to the Executive on the situation regarding licensed premises in the area, including the general impact of alcohol-related crime and disorder, to inform policy making and so enable the Development Control Committee to have regard to such matters when making its decisions.
- 1.21 The Licensing Authority recognises its responsibilities under the Race Relations Act, 1976, as amended. Equality Act 2010 The impact of this policy on those matters will be monitored through the Council's Race Equality Scheme.

Regulated Entertainment

- 1.22 Having regard to the Council's Cultural Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities.
- 1.23 The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events.
- 1.24 The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children.
- 1.25 Appendices A and B provide definitions of legal terms used within the Act and exemptions to the need for licensing.

Applications

- 1.26 When considering applications, the Licensing Authority will have regard to:
- the Licensing Act 2003, as amended and the licensing objectives;
 - guidance issued under Section 182 of the Licensing Act 2003, as amended;
 - any supporting regulations;
 - this Statement of Licensing Policy.
- 1.27 This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 1.28 The Licensing Authority recognises that, in some circumstances, longer licensing hours for the sale of alcohol may help to avoid concentrations of customers leaving premises simultaneously and to reduce the potential for disorder. It also recognises that overly restrictive hours may inhibit the development of night-time economies that are important for investment, employment and tourism.
- 1.29 When determining applications before a Licensing Sub-Committee, the Authority will seek to balance those factors against their duty to promote the four licensing objectives and the rights of residents to peace and quiet.
- 1.30 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, the Council's licensing functions will be discharged separately from its functions as the local planning authority.

- 1.31 **The Licensing Authority would normally expect that applications for premises licences for permanent commercial premises should be from businesses with planning consent for the property concerned.**
(Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.)
- 1.32 When one part of the Council seeks a premises licence from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, e.g. by local residents or the police, they will be considered fairly by the Committee.

Cumulative Impact Policy

- 1.33 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area e.g. the potential impact on crime and disorder or public nuisance.
- 1.34 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Licensing Authority can take into account. This should not, however, be confused with ‘need’ which concerns the commercial demand for a particular type of premises e.g., a pub, restaurant or hotel. The issue of ‘need’ is therefore primarily a matter for the market to decide and does not form part of this licensing policy statement.
- 1.35 The Licensing Authority can only adopt a policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is causing a cumulative impact on one or more of the licensing objectives.
- 1.36 The absence of a policy does not prevent any responsible authority or other person making representations on a new application for the grant or variation of a licence on the grounds that the premises will give rise to a detrimental cumulative impact on one or more of the licensing objectives in a particular area.
- 1.37 The last three years the Licensing Authority has seen an increase in the intensity of the night time economy in the Rayleigh area, characterised by the increasing concentration of licensed premises. The area now has the highest concentration of late licensed premises in the District. Rayleigh has seen an influx of people at the weekends. Although the premises are managed well there has been an increase of antisocial behaviour in Rayleigh High Street, Rayleigh High Road and Eastwood Road.
- 1.38 The Licensing Authority has seen an increase in concerns raised by residents, Councillors and local businesses about the impact the night economy is having on the local environment in this area. Typical issues of concern include:
- Public urination.
 - Litter.
 - Noise nuisance from patrons of licensed premises.
 - Damage of property and vehicles.

In response to these concerns the Licensing Authority has undertaken various initiatives, in partnership with other agencies and the licensed trade, to tackle these issues which involved:

- Introduction of pub Watch and the Behave or Be Banned Schemes.
- Pub watch obtaining funding for a Town Radio Link to improve communication between late night venues.
- Increase in Police presence Friday and Saturday nights.
- Carrying out robust enforcement visits.
- Working with late operating venues to improve management of venues and door staff.

1.39 While the licensed premises represent some of the best examples of good practice and have not had any increase in incidents within the premises, concerns continue to be raised regarding the volume of people on the streets between the hours of midnight and 04:00 hours. While improvement have been made the Council continues to receive complaints about the negative impacts of the night time economy in Rayleigh.

1.40 Having considered all the evidence the Licensing Authority is of the opinion that Rayleigh is now saturated with licensed premises and have adopted a policy relating to cumulative impact in relation to the following areas of the District:

- Rayleigh High Street.
- Rayleigh High Road.
- Eastwood Road Rayleigh.

1.41 **This policy creates a rebuttable presumption those applications within the areas set out in paragraph 1.39 for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, if relevant representations are received about the cumulative impact on the licensing objectives, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.**

1.42 Despite the presumption against grant, responsible authorities and/or other persons will still need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its policy i.e. if no representation is received, the application must be granted (subject to such conditions as are consistent with the operating schedule and any mandatory conditions required by the Licensing Act 2003). Responsible authorities and other persons can make a written representation referring to information, which had been before the Licensing Authority when it developed its statement of licensing policy.

- 1.43 The Licensing Authority recognises that a policy should never be absolute. After receiving representations in relation to a new application or for a variation of a licence or certificate, the licensing authority will consider whether it would be justified in departing from its policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.
- 1.44 This policy will not be used:
- as a ground for revoking an existing licence or certificate when representations are received about problems with those premises
 - to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives to include any provisions for a terminal hour in any particular area which might impose a fixed closing time akin to that under the ‘permitted hours’ provisions of the Licensing Act 1964
 - to impose quotas – based on either the number of premises or the capacity of those premises – that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Quotas have no regard to individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives
- 1.45 This policy will be reviewed regularly to assess whether it is still needed or should be expanded.

Other Mechanisms for Controlling Cumulative Impact

- 1.46 Outside licensed premises a minority of consumers will sometimes behave badly and unlawfully. However, there are other mechanisms, both within and outside the licensing regime, that are available for addressing such issues. For example:
- planning controls;
 - positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others;
 - the provision of CCTV and ample taxi ranks;
 - powers to designate parts of the Town as places where alcohol may not be consumed publicly;
 - confiscation of alcohol from adults and children in designated areas;

- police enforcement of the law with regard to disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- police powers to close some premises for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise
- the power of police, local businesses or residents to seek a review of the licence or certificate
- enforcement action against those selling alcohol to people who are drunk.

1.47 The above can be supplemented by other local initiatives that similarly address these problems, for example, through the Castle Point and Rochford Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the District.

New and Varied Licences/Certificates

1.47 Where no licence or certificate exists in respect of premises, an application for a new licence or certificate must be made in order to carry out licensable activities.

1.48 An application may be made to vary a premises licence or a club premises certificate, or to vary a premises licence to specify an individual as the premises supervisor.

1.49 Following amendments to the Act; applications may be made for a 'minor variation' under a less bureaucratic and costly process. The Act prescribes the types of variation that may not be dealt with as 'minor variations' (Appendix C1).

1.50 In addition, Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, as amended, suggests types of variation that might or might not be considered to be minor.

1.51 The Act also provides the Licensing Authority with discretion to determine whether a proposed variation is a minor variation.

1.52 This Authority considers that the following types of application will not normally fall within the category of being a minor variation:

- To increase the hours during which licensable activity may be carried on under the licence.
- To increase the opening hours of the premises.
- To make a second or subsequent application for structural alterations to be carried out within 12 months of a similar application being made.

1.53 In all cases, the Authority reserves the right to consider each application on its own merit. The decision will be taken by officers of the Authority and their decision will be final.

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- 1.54 The Licensing Authority will consider applications for minor variations to premises licences or club premises certificates, providing that the Authority is satisfied that the variation will not adversely impact on the licensing objectives and the Licensing Authority will consult with the responsible authorities whom they deem necessary to make assessment.
- 1.55 An application to vary the existing licence or certificate should be made where the proposed variation is in respect of changes to the types of licensable activities that are to be undertaken and/or the hours those activities are to take place, or where structural changes are to be made to the premises.
- 1.56 Where the proposed variation to a licence or certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the existing licence or certificate and the plan to which it relates.
- 1.57 There is little guidance available as to when a new licence should be applied for rather than a variation to an existing licence in respect of structural alterations. The Licensing Act 2003, as amended, does not allow an application to vary the licence to be made to vary substantially the premises to which it relates. This will be a matter of fact in each case and applicants are advised to discuss the matter with Officers of the Authority before submitting an application.
- 1.58 In addition, when completing Section 3 of the application form, it is important that applicants ensure they provide sufficient time for the alterations to be carried out when stating the date upon which the variation is to take effect. This is to ensure that when the licence or certificate comes into force, the plan to which it relates accurately reflects the layout of the building.
- 1.59 If the actual date when the alterations have been completed differs from that requested, applicants must inform the Licensing Authority so that the licence or certificate can be issued correctly. **Failure to do so may result in an offence being committed under Section 136 of the Licensing Act 2003, as amended, of carrying on a licensable activity otherwise than under and in accordance with an authorisation.**

Electronic Applications

- 1.60 In keeping with the Council's policy on the introduction of e-Government, the Licensing Authority consents to applications and other notices being given electronically where the Act and regulations allow. The address at which the Licensing Authority will accept applications and notices is:-
- by post/personal service to The Licensing Unit, Rochford District Council, South Street, Rochford, Essex, SS4 1BW;
 - by email to **licensing@rochford.gov.uk**;
 - by facsimile to 01702 545737;
 - on-line at **www.rochford.gov.uk**

- 1.61 Where applications for premises licences and club premises certificates have been granted, the Licensing Authority will send the licence or certificate to applicants by post.
- Appendices C and D provide applicants with advice and guidance on the application process and the scale of licensing fees.

Other Persons

- 1.62 As well as responsible authorities, any other person this includes any individual, body or business are entitled to make representations to the licensing authority in relation to applications for the grant, variation, minor variation, or review of a premises licence or club premises certificate. In addition these persons may themselves seek a review of a premises licence.

Representations

- 1.63 Any Responsible Authority or Other person may make relevant representations on applications for the grant of a premises licence or club premises certificate and request reviews of licences or certificates that have been granted. However, only the Divisional Commander of South-Eastern Police Division may make representations in respect of the grant of a personal licence, transfer of a premises licence or changes to the premises supervisor. Divisional Commander of South-Eastern Police Division and the Environmental Health Authority may make representations in respect of a temporary event notice.
- 1.64 A representation will only be 'relevant' if it relates to the effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious or, in the case of reviews, repetitious.
- 1.65 As the Licensing Authority has to be satisfied that the representation is made by an Interested Party, which can generally only be determined by reference to the name and address of the person making it, this Authority will not consider any representation that fails to provide those details.
- 1.66 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant. The Licensing Authority accepts that in exceptional circumstances, any Other Persons may not wish for his/her personal details to be disclosed to the applicant.
- 1.67 Where the Licensing Authority consider that a relevant representation has been made and that exceptional circumstances exist, details of the name and address may be withheld from the copy of the representation that is provided to the applicant.
- 1.68 In all cases, applicants and those making representations that are genuinely aggrieved by a decision of the Committee are entitled to appeal to the Magistrates' Court against the decisions of the Committee.
- 1.69 Where the Responsible Authorities or Other Persons do not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003, as amended.

- 1.70 Appendices E and F provide applicants with contact details of Responsible Authorities and information concerning Representations (and who can make them), Reviews, Hearings and Appeals.

Conditions

- 1.71 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.
- 1.72 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations.
- 1.73 **In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with Responsible Authorities when operating schedules are being prepared to allow for proper liaison before representations prove necessary.**
- 1.74 Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives.
- 1.75 Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.
- 1.76 The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals. Other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of customers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These may include:-
- planning controls;
 - positive measures by the Council to create a safe and clean town environment in partnership with local businesses, transport operators, etc.;
 - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
 - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly, e.g. in Rochford Town Centre;

- police enforcement of the general law concerning disorder and antisocial behaviour, including issuing fixed penalty notices for disorder, making dispersal orders, etc.;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from children and adults in designated areas;
- police and/or local authority powers to close down instantly for up to 48 hours under a closure notice, any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- the power of the police, other responsible authorities or a local resident or business to seek a review of the premises licence or club premises certificate in question.

1.77 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

1.78 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises. No condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.

Mandatory Conditions

1.79 Appendix G sets out the Mandatory Conditions that are applicable to all premises in respect of the supply of alcohol, exhibition of films and employment of door supervisors.

Delegation of Functions

1.80 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

1.81 Appendix H contains a table setting out how the licensing authority intends to approach its various functions.

The Need for Licensed Premises

1.82 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

Advice and Guidance

- 1.83 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.84 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.
- 1.85 Appendices J and K provide a list of references to ‘best practice’ and details of various organisations and trade associations that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

Reviews of Licences

- 1.86 Where possible and appropriate the Licensing Authority will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.87 Any Responsible Authority or other persons may apply for a review of a premise’s licence or a club premise’s certificate by serving a notice containing details of the application on the holder of the licence or certificate and to each of the Responsible Authorities.
- 1.88 An application for review will only be ‘relevant’ if the grounds upon which it is made relate to the promotion of at least one of the four licensing objectives and is not frivolous, vexatious or repetitive. An evidentiary basis will be required to be presented to the Licensing Authority.
- 1.89 Where representations are made by other persons the Licensing Authority has to be satisfied the representation is relevant. There is no appeal to the decision of the Authority other than by way of judicial review.
- 1.90 No more than one review from other persons will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.
- 1.91 Appendices E and F provide applicants with contact details of Responsible Authorities and information concerning Reviews (and who can make them), Hearings and Appeals.

Summary Reviews (Violent Crime Reduction Act 2006)

- 1.92 Where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of a premises licence.
- 1.93 If a summary review is applied for, the Licensing Authority must consider the application within 48 hours (time that is not on a working day is disregarded) and determine what interim steps to take, if any, of those listed below:
- the modification of the conditions of the premises licence;
 - the exclusion of the sale of alcohol by retail from the scope of the licence;
 - the removal of the designated premises supervisor from the licence;
 - the suspension of the licence.
- 1.94 Although the law allows the decision to be determined in the absence of the premises licence holder, the Licensing Authority will endeavour to always notify the licence holder of the application having been made and of the time, date and place that it will be determined, in order to afford the licence holder or representative the opportunity to attend.
- 1.95 Where the Licensing Authority decide to take any of the interim steps, its decision has immediate effect and an immediate notice of the decision must be given to the licence holder.
- 1.96 Where the licence holder makes representation in respect of the decision, the Licensing Authority must hold a hearing within 48 hours (time that is not on a working day is disregarded) of receipt of the representations and, unless they are withdrawn, consider those representations and any made by the police; consider whether the interim steps are necessary for the promotion of the licensing objectives; determine whether to withdraw or modify the steps taken.
- 1.97 The Licensing Authority must also hold a review hearing within 28 days.

Closure of Premises

- 1.98 Under the Anti social Behaviour, Crime and Policing Act 2014, Closure Notices can be issued by the police or local authority for 24 hours (and up to 72 hours where necessary) when satisfied there are reasonable grounds:
- that the use of particular premises has resulted or is likely soon to result in nuisance to members of the public; or
 - that there has been or is likely soon to be disorder near those premises associated with the use of those premises.
- 1.99 Closure Orders up to a period of three months can be sought from a Magistrates Court by police and local authorities once a Closure Notice has been issued. The court may make a Closure Order if it is satisfied:
- that a person has engaged, or is likely to engage, in disorderly, offensive or criminal behavior on the premises; or

- that the use of the premises has resulted, or is likely to result, in serious nuisance to members of the public; or
- that there has been, or is likely to be, disorder near those premises associated with the use of the premises;
- and that the order is necessary to prevent the behavior, nuisance or disorder from continuing, recurring or occurring.

Breach is a Criminal Offence

- Notice: Up to three months in prison.
- Order: Up to six months in prison.
- Both: Up to an unlimited fine for residential and non-residential premises.

Who Can Appeal?

- Any person who the closure notice was served on.
- Any person who had not been served the closure notice but has an interest in the premises.
- The Council (where closure order was not made and they issued the notice).
- The police (where closure order was not made and they issued the notice).

Enforcement

1.100 The Licensing Authority is responsible for the administration and enforcement of the licensing regime and has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.

1.101 The Enforcement Concordat is based on the principles that businesses should:

- receive clear explanations from enforcers of what they need to do and by when;
- have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
- receive an explanation of their rights of appeal.

1.102 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.

- 1.103 The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the Licensing Authority will undertake its role and how the principles of effective enforcement will be achieved. This policy is freely available from the licensing section, as are details of the corporate complaints procedures, both of which can also be viewed on the Council's website: **www.rochford.gov.uk**
- 1.104 The Licensing Authority has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and Essex County Council Trading Standards on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

Safety Advisory Group

- 1.105 The role of the Rochford District Safety Advisory Group (SAG) is to promote good standards of safety at all public events in the district and to ensure best practice is followed.
- 1.106 The key objectives of the group are to:
- Ensure as far as possible that risk to public safety is minimized for all public events.
 - Maintain an overview of forthcoming events within the Rochford & Rayleigh District area.
 - Act in an advisory capacity to both the organiser of an event and other agencies/individuals involved.
 - Provide a forum within which the Local Authority and other agencies may develop a coordinated approach to spectator safety.
 - Advise and develop generic risk assessments/best practice where appropriate.
 - Ensure that there are in existence agreed contingency plans for dealing with major incidents.
- 1.107 The Rochford District SAG is chaired by Rochford District Council and the core members will include officers from:
- Essex Police.
 - Essex County Fire & Rescue Service.
 - East of England Ambulance NHS Trust.
 - Rochford District Council.
- 1.108 The core SAG will invite representatives from other organisations as required including (but not exclusively):
- Essex County Council.
 - Town/Parish Councils.

- Promoter/Organiser.
- Security companies.
- Specialist contractors.
- Public Health bodies.
- Other RDC Officers as required.

2 Licensing Objectives

- 2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives (paragraph 1.5 above).
- 2.2 In each of the following sections the Licensing Authority has defined its intended outcome (in bold type) in respect of the objectives. Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive.
- 2.3 **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**
- 2.4 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.
- 2.5 **The selection of control measures, referred to in 2.4 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).**
- 2.6 The Licensing Authority suggests that such risk assessments should be documented as it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing circumstances/conditions at the premises.
- 2.7 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives.
- 2.8 **Reference should be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are considered necessary in order to achieve the licensing objectives.**

- 2.9 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives.
- 2.10 **The Licensing Authority therefore strongly encourages all holders of premises licences to ensure that these elements are considered and undertaken.**
- 2.11 In addition, the occupancy capacity for premises and events, as appropriate, is also considered to be an important factor in the achievement of the four licensing objectives (except in respect of premises licensed for the consumption of food and/or alcohol off the premises).
- 2.12 **The Licensing Authority suggests that the issue of occupancy capacity should be considered and addressed, where necessary, within an applicant's operating schedule.**
- 2.13 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:
- the nature of the premises or event;
 - the nature of the licensable activities being provided;
 - the provision or removal of such items as temporary structures, such as a stage, or furniture;
 - the number of staff available to supervise customers both ordinarily and in the event of an emergency;
 - the age of the customers;
 - the attendance by customers with disabilities, or whose first language is not English;
 - availability of suitable and sufficient sanitary accommodation;
 - Nature and provision of facilities for ventilation.
- 2.14 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures.
- 2.15 **Where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, applicants must take such measures as they consider appropriate to ensure that the capacity of the premises is not exceeded.**
-

3 Prevention of Crime and Disorder

- 3.1 Rochford District Council is committed to further improving the quality of life for the people of the District by continuing to reduce crime and the fear of crime.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Rochford District Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.
- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective.
- 3.4 **When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting crime and disorder, having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues they should include such steps as are considered appropriate to deal with them within the operating schedule.**
- 3.5 Examples of some of the issues that impact on crime and disorder are:
- underage drinking;
 - drunkenness on premises;
 - public drunkenness;
 - drugs;
 - violent behaviour;
 - Anti-social behaviour.
- 3.6 Applicants may wish to consider the following examples of control measures that might be included in their operating schedule, where appropriate, having regard to their particular type of premises and/or activities:
- effective and responsible management of premises;
 - training and supervision of staff;
 - adoption of best practice guidance, e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions (e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA);

- acceptance of accredited ‘proof of age’ cards e.g. PASS, locally approved ‘proof of age’ cards e.g. ‘Prove It’ and/or ‘new type’ driving licences with photographs;
- Adoption of the Trading Standards “Challenge 25” scheme;
- provision of effective CCTV in and around premises;
- employment of Security Industry Authority licensed door staff;
- provision of toughened or plastic drinking vessels;
- provision of secure, deposit boxes for confiscated items (‘sin bins’);
- provision of litterbins and other security measures, such as lighting, outside premises;
- Membership of local ‘Pub watch’ schemes or similar organisations.

3.7 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a Premises Supervisor must be designated. The Licensing Authority will normally expect the Designated Premises Supervisor (DPS) to have been given the day to day responsibility for running the premises by the premises licence holder, and, as such, would normally be present on the licensed premises on a frequent basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

3.8 **Whilst the Licensing Act 2003, as amended requires each sale of alcohol to be made or authorised by a personal licence-holder, there is no requirement for every sale to be made by a personal licence-holder or for them to be personally present at every transaction. Every sale by a person under the age of 18 years must be approved by an authorised person over 18 years. In determining whether real authorisation was given, the Guidance issued by the Secretary of State encourages the practice by personal licence-holders of giving a written authorisation to persons not holding a personal licence.**

3.9 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

4 Public Safety

4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.

- 4.2 **When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting public safety (including fire safety), having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues they should include such steps as are considered appropriate to deal with them within the operating schedule.**
- 4.3 Examples of some of the issues that impact on public safety are:
- the occupancy capacity of the premises;
 - the age, design and layout of the premises, including means of escape in the event of fire;
 - the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature;
 - the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different);
 - customer profile (e.g. age, disability);
 - The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- 4.4 Applicants may wish to consider the following examples of control measures that might be included in their operating schedule, where appropriate, having regard to their particular type of premises and/or activities:
- suitable and sufficient risk assessments;
 - effective and responsible management of premises;
 - provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons;
 - appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons;
 - adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA);
 - provision of effective CCTV in and around premises;
 - provision of toughened or plastic drinking vessels;
 - Implementation of crowd management measures.

5 Prevention of Public Nuisance

- 5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 5.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises may be suitable for extended hours of opening where it can be demonstrated that effective measures have been planned to prevent public nuisance, etc.
- 5.4 In the case of shops, stores and supermarkets selling alcohol, unless there are exceptional reasons relating to disturbance or disorder, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place.
- 5.5 **When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting public nuisance, having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues they should include such steps as are considered appropriate to deal with them within the operating schedule.**
- 5.6 Examples of some of the issues that impact on public nuisance are:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship;
 - the hours of opening, particularly between 23.00 and 07.00;
 - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises;
 - the design and layout of premises and in particular the presence of noise limiting features;
 - the occupancy capacity of the premises;
 - the availability of public transport;
 - ‘wind down period’ between the end of the licensable activities and closure of the premises;
 - Last admission time.

- 5.7 Applicants may wish to consider the following examples of control measures that might be included in their operating schedule, where appropriate, having regard to their particular type of premises and/or activities:
- effective and responsible management of premises;
 - appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly;
 - control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries;
 - adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA);
 - installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - management of people, including staff, and traffic (and resulting queues) arriving and leaving premises;
 - liaison with public transport providers;
 - siting of external lighting, including security lighting;
 - management arrangements for collection and disposal of litter;
 - Effective ventilation systems to prevent nuisance from odour.

6 Protection of Children from Harm

- 6.1 The protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 6.2 The general relaxation in the 2003 Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

- 6.4 The Licensing Authority considers that, on the one hand, there should be no presumption of either giving children access or, on the other hand, of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 6.5 **When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting safeguarding children from harm, having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues they should include such steps as are considered appropriate to deal with them within the operating schedule.**
- 6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. Examples of some of the issues that impact on protecting children from harm are:
- premises where entertainment or services of an adult or sexual nature are commonly provided;
 - premises where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - premises with a known association with drug taking or dealing;
 - premises where there is a strong element of gambling on the premises;
 - premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 6.7 Applicants may wish to consider the following examples of control measures that might be included in their operating schedule, where appropriate, having regard to their particular type of premises and/or activities:
- effective and responsible management of premises;
 - provision of a sufficient number of people employed or engaged to secure the protection of children from harm;
 - appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm;
 - adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks);
 - limitations on the hours when children may be present, in all or parts of the premises;
 - limitations or exclusions by age when certain activities are taking place;

- imposition of requirements for children to be accompanied by an adult;
- acceptance of accredited ‘proof of age’ cards and/or ‘new type’ driving licences with photographs;
- measures to ensure children do not purchase, acquire or consume alcohol;
- measures to ensure children are not exposed to incidences of violence or disorder.
- adoption of Trading Standards “Challenge 25 Scheme”;

These examples can be adopted in any combination.

- 6.8 In the case of film exhibitions, the 2003 Act requires a condition to be included in all premises licences and club premises certificates for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations of, currently, the British Board of Film Classification or the Licensing Authority itself.
- 6.9 It is this Licensing Authority’s policy that the grant of a licence authorising the exhibition of any film will be conditional upon such film/s having been classified by the British Board of Film Classification or, exceptionally in the case of an unclassified film, by the Licensing Authority. Where the Licensing Authority decides to impose its own classification on a film, it will do so using the guidelines shown at Appendix K.
- 6.10 In the case of film exhibitions applicants should consider appropriate measures that may be implemented for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classifications, or exceptionally, those made by the Licensing Authority and where appropriate such measures should be included within the operating schedule.**
- 6.11 The Licensing Authority will require, as a condition of the premises licence, that adult supervisors be vetted to ensure their suitability to work with children and young persons.
- 6.12 The Licensing Authority expects that when a licensable activity is held exclusively for children and young persons, that there will be sufficient numbers of staff available who have undertaken an enhanced disclosure check with the Disclosure and Barring Service, to ensure the safety of those children. This does not require each member of staff to have undergone this level of check but the Licensing Authority expects that there should be sufficient members that have, who are then able to supervise others, e.g. there will be one person at the main entrance to the premises who has been subject of advanced disclosure responsible for supervising the searching and checking of children by those who have not.
- 6.13 Any searching of children or young persons, other than of outer clothing that can firstly be removed, must always be conducted by someone of the same sex as the child, to be accompanied by one other responsible adult and be a holder of a Security Industry Authority (SIA) licence.
- 6.14 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances, conditions restricting access or excluding children completely may be considered necessary.



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For the period 31 January 2016
to 30 January 2021

Appendices

Statement of Licensing Policy

Licensing Act 2003



If you would like this information in large print, Braille or another language, please contact 01702 318111.

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Appendix A – Glossary of Terms

‘Licensable Activity’ and Qualifying Club Activities

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

The following licensable activities are also qualifying club activities:

- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place;
- the sale by retail of alcohol by or behalf of the club to a guest of a member of the club for consumption on the premises where the sale takes place;
- the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of their club and guests.

Regulated Entertainment

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment indoor and outdoor
- a performance of live music
- any play of recorded music
- a performance of dance
- entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance but only where the entertainment takes place in the presence of an audience and is provided for the purpose (or for purposes which include the purpose) of entertaining that audience.

This definition is subject to Part 3 of Schedule 1 of the Licensing Act 2003.

Late Night Refreshment

- The provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11.00 p.m. and 5.00 am; or
- At any time between those hours when members of the public, or a section of the public, are admitted to the premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Hot Food or Hot Drink

- Food or drink supplied on or from any premises is ‘hot’ for the purposes of Schedule 2 of the Act if the food or drink, or any part of it:
 - before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature; or
 - after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

Permitted Temporary Activity

- One or more licensable activities that is carried on in accordance with a Temporary Event Notice.

Premises

- Any place including a vehicle, vessel or moveable structure.

Licensed Premises

- Premises in respect of which a premises licence has effect.

Premise’s Licence

- The licence that, having regard to the operating schedule, has been granted in respect of specified premises authorising the type and duration of licensable activity permitted.

Temporary Event Notice

- A notice, issued by the ‘premises user’ where it is proposed to use premises for Permitted Temporary Activity during a period not exceeding 168 hours (seven days), that includes details of:
 - the propose licensable activities;
 - the period (not exceeding 168 hours) during which it is proposed to use the premises;

- the times during that period when it is proposed for those licensable activities to take place;
- the maximum number of persons (being less than 500) it is proposed will be allowed on the premises during those times;
- where alcohol is to be supplied, whether it is for consumption on or off the premises, or both.

It should be noted that:

- the same premises cannot be used on more than 15 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- the number of notices that may be given are limited to 50 (10 of these can be late TENS) in one year for a Personal Licence holder and five (two of these can be late TENS) times in one year for any other person.

Personal Licence

- A licence which:
 - Is granted by a licensing authority to an individual, and
 - authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.
 - For the purposes of the Act an individual is supplying alcohol if he is:
 - selling alcohol by retail; or
 - supplying alcohol by or on behalf of a club to, or to the order of, a member of the club.

Designated Premises Supervisor

- In the case of premises selling alcohol, the person (who must be a Personal Licence holder) who will normally have been given the day-to-day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holders themselves.

‘Operating Schedule’

- A document containing a statement of the following matters (and any others that may be prescribed):
 - the relevant Licensable Activities conducted on the premises;
 - the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

- any other times when the premises are to be open to the public;
- where the licence is required only for a limited period, that period;
- where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
- where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both;
- the steps which the applicant proposes to take to promote the licensing objectives.

Responsible Authority (for Rochford District)

- the Chief Officer of Police (Divisional Commander of South-eastern Police Division);
- Essex County Fire & Rescue Service;
- Environmental Health (responsible for Health and Safety at work and for minimising or preventing the risk of pollution of the environment or of harm to human health);
- Planning & Transportation (the local planning authority);
- Health Bodies (Primary Care Trust);
- Essex Safeguarding Children Board (the body representing matters relating to the protection of children from harm);
- Licensing Authority;
- in relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board.

Appendix B – Exemptions

The following activities are not regarded as Regulated Entertainment and are exempt for the purposes of the Act:

- **Incidental Music** – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- **Incidental film** – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- **Garden fetes** – or similar if not being promoted or held for purpose of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- **Vehicle in motion** – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand up comedy; and
- Provision of entertainment facilities (e.g. dance floors);

As a result of deregulatory changes that have amended the Licensing Act 2003, no licence is required for the following:

- **Plays:** performances between 08:00 – 23:00 on any day provided the audience does not exceed 500.
- **Dance:** performances between 08:00 – 23:00 on any day provided the audience does not exceed 500. Any dance that is adult entertainment remains licensable.
- **Films:** “not for profit” film exhibition held in community premises between 08:00 – 23:00 on any day provided the audience does not exceed 500 and the organiser
 - gets consent to the screening from a person who is responsible for the premises; and
 - ensures that each such screening abides by age classification rating.
- **Indoor sporting event:** an event between 08:00 – 23:00 on any day, providing that those present does not exceed 1000.

- **Boxing and Wrestling Entertainment:** a contest, exhibition or display of Greco – Roman wrestling or freestyle wrestling between 08:00 – 23:00 on any day, providing the audience does not exceed 1000.
- **Live music:**
 - A performance of unamplified live music between 08:00 – 23:00 on any day, at any premises.
 - A performance of amplified live music between 08:00 – 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500. Provided that a number of other conditions are satisfied (see paragraphs 15.38 – 15.43 of the Home Office guidance 182 Licensing Act 2003).
 - A performance of amplified live music between 08: 00 - 23:00 on any day, in a workplace (The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purpose of the 2012 Act) that is not licensed to sell alcohol on those premises, provided the audience does not exceed 500.
 - A performance of amplified live music between 08;00 – 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed to sell alcohol. Provided that:
 - (a) the audience does not exceed 500; and
 - (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - A performance of amplified live music between 08:00 – 23:00 on any day, at the non-residential premises of:
 - (a) a local authority; or
 - (b) a school; or
 - (c) a hospital, provided that:
 - (i) the audience does not exceed 500; and
 - (ii) the organiser gets consent for the performance on the relevant premises from:
 - (a) the local authority concerned; or
 - (b) the school; or
 - (c) the health care provider for the hospital.

- **Recorded Music:**
 - Any playing of recorded music between 08:00 – 23:00 on any day on any premises authorised to sell alcohol for consumption on those premises, providing the audience does not exceed 500. (Provided that a number of other conditions are satisfied (see paragraphs 15.38 – 15.43 of the Home Office guidance 182 Licensing Act 2003).
 - Any playing of recorded music between 08:00 – 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - Any playing of recorded music between 08:00 – 23:00 on any day at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor, or (iii) the health care provider for the hospital.
- **Cross activity exemptions:** between 08:00 – 23:00 on any day , with no limit on audience size for:
 - Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - Any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and;
 - Any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a movable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Appendix C – Application Process

All applications and notices under the Licensing Act 2003 for the Rochford district must be sent or given to The Licensing Unit, Rochford District Council, Council Offices, 3 – 19 South Street, Rochford, Essex, SS4 1BW and to the appropriate Responsible Authorities (contact details of whom can be found in Appendix E).

Personal Licence

To apply for a new Personal Licence, applicants must: be over 18 years of age and complete an approved application form and send it to the Licensing Authority together with:

- two passport photographs (one of which must be certified as a true likeness);
- a copy of the applicant's licensing qualification;
- either a basic Criminal Record Check from the Disclosure and Barring Service or a Criminal Record Certificate^{*} issued under section 112 or Section 113 of the Police Act 1997 respectively, or the result of a subject access search of the Police National Computer by the National Identification Service (all of which must have been issued within one calendar month of submitting it with the licence application);
- a declaration by the applicant that either he has not been convicted of a relevant offence or a foreign relevant offence or that he has been convicted of a relevant offence or a foreign offence accompanied by details of the nature, date of the conviction and any sentence imposed on him;
- the licence fee of (see the current fees on the Council web site www.rochford.gov.uk).

The Licensing Authority must reject the application where the applicant is under 18 years of age, does not possess the prescribed licensing qualification or has had a personal licence forfeited within the preceding five years.

Where an applicant has been convicted of a relevant offence or foreign offence the Licensing Authority must give notice to that effect to the police who may object to the application. The police objection has to be made within 14 days of receiving the notice from the Licensing Authority, following which a hearing must be held to determine the application.

Premises Licensing

Copies of the application form or notice and other documents prescribed for each type of application must be given to the Licensing Authority and appropriate Responsible Authority indicated on the application form.

^{*} A certificate may be obtained from the Disclosure and Barring Service on-line at www.disclosurescotland.co.uk

For applications submitted electronically the Licensing Authority will forward copies of the complete application to the Responsible Authorities.

In order to lessen the potential for representations being made, applicants are advised to discuss their proposed application with the relevant Responsible Authorities.

The process of applying for the grant or variation of a Premises Licence or Club Premises Certificate is similar in all respects except that an application for grant of a Club Premises Certificate must be accompanied by a declaration for qualifying club status and, because the 'supply' of alcohol that is managed by or on behalf of the club is not regarded as a 'sale' of alcohol, there is no requirement for a Designated Premises Supervisor.

To apply for the grant, applicants must be over 18 years of age and complete an approved application form, which must be sent to the Licensing Authority together with:

- a detailed plan of the premises;
- a form of consent in the prescribed form given by the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor, if the licensable activities to which the application relates include the supply of alcohol, but certain community premises can apply to disapply the need for a premises supervisor;
- the relevant fee (see the current fees on the Council website www.rochford.gov.uk).

The plan shall show:

- the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- the location of points of access to and egress from the premises;
- if different from sub-paragraph (3)(b), the location of escape routes from the premises;
- in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;

- in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- the location of a kitchen, if any, on the premises.

The plan may include a legend through which the matters mentioned or referred to in paragraph (2) above are sufficiently illustrated by the use of symbols on the plan.

A notice, on blue paper sized A4 or larger, must also be prominently displayed at or on the premises to which the application relates, where it can be conveniently read from the exterior of the premises, for a period of not less than 28 consecutive days from the day following the day the application was given to the Licensing Authority.

Where the premises cover an area of more than 50 square meters, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

The notice must state:

- details of the relevant licensable activities that it is proposed will be carried on or from the premises, or in the case of an application to vary the licence, a brief description of the proposed variation;
- the name of the applicant;
- the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified;
- the postal address and (where applicable) the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected;
- the date by which representations from responsible authorities or other persons should be received in writing;
- that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence;
- the notice, containing the same details, must be published in a local newspaper or similar document on at least one occasion during the period of 10 working days following the day after giving the application to the Licensing Authority;
- the licensing authority must also place a similar notice on its website during the representation period.

Variation of Premises Licence

To apply for a variation, the same procedure must be adopted as for the original application plus Parts A and B of the original licence or certificate must be returned to the Licensing Authority, or the application must include an explanation why it has not been returned.

An application may not be made to extend the period for which a licence has effect, e.g. a seasonal licence or one that is limited to certain days/dates.

Applications may be made to affect the licensable activities provided, the times during which they may be provided or where the premises are to undergo structural alterations.

However an application may not be made to vary substantially the premises to which it relates. As this is a matter of degree, applicants are advised to contact the Licensing Unit to discuss the extent of the alterations to decide if an application for a new licence must be made.

Where the application arises from structural alterations, a new plan showing the proposed alterations must also be submitted.

The fee for a variation is the same as for grant and is set in accordance with the Non-domestic Rateable Value of the premises.

Variation of Premises Licence (Designated Premises Supervisor)

An application to vary a premises licence, where there has been a change of the designated premises supervisor, must be in the prescribed form and accompanied by:

- the premises licence;
- a form of consent in the prescribed form given by the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor;
- the fee (see the current fees on the Council web site www.rochford.gov.uk).

A copy of the application and all accompanying documents must also be sent to the police but if the application is made electronically the Licensing Authority will forward copies to the police.

Provisional Statement

Where premises are being, or are about to be constructed for the purpose of being used for one or more of those activities, or are being or about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose) an application may be made by any person for the grant of a Provisional Statement.

‘Person’ in this instance also includes a business (e.g. the applicant could be a firm or architects, or a construction firm or even a financier).

To apply for a Provisional Statement, the same procedure must be adopted as that described above for the grant of a premises licence.

A provisional statement does not have a limited duration. However with the potential for there to be a material change over time, the longer the delay before a premises licence is applied for the greater the potential that representations, at the later application, may be allowed.

Responsible authorities and any other persons will be able to make representations against the application. If there are no representations the application will be granted. If there are representations a hearing will be held before the Licensing Sub Committee.

The Licensing Act 2003 does not empower a licensing authority to refuse a provisional statement. Following consideration of relevant representations the

Licensing Committee may only indicate (as part of the issued statement) that it would consider certain steps to be necessary for the promotion of the licensing objectives when, and if, an application was made for a premises licence or club premises certificate following the issue of the provisional statement.

Cumulative Impact Policy

The Council has adopted a Cumulative Impact Policy for Rayleigh High Street, Rayleigh High Road and Eastwood Road Rayleigh.

This policy creates a rebuttable presumption those applications within these areas for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, if relevant representations are received about the cumulative impact on the licensing objectives, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced

Late Night Levy and Early Morning Alcohol Restriction Order

On 27 November 2012 Rochford District Council agreed, at this stage, not to adopt either the Late Night Levy or Early Morning Alcohol Restriction Order made available to local authorities by the Police Reform and Social Responsibility Act 2011.

Advertisement of Application by the Licensing Authority

The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Amendment) Regulations, which came into effect on 25 April 2012, introduced a new requirement for a Licensing Authority to advertise by way of a notice on its website all applications for provisional statement, grant or variation of a premises licence and grant and variation of a club premises certificate.

Temporary Event Notices

Temporary Event Notices (TENs) do not have to be applied for, they are issued by the 'Premises User'. Any person can be a 'Premises User' and can issue a TEN in respect of any premises or area of land. A 'Premises User' does not have to hold a Personal Licence to authorise the supply of alcohol in conjunction with a TEN.

However, it should be noted that:

- the same premises cannot be used on more than 15 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used, an event beginning before midnight and continuing into the next day would count as two days toward the 21 day limit;
- a Personal Licence holder is limited to giving 50 notices in one year, of which 10 may be late notices and any other person may give five notices in one year for, of which 2 may be late notices.
- a TEN which is given then subsequently withdrawn by the TEN user can be included with the limits of numbers of TENs allowed in a given calendar year;
- the maximum number of people attending at any one time must be fewer than 500; and
- The minimum period between events authorised under separate TENs in relation to the same premises, by the same user is 24 hours.

The notice, together with the fee, must be given to the Licensing Authority at least 10 working days before the event is held, with copies given at the same time to the police and environmental health. A late notice is explained below.

The notice must contain details of:

- the premises to be used;
- the proposed licensable activities;
- the period (not exceeding 168 hours) during which it is proposed to use the premises;
- the times during that period when it is proposed for those licensable activities to take place;
- the maximum number of persons (being less than 500) it is proposed will be allowed on the premises during those times;
- where alcohol is to be supplied, whether it is for consumption on or off the premises, or both;
- the fee of (see the current fees on the Council web site www.rochford.gov.uk).

If the application is made electronically it is only necessary for it to be given to the Licensing Authority.

For notices given for events within the Rochford District Council's area they should be given to:

- Senior Licensing Officer, Rochford District Council, Council Offices, South Street, Rochford, Essex, SS4 1BW.
- Licensing Unit, Police Station, Victoria Avenue, Southend on Sea, Essex, SS2 6ES.
- Environmental Health Manager, Rochford District Council, Council Offices, South Street, Rochford, Essex, SS4 1BW.

A late TEN is one that is given to the Licensing Authority or other relevant persons no later than five working days but no earlier than nine working days before the date of the event or to at least one of those persons no earlier than nine working days. If it is an electronic application it is late if given no later than five working days. Any notice given less than five days before the date of the event will be refused.

An Objection Notice may be issued by the police or environmental health where they are satisfied that the proposed use of the premises would undermine one of the four licensing objectives, prevention of crime and disorder, public safety, prevention of public nuisance or the protection of children from harm. The objection notice must be given to the Licensing Authority, the applicant and other relevant person by the end of the 3rd day after receiving the TEN, giving their reasons for doing so.

Where an Objection Notice is given, the Licensing Authority must hold a hearing to consider the objection, unless it is agreed that it is unnecessary.

Where a hearing is held, it must be at least 24hrs before the start of the event.

If an Objection Notice is given to a late TEN the Licensing Authority must serve a Counter Notice at least 24hrs before the start of the event.

The Licensing Authority must issue a Counter Notice where the limits mentioned in paragraph 2 are exceeded.

Appendix C1 – Minor Variations to Premises Licences and Club Premises Certificates

Small variations that will not impact adversely on the licensing objectives are subject to a simplified ‘minor variations’ process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

On receipt of an application for a minor variation, the licensing officer for the licensing authority will consider whether the variation could impact adversely on the licensing objectives.

In considering the application, the licensing authority must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. For instance, they may need to consult the environmental health officer on an application with possible public nuisance implications. But there is no requirement to consult all responsible authorities on each application and in many cases the licensing authority may be able to make a decision without consultation.

The licensing authority will also consider any relevant representations received from interested parties within the time limit referred to below. Representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. For minor variations, there is no right to a hearing (as for a full variation or new application), but the licensing authority will take any representations into account in arriving at a decision.

Interested parties have ten working days from the ‘initial day’, i.e., the day after the application is received by the licensing authority, to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that:

- the minor variation is granted; or
- the application is refused.

If the licensing authority fails to respond to the applicant within 15 working days the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.

Where an application is refused and is then re-submitted through the full variation process, the full 28 days notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).

Minor variations will generally fall into four categories: minor changes to the structure or layout of a premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. **In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.**

Changes to structure/layout

Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:

- increasing the capacity for drinking on the premises;
- affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits;
- impeding the effective operation of a noise reduction measure such as an acoustic lobby.

An application to remove a licensable activity should normally be approved as a minor variation.

Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases

The Act covers a wide range of other licensable activities and this authority will consider each application on a case by case basis and in light of any licence conditions put forward by the applicant.

For example, the addition of live or recorded music to a licence may impact on the public nuisance objective, but this will depend on many factors. The licensing authority will consider factors such as proximity to residential areas and any noise reduction conditions volunteered by the applicant. It is very much the Government's and this authority's intention that applications to vary a licence for live music should benefit from the minor variations process unless there is likely to be an adverse impact on the licensing objectives.

Similarly, in some circumstances, the addition of other types of regulated entertainment, such as the performance of plays or exhibition of films, to a licence may have no adverse impact on the licensing objectives.

In considering applications to add licensable activities, licensing authorities and officers may find it helpful to consider the following factors:

- the nature of the licensable activity;
- proximity of the premises to residential areas;
- any licence conditions volunteered by the applicant to mitigate the impact of the activity;

- whether alcohol is sold at the premises when the licensable activity is taking place; and whether it will continue to be sold during the extended period. For example, a pub that applies to stay open an extra hour after the sale of alcohol has ended to sell hot drink and food could be considered to benefit the promotion of the licensing objectives;
- track record of the premises – whether positive or negative. For example, any complaints or enforcement action related to the licensing objectives, or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;
- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

This is not an exhaustive list and licensing officer will bring their own experience and knowledge of licensing to bear when considering applications.

Licensing hours

Variations to:

- extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises are **excluded** from the minor variations process and must be treated as full variations in all cases. Applications to reduce licensing hours for the sale or supply of alcohol or to move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.
- applications to vary the time during which other licensable activities take place will be considered on a case by case basis with reference to the likely impact on the licensing objectives. In arriving at a decision, the licensing authority will consider the following factors:
 - the nature of the licensable activity;
 - the extent of additional hours sought and whether it will involve later opening or opening between 23.00 and 07.00;
 - proximity of the premises to residential areas;
 - any licence conditions already in place to mitigate the impact of the activity; any additional conditions volunteered by the applicant;
 - arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?

- whether the proposed extension applies only on the weekend or also during week days;
- whether there will be new admittances during that period;
- track record of the establishment whether positive or negative, e.g. complaints related to the licensing objectives, any enforcement action or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;
- whether the premises is already open during the extended period for other licensable activities;
- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

These factors are not an exhaustive list and the authority and officers will bring their own experience and knowledge of licensing to bear when considering applications.

Licensing conditions

(a) Imposed conditions

The authority cannot impose its own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they will refuse it.

(b) Volunteered conditions

Applicants may volunteer conditions as part of the minor application process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.

For instance, there may be circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence. For example, that a nightclub adds the provision of late night refreshment to its licence to ensure a longer period of dispersal. Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licensee and the responsible authority have come to a genuine agreement. The authority will be alive to any attempts to pressure licensees into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, will discuss this with the relevant parties.

(c) Amending or removing existing conditions

Licence or club certificate conditions will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives. In most cases therefore, any application to remove or change the wording of a condition will be treated as a full variation.

However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.

Changes in legislation may invalidate certain conditions. For instance, the recent Regulatory Reform (Fire Safety) Order 2005 annulled all fire safety related conditions imposed on licences purely for fire safety reasons. Although the conditions do not have to be removed from the licence, licensees and the authority may agree that this is desirable to clarify the licensee's legal obligations.

There may also be cases where it is necessary to revise the wording of a condition that is unclear and/or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licensee to understand and comply with the condition and easier for the authority to enforce it.

Club Premises Certificates

The arrangements for applying for or seeking to vary club premises certificates are the same as those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these will have no adverse impact on the licensing objectives.

Appendix D – Fees

Personal Licence – £37.00 for the initial grant, valid for 10 years.

Premises Licence – Fees for applications for premises licences, club premises certificates, variations (excluding changes of name and address or change of Premises Supervisor) are calculated within fee bands based upon the non-domestic rateable value of the premises, as shown in **Table A**.

The Licensing Act 2003 was amended on 25 April 2012 by the Police Reform and Social Responsibility Act 2011 and now requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid by the due date. The licence or certificate remains suspended until all outstanding annual fees are paid. However, the immediate suspension does not apply if the payment was not made because of an administrative error or because the holder of the licence or certificate disputes liability before the due date. In either case there is a grace period of 21 days during which the error or dispute may be resolved. If there is no resolution within the 21 days the licence or certificate will be suspended.

Table A

Non-domestic rateable value band £	Grant/variation of licence £	Annual charge £
Band A: 0 – 4300	100	70
Band B: 4,301 – 33,000	190	180
Band C: 33,001 – 87,000	315	295
Band D: 87,001 – 125,000	450	320
Band E: 125,001 and over	635	350

Certain premises are exempt from fees and annual charges where they are providing regulated entertainment, i.e. no sale/supply of alcohol, these being church halls, chapels, parish and community halls or other premises of a similar nature.

No fees are payable by schools providing education for pupils up to Year 13 or for a sixth form college where, in both cases, the regulated entertainment is carried on at the school or college and for school/college purposes. The fees for such licences will be met out of central funds.

Premises without a non-domestic rating, such as floating vessels, burger vans, public areas, parks etc., pay a fee based on the lowest band, i.e. Band A.

There are higher fees for **premises licences** for premises falling within bands D and E, where the use of the premises is exclusively or primarily for the supply and consumption of alcohol on the premises, as shown in **Table B**.

Table B

Non-domestic rateable value band £	Grant/variation of licence £	Annual charge £
Band D: 87,001 – 125,000	900	640
Band E: 125,001 and over	1905	1050

There will be additional fees for **premises licences** for exceptionally large premises, i.e. those where the number of persons allowed on the premises is 5000 or more, as shown in **Table C**.

Table C

Number of people	Additional fee £	Annual charge £
5000 – 9999	1000	500
10000 – 14999	2000	1000
15000 – 19999	4000	2000
20000 – 29999	8000	4000
30000 – 39999	16000	8000
40000 – 49999	24000	12000
50000 – 59999	32000	16000
60000 – 69999	40000	20000
70000 – 79999	48000	24000
80000 – 89999	56000	28000
90000 and over	64000	32000

Shown below are examples of fees for a premises falling into Band E, using the tables above:

- If the premises has a capacity less than 5000, the fee for a premise licence would be £635 with an annual charge of £350.
- If the primary use of those premises is for the supply and consumption of alcohol, the fee would be £1,905 with an annual charge of £1,050.
- The fee to vary the licence other than for change of premises supervisor would be the same as the fee for the original grant.
- If the premises has a capacity of between 5000 and 9999, there would be an additional fee of £1,000 to the fees for grant of the licence and an additional annual fee of £500 to the annual charge.

Rochford District Council – Appendices**Statement of Licensing Policy Licensing Act 2003****For period 31 January 2016 – 30 January 2021**

Fees for other applications under the Licensing Act 2003 are shown below:

Application or notice	Fee £
Licensing Register, Statement of Licensing Policy or Appendices	£0.10 per A4 sheet
Application for a provisional statement	£315.00
Application for minor variation to premises licence	£89.00
Application for minor variation to club premises certificate	£89.00
Application for copy of licence or summary on theft, loss etc. of premises licence or summary	£10.50
Notification of change of name or address (holder of premises licence)	£10.50
Application to vary licence to specify individual as premises supervisor	£23.00
Application to transfer premises licence	£23.00
Interim authority notice	£23.00
Application for copy of certificate or summary on theft, loss etc. of certificate or summary	£10.50
Notification of change of name or alteration of club rules	£10.50
Change of relevant registered address of club	£10.50
Temporary event notices	£21.00
Application for copy of notice on theft, loss etc. of temporary event notice	£10.50
Application for grant or renewal of personal licence	£37.00
Application for copy of licence on theft, loss etc. of personal licence	£10.50
Notification of change of name or address of personal licence holder	£10.50
Notice of interest in any premises	£21.00

Appendix E – Responsible Authorities

Rochford District Council:

Licensing Authority

Licensing Department
Rochford District Council
3 – 19 South Street
Rochford
Essex
SS4 1BW
Phone: 01702 318058
Email: **licensing@rochford.gov.uk**

Planning

Assistant Director of Legal Services
Rochford District Council
3 – 19 South Street
Rochford
Essex
SS4 1BW
Phone: 01702 546316
Email: **planning@rochford.gov.uk**

Environmental Health

Environmental Health
Rochford District Council
3 – 19 South Street
Rochford
Essex
SS4 1BW
Phone: 01702 318053
Email: **environmentalhealth@rochford.gov.uk**

Police

Essex Police Licensing Unit (Alcohol)
PO Box 12306
Police Station
Newland Street
Witham
CM8 2AS
Email: **licensing.applications@essex.police.uk**

Rochford District Council – Appendices

Statement of Licensing Policy Licensing Act 2003 For period 31 January 2016 – 30 January 2021

Fire	Chief Fire Officer Southend & Rochford Community Command Team R/o Fire Station Sutton Road Southend on Sea Essex SS2 5PX Phone: 01702 614433 Email: sr.command@essex-fire.gov.uk
Health & Safety Executive	Wren House Hedgerows Business Park Colchester Road Chelmsford Essex CM2 5PF Fax: 01245 706222
Child Protection	Premises Licence Applications Children's Safeguarding Service 70 Duke Street County Hall Chelmsford CM1 1JP Email: licenceapplications@essexcc.gov.uk
Weights & Measures	Information & Business Support Team Essex Trading Standards New Dukes Way Office 2 Beaufort Road Dukes Park Industrial Estate Chelmsford Essex CM2 6PS
Public Health Team	Licensing Officer Public Health E2 County Hall Chelmsford Essex CM1 1LX Email: melissa.rawlinson@essex.gov.uk

Appendix F – Representations/Reviews/Hearings/Appeals

Who can make representations or seek reviews?

‘Responsible Authorities’ and other persons may make ‘relevant representations’ in respect of applications made for the grant or variation of a Premises Licence or Club Premises Certificate and may seek a review of licences and certificates granted.

‘Responsible Authority’ is defined as any of the following:

- the Chief Officer of Police for the area;
- the Fire Authority;
- the enforcing authority for Health and Safety at Work;
- the local planning authority;
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health;
- the body representing matters relating to the protection of children from harm
- the local primary care trust or health board;
- Licensing Authority;
- a navigation authority, the Environment Agency, or the British Waterways Board in relation to a vessel;
- the weights and measures authority.

(for a list of Responsible Authorities in Rochford District, see Appendix E)

What are relevant representations?

‘Relevant representations’ is the term used for comments and objections that:

- are about the likely effect of the grant of the premises licence or premises certificate on the promotion of the licensing objectives;
- are made by ‘Responsible Authority’ or other persons within the prescribed period and have not been withdrawn;
- in the opinion of the Licensing Authority, are not frivolous or vexatious.

The terms ‘frivolous’ and ‘vexatious’ have their normal meanings.

Rochford District Council – Appendices**Statement of Licensing Policy Licensing Act 2003****For period 31 January 2016 – 30 January 2021**

The table below lists those provisions about which representations may be made, the timescales within which and by whom they may be made.

Provision under which hearing is held	Period of time within which representations must be made	Persons who may make representations
Application for premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Other persons
Application for a provisional statement	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Other persons
Application to vary premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Other persons
Application to vary premises supervisor (DPS)	14 days of receipt of application.	Chief of Police
Application for transfer of premises licence	14 days of receipt of application.	Chief of police
Cancellation of interim authority notice	48 hours of receipt of application.	Chief of police
Application for review of premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Other persons
Application for club premises certificate	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Other persons
Application to vary club premises certificate	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Other persons
Application for review of club premises certificate	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Other persons
Counter notice following police objection to temporary event notice*	Three working days of receipt of temporary event notice.	Chief of police
Application for renewal of personal licence	14 days of receipt of notice of convictions from Licensing Authority.	Chief of police

Provision under which hearing is held	Period of time within which representations must be made	Persons who may make representations
Convictions coming to light after grant of personal licence	14 days of receipt of notice of convictions from Licensing Authority.	Chief of police
Review of premises licence following closure order	Seven days beginning on the day after the day the licensing authority receives notice given by relevant magistrates' court	Responsible authorities Other persons
Application for conversion of existing licence	28 days beginning with the day after the day on which application was given to licensing authority.	Chief of police
Application for conversion of existing club certificate	28 days beginning with the day after the day on which application was given to licensing authority.	Chief of police

*It should be noted that the Licensing Authority **must** issue a counter notice where the Temporary Event Notice exceeds the permitted limits, which are:

- 50 per year, inclusive of 10 late, if the premises user is the holder of a Personal Licence,
- Five per year, inclusive of two late, if the premises user is not the holder of a Personal Licence; and
- 15 per year in respect of the same premises covering no more than 21 days in total.

Reviews

The Licensing Authority must hold a hearing to review a premises licence or club premises certificate where either:

- representations are made in the prescribed form by a Responsible Authority or other persons seeking a review of the licence or certificate on one or more of the licensing objectives; or
- a Magistrate's Court issues a notice under section 165 (4) of the Act, following consideration of a Closure Order issued by the police;

In the case of a review of a premises licence or certificate, a representation will be repetitious if:

- it is identical or substantially similar to:
 - grounds in an earlier application for review made in respect of the same premises and already determined; or
 - representations considered by the Licensing Authority in granting the premises licence or certificate; or

- representations which would have been considered except they were excluded representations following a provisional statement, and
- a reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

Hearings

A hearing must be held within a prescribed period of time where relevant representations are made in respect of any licensing application or issue of a Temporary Event Notice or in respect of an application for review of a premises licence or club premises certificate.

Notices must be sent to each party informing them of the date of hearing: -

- at least two working days before the day of the hearing for cancellation of an interim authority notice and counter notice to a temporary event notice following police objection;
- at least five working days before the day of the hearing for review of a premises licence following a closure order;
- at least 10 working days before the day of the hearing in respect of all other applications.

Copies of the representations must also be given to the applicant, the holder of the premises licence or the club, as appropriate.

The table below lists the provisions, the timescales within which hearings have to be held and the persons to whom notices must be given.

Provision under which hearing is held	Period of time in which hearing must be held	Persons to whom notices must be sent
Application for premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application for a provisional statement	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application to vary premises licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Persons who have made relevant representations.
Application to vary premises licence to change the premises supervisor	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Chief of police Proposed premises supervisor

Rochford District Council – Appendices**Statement of Licensing Policy Licensing Act 2003****For period 31 January 2016 – 30 January 2021**

Provision under which hearing is held	Period of time in which hearing must be held	Persons to whom notices must be sent
Application for transfer of premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police Holder of licence.
Cancellation of interim authority notice	Five working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police
Application for review of premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Holder of premises licence. Persons who have made relevant representations.
Application for club premises certificate	20 working days beginning with the day after the end of the period for making representations.	Applicant (the club). Persons who have made relevant representations.
Application to vary club premises certificate	20 working days beginning with the day after the end of the period for making representations.	Applicant (the club). Persons who have made relevant representations.
Application for review of club premises certificate	20 working days beginning with the day after the end of the period for making representations.	Applicant. The club. Persons who have made relevant representations.
Counter notice following police objection to temporary event notice	Seven working days beginning with the day after the end of the period for making representations.	The premises user. Chief of police
Application for grant of personal licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police
Application for renewal of personal licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police
Convictions coming to light after grant or renewal of personal licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Chief of police
Review of premises licence following closure order	10 working days beginning with the day after the day the licensing authority receives the court notice.	Holder of licence. Chief of police

Appeals against Decisions

Any person aggrieved by the decision of the Licensing Committee can appeal to the Magistrates' Court.

Appendix G – Mandatory Conditions

On Sales

1. No supply of alcohol may be made under the Premises Licence:
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence.
3.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol); or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
 - (a) a holographic mark; or
 - (b) an ultraviolet feature.
6. The responsible person shall ensure that:
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1:
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

- (b) “permitted price” is the price found by applying the formula:

$$P = D + (D \times V)$$

Where:

P is the permitted price;

D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and

V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence:
- (i) The holder of the premises licence;
 - (ii) The designated premises supervisor (if any) in respect of such a licence; or
 - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

If the Premises Licence allows Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where:
 - (a) the film classification body is not specified in the licence; or
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question;admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

If the Premises Licence has conditions in respect of Door Supervision except theatres, cinemas, bingo halls and casinos

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of Section 4 of the Act.
2. But nothing in subsection (1) requires such a condition to be imposed:
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
 - (b) in respect of premises in relation to:
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence); or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section:

- (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act); and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Off Sales

No sale of alcohol may be made under the Premises Licence:

- (a) at a time when there is no Designated Premises Supervisor in respect of the premises licence; or
 - (b) at a time when the Designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
1. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
2. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
- a holographic mark; or
 - an ultraviolet feature.
3. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 4:

“duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
“permitted price” is the price found by applying the formula where:

P is the permitted price;

D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and

V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

“relevant person” means, in relation to premises in respect of which there is in force a premises licence:

- the holder of the premises licence;
- the designated premises supervisor (if any) in respect of such a licence; or
- the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).

Club Premises Certificate

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (a) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - (b) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol); or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (c) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (d) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
-

- (f) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 3.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
 - (a) a holographic mark; or
 - (b) an ultraviolet feature.
- 4. The responsible person shall ensure that:
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

- 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2. For the purposes of the condition set out in paragraph 1:
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

- (b) “permitted price” is the price found by applying the formula:

$$P = D + (D \times V)$$

Where:

P is the permitted price

D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence:

(i) The holder of the premises licence;

(ii) The designated premises supervisor (if any) in respect of such a licence; or

(iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

5. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
6. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Appendix H – Delegation of Functions

Matter to be dealt with	Sub-Committee	Assistant Director of Legal Services
Personal licence	If a police objection	If no objection made
Personal licence with unspent convictions	All cases	
Premises licence/Club premises certificate	If a relevant representation made	If no relevant representation made
Provisional statement	If a relevant representation made	If no relevant representation made
Variation of a premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Variation of designated premises supervisor	If a police objection	All other cases
Transfer of premises licence	If a police objection made	All other cases
Interim authority	If a police objection made	All other cases
Review premises licence/club premises certificate	All cases	
Decision as to whether a representation is relevant		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of police or Environmental Health objection to temporary event notice	All cases	

Appendix I – References to Guides and Best Practice

This is not intended to be an exhaustive list of reference guides but is offered for guidance and may be revised. The Department for Culture, Media & Sport provides guidance on various aspects of the Licensing Act 2003.

1. The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book Guide”) ISBN 978 – 0 – 7176 – 2453 – 9
2. Guide to Fire Precautions in existing places of entertainment and like premises (The Stationery Office) (“The Primrose Guide”) ISBN 0 1 340907 9
3. Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
4. 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 15804.440 – 5.
5. The Guide to Safety at Sports Grounds (DCMS 2007) (“The Green Guide”) ISBN 978 – 0 – 11702 – 07400
6. Good Practice Guide on the Control of Noise from Pubs and Clubs – The Institute of Acoustics. <http://www.ioa.org.uk/publications/ioa-guide>
7. Safer Clubbing – http://www.csdp.org/research/safer_clubbing_txt.pdf
8. The Portman Group Code of Practice on the naming, packaging and promotion of Alcoholic Drinks. <http://www.portmangroup.org.uk/codes/alcohol-marketing/code-of-practice/code-of-practice>
9. British Board of Film Classification – Classification Guidelines. <http://www.bbfc.co.uk/what-classification/guidelines>
10. HSE Guide – The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825 of Laser products. <http://www.hse.gov.uk/pubns/books/hsg95.pdf>
11. Community Safety Partnership Castle Point Council www.castlepoint.gov.uk
12. Sound Advice at events ISBN 978 – 0 – 71766 – 307 – 1
13. Home Office Guidance 182 of the Licensing Act 2003
14. Fire Risk Assessments for open air events and venues, small and medium places of assembly can be found at <https://www.gov.uk/government/collections/fire-safety-law-and-guidance-documen>

Appendix J – Other Useful Contact Details

Arts Council for England
14 Great Peter Street
London
SW1P 3NQ

Phone: 0845 300 6200
Email: enquiries@artscouncil.org
Website: www.artscouncil.org.uk

Association of Licensed Multiple Retailers
3rd Floor International House
Ealing
London
W5 5DB

Phone: 020 8579 2080
Email: infor@almr.org.uk

British Beer & Pub Association
Market Towers
1 Nine Elms Lane
London
SW8 5NQ

Phone: 020 7627 9191
Email: web@beerandpub.com
Website: www.beerandpub.com

British Board of Film Classification
3 Soho Square
London
W1D 3HD

Phone: 020 7440 1570
Email: helpline@bbfc.co.uk
Website: www.bbfc.co.uk

British Institute of Innkeeping
Wessex House
80 Park Street
Camberley
Surrey GU15 3PT

Phone: 01276 684449
Email: reception@bii.org
Website: www.bii.org

Business Link for Essex
Alexandra House
36a Church Street
Chelmsford
Essex CM2 7HY

Phone: 01245 717615
Email: info@bl4e.co.uk
Website: www.bl4e.co.uk

Community Safety Partnership
Council Offices
Kiln Road
Benfleet
Essex
SS7 1TF

Phone: 01268 882461
Email: communitysafety@castlepoint.gov.uk
Website: www.castlepoint.gov.uk

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Department for Media Culture & Sport
2-4 Cockspur Street
London
SW1Y 5DH

Phone: 020 7211 6200
Email: enquiries@culture.gov.uk
Website: www.culture.gov.uk

Disability Rights Commission
DRC Helpline
Freepost MID01264
Stratford Upon Avon
CV37 9BR

Phone: 08457 622633
Email:
Website: www.drc-gb.org

Essex Chamber of Commerce
Mid Essex Office
75 Springfield Road
Chelmsford
Essex CM2 6JB

Phone: 01245 500464
Email: info@essexchambers.co.uk
Website: www.essexchambers.co.uk

Essex Race Equality Council
Floor 3 Civic Centre
Victoria Street
Southend on Sea
Essex SS2 6EP

Phone: 01702 333351
Email: Erec.Southend@btconnect.com
Website:

Essex Trading Standards
New Dukes Way Office
2 Beaufort Road
Dukes Park Industrial Estate
Chelmsford
Essex
CM2 6PS

Phone: 0845 6037626
Email: Advice.unit@essexcc.gov.uk
Website: www.tradingstandards.gov.uk/essex

Equity
Guild House
Upper Martins Lane
London
WC2H 9EG

Phone: 020 7379 6000
Email: info@equity.org.uk
Website: www.equity.org.uk

Institute of Acoustics
77a St Peters Street
St Albans
Herts. AL1 3BN

Phone: 01727 848195
Email: ioa@ioa.org.uk
Website: www.ioa.org.uk

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Musicians Union
60 – 62 Clapham Road
London
SW9 0JJ

Telephone: 020 7840 5537
Email: eastsoutheast@musiciansunion.org.uk
Website: www.musiciansunion.org.uk

Security Industry Authority
P O Box 1293
Liverpool
L69 1AX

Phone: 0844 892 0975
Email: info@the-sia.org.uk
Website: www.the-sia.org.uk

The Portman Group
4th Floor,
20 Conduit Street,
London
W1S 2XW

Phone: 020 7290 1460
Email: info@portmangroup.co.uk
Website: www.portmangroup.org

Appendix K – Guidance on Classification of Films

(Courtesy of British Board of Film Classification)

Universal Category

It is impossible to predict what might upset any particular child. But a 'U' film should be suitable for audiences aged four years and over. Works aimed at children should be set within a positive moral framework and should offer reassuring counterbalances to any violence, threat or horror.

Theme

Treatment of problematic themes must be sensitive and appropriate to a younger audience.

Language

Infrequent use only of very mild bad language.

Nudity

Occasional natural nudity, with no sexual context.

Sex

Mild sexual behaviour (e.g., kissing) and references only (e.g., to 'making love').

Violence

Mild violence only. Occasional mild threat or menace only.

Imitable techniques

No emphasis on realistic weapons.

Horror

Horror effects should be mild and brief and should take account of the presence of very young viewers. The outcome should be reassuring.

Drugs

No references to illegal drugs or drug use.

Videos classified UC are particularly suitable for pre-school children.

Parental Guidance Category

General viewing, but some scenes may be unsuitable for some children. Unaccompanied children of any age may watch. A 'PG' film should not disturb a child aged around eight or older. However, parents are advised to consider whether the content may upset younger or more sensitive children.

Theme

More serious issues may be featured, e.g. crime, domestic violence, racism (providing nothing in their treatment condones them).

Language

Mild bad language only.

Nudity

Natural nudity, with no sexual context. Rochford District Council Statement of Licensing Policy 07/01/05 – 06/01/08 Rev 01/05 2

Sex

Sexual activity may be implied, but should be discreet and infrequent. Mild sexual references and innuendo only.

Violence

Moderate violence, without detail, may be allowed - if justified by its setting (e.g. historic, comedy or fantasy).

Imitable techniques

No glamorisation of realistic, contemporary weapons. No detail of fighting or other dangerous techniques.

Horror

Frightening sequences should not be prolonged or intense. Fantasy settings may be a mitigating factor.

Drugs

No references to illegal drugs or drug use unless entirely innocuous.

12/12A Category

No-one younger than 12 may see a '12A' film in a cinema unless accompanied by an adult. No-one younger than 12 may rent or buy a '12' rated video.

Theme

Mature themes are acceptable, but their treatment must be suitable for young teenagers.

Language

The use of strong language (e.g. 'fuck') should be rare and must be justified by context.

Nudity

Nudity is allowed, but in a sexual context will be brief and discreet.

Sex

Sexual activity may be implied. Sexual references may reflect the familiarity of most adolescents today with sex education through school.

Violence

Violence must not dwell on detail. There should be no emphasis on injuries or blood. Sexual violence may only be implied or briefly indicated and without physical detail. Imitable techniques. Dangerous techniques (examples include: combat, hanging, suicides) should contain no imitable detail. Realistic and contemporary weapons should not be glamorised.

Horror

Sustained threat and menace is permitted. Occasional gory moments only.

Drugs

Brief and occasional references to, and sight of, 'soft' drug-taking (e.g. cannabis) are allowed, but must be justified by context and should indicate the dangers. No instructional elements are permitted.

15 Category

No-one younger than 15 may see a '15' film in a cinema. No-one younger than 15 may rent or buy a '15' rated video. Rochford District Council Statement of Licensing Policy 07/01/05 – 06/01/08 Rev 01/05 3

Theme

No theme is prohibited, provided the treatment is appropriate to 15 year olds.

Language

There may be frequent use of strong language; the strongest terms (e.g. 'cant') are only rarely acceptable. Continued aggressive use of strong language and sexual abuse is unacceptable.

Nudity

There are no constraints on nudity in a non-sexual or educational context.

Sex

Sexual activity and nudity may be portrayed but without strong detail. The depiction of casual sex should be handled responsibly. There may be occasional strong verbal references to sexual behaviour.

Violence

Violence may be strong but may not dwell on the infliction of pain, and of injuries. Scenes of sexual violence must be discreet and brief.

Imitable techniques

Dangerous combat techniques such as ear claps, head-butts and blows to the neck are unlikely to be acceptable. There may be no emphasis on the use of easily accessible lethal weapons (in particular, knives).

Horror

Sustained or detailed infliction of pain or injury is unacceptable.

Drugs

Drug taking may be shown but clear instructive detail is unacceptable. The film as a whole must not promote or encourage drug use.

18 Category

No-one younger than 18 may see an '18' film in a cinema. No-one younger than 18 may rent or buy an '18' rated video.

The BBFC respects the right of adults to choose their own entertainment, within the law. It will therefore expect to intervene only rarely in relation to '18' rated cinema films. In the case of videos, which are more accessible to younger viewers, intervention may be more frequent.

There are no constraints at this level on theme, language, nudity or horror. The Board may, however, cut or reject the following content

- any detailed portrayal of violent or dangerous acts which is likely to promote the activity. This includes also instructive detail of illegal drug use;
- the more explicit images of sexual activity – unless they can be exceptionally justified by context.

Sex Education at '18'

Where sex material genuinely seeks to inform and educate in matters such as human sexuality, safe sex and health, exceptions to the normal constraints on explicit images may be made in the public interest. Such explicit detail must be kept to the minimum necessary to illustrate the educational or instructional points being made.

Sex Works at '18'

Material which appears to be simulated is generally passed '18', while images of real sex are confined to the 'R18' category.

R18 Category

To be supplied only in licensed sex shops to adults of not less than 18 years. The 'R18' category is a special and legally restricted classification primarily for explicit videos of consenting sex between adults. Such videos may be supplied to adults only in licensed sex shops, of which there are currently about 90 in the UK. 'R18' videos may not be supplied by mail order.

The following content is not acceptable:

- any material which is in breach of the criminal law.
- material (including dialogue) likely to encourage an interest in abusive sexual activity (e.g., paedophilia, incest) which may include depictions involving adults role-playing as non-adults.
- the portrayal of any sexual activity, whether real or simulated, which involves lack of consent.
- the infliction of pain or physical harm, real or (in a sexual context) simulated.
- some allowance may be made for mild consensual activity.
- any sexual threats or humiliation which do not form part of a clearly consenting role-playing game.
- the use of any form of physical restraint which prevents participants from withdrawing consent, for example, ball gags.
- penetration by any object likely to cause actual harm or associated with violence.
- activity which is degrading or dehumanising (examples include the portrayal of bestiality, necrophilia, defecation, urolagnia).

The following content, subject to the above, may be permitted:

- aroused genitalia
- masturbation
- oral-genital contact including kissing, licking and sucking
- penetration by finger, penis, tongue, vibrator or dildo
- non-harmful fetish material
- group sexual activity
- ejaculation and semen

These guidelines make no distinction between heterosexual and homosexual activity.



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CONSULTATION ON GAMBLING ACT DRAFT STATEMENT OF LICENSING POLICY

1 PURPOSE OF REPORT

- 1.1 This report details the response to consultation of the Council's draft policy for gambling that was approved for consultation by the Licensing Committee on 13 July 2015.
- 1.2 It proposes no change in the original draft and seeks Members' approval for placing before Council on 15 December 2015.
- 1.3 This report also seeks Members' recommendations to Council on the question of whether or not the Licensing Authority should exercise its discretion to resolve not to issue casino licences.

2 INTRODUCTION

- 2.1 Section 349 of the Gambling Act 2005 requires the Council to determine and to publish its licensing policy every 3 years. The Council's current policy for the period ending 30 January 2016 was reviewed, revised and approved for consultation between 17 August and 6 November 2015
- 2.2 The Act requires the Council to keep the policy under review throughout each period and to revise it as necessary. Prior to making any changes, or in advance of a new 3 year period, the Council must carry out a consultative process with Responsible Authorities defined by the Act and others who the Authority considers would have an interest in the policy.
- 2.3 The draft Policy was circulated for consultation to those identified in the report and the draft policy was displayed at the Council offices and on the Council's website.
- 2.4 A copy of the draft policy consulted upon is attached.
- 2.5 To help inform this process the Gambling Commission was required to issue guidance to licensing authorities on a manner in which they are to exercise their functions, and the principles to be applied by them in exercising them. Licensing Authorities are required to have regard to this guidance under the Gambling Act 2005. It has come to light, however, that the current Guidance to Licensing Authorities (GLA 5th edition) was under review by the Gambling Commission and the closing date for responses to the consultation was 22 June 2015. The new guidance was published on the 29 September 2015.
- 2.6 The timing of this review created particular challenges to licensing authorities as it left limited time following the publication for the revised GLA in which to complete a fully informed review and undertake a statutory consultation. The draft policy will be presented at Full Council in December, in order to achieve

the January deadline. No relaxation was granted to local authorities in respect of this deadline date pending the review of the GLA. The outcome means that the changes to the GLA are substantial and significant and we have been unable to insert them into the policy between consultation and final policy without re-consulting.

3 RESPONSE TO CONSULTATION

- 3.1 Responses from Canewdon Parish Council, Coral and Gosschalks Solicitors have been received with comments regarding typing errors and new legislation that the Government introduced this year.
- 3.2 It is the intention of the licensing authority to review the Statement of Licensing Policy in 2016 to include the new legislation, local area profile and risk assessments.

4 RISK IMPLICATIONS

- 4.1 There is a statutory obligation for the statement of licensing policy to be published by 30 January 2016. The draft policy has to be implemented for consideration and ratification by Full Council on 15 December 2015.
- 4.2 The Committee is bound by the provisions of the Act, the statutory guidance issued by the Gambling Commission and its own statement of licensing policy in the administration of the licensing regime and in determining licensing issues.

5 LEGAL IMPLICATIONS

- 5.1 There may be a potential for decisions made in determining licensing applications to become subject to appeal if an up to date statement of licensing principles has not been approved by Full Council and published by 30 January 2016, or the policy itself subject to legal challenge.

For the period 31 January 2016
to 30 January 2019

Statement of Licensing Policy Gambling Act 2005



If you would like this information in large print, Braille or another language, please contact 01702 318111.

Preface

This is the fourth statement of principles, which is known in this District as the Statement of Licensing Policy (Gambling Act 2005), that the council offers for consultation in accordance with the requirements of Section 349 of the Gambling Act 2005.

Since the adoption of the third statement the Act has amended maximum stakes and maximum prize limits for gaming machines. References in this statement to the Gambling Act 2005 are references to the Act as amended.

This statement sets out the principles that the council, as the licensing authority for the Rochford District, will apply in carrying out its licensing functions for the three year period commencing 31 January 2016.

This statement was reviewed in accordance with the requirements of the Gambling Act 2005 and regulations issued under it and in consideration of the Guidance to Licensing Authorities dated September 2012 and relevant Codes of Practice issued by the Gambling Commission.

The revised policy was offered for consultation between 17 August 2015 – 6 November 2015.

The policy was approved by the Licensing Authority on 15 December 2015 and has effect from 31 January 2016 – 30 January 2019

The Licensing Authority has published appendices to this Statement of Licensing Policy setting out general information and guidance on the various requirements in respect of making applications, the fees payable, making representations, hearings and reviews. The appendices were prepared subject to the Act, guidance and regulations current at the time. They may be amended from time to time and should not be taken as law and readers are advised to seek legal advice where appropriate.

The Gambling Act 2005 gives the Council discretion as to the question of issuing casino premise licences and provides that it may pass a resolution not to issue those licences during each three year period the Statement of Licensing Policy has effect. Where the Council passes such a resolution, that fact must be published within the Statement of Licensing Policy.

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1 Introduction

- 1.1 This Statement of Licensing Policy sets out the principles the Council, as the Licensing Authority under the Gambling Act 2005, proposes to apply in discharging its functions to licence premises for gambling and in respect of:
- designating the body responsible for advising the authority on the protection of children from harm;
 - determining whether or not a person is an ‘Interested Party’;
 - exchanging information with the Gambling Commission and others; and
 - inspecting premises and instituting proceedings for offences.

Description of the District

- 1.2 The area is predominantly rural in character with many smaller towns and villages and two main urban centres at Rochford and Rayleigh. It has a population of approximately 79,000 people.
- 1.3 The District offers a wide and developing variety of commerce, culture, history, recreation and dwellings. The transport infrastructure is extensive and expanding, being provided by mainline railway to London and Southend, local bus and taxi services and, currently under development, London (Southend) airport.
- 1.4 At the time of publication of this policy, gambling in the District is carried out in eight premises licensed for betting, one premise licensed as an adult gaming centre and 52 premises consisting mainly of public houses and clubs with permits for gaming machines. There are 23 small lotteries registered within the District.

Consultation

- 1.5 The Gambling Act 2005 requires the Licensing Authority to publish a statement of licensing principles that it proposes to apply when discharging its functions for each three year period, having consulted with:
- The Chief Officer of Police
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 1.6 The Licensing Authority consulted on this Statement of Licensing Policy between 17 August 2015 – 6 November 2015 by sending a copy to:
- each of the Responsible Authorities;
 - each public library in the District;
 - each Council office in the District;

- each Parish Council in the District;
- persons representing interests of persons carrying on gambling businesses;
- persons representing the interests of persons likely to be affected by the exercise of the authority's function under the Gambling Act 2005;

and by placing a copy of the policy on the Council's website.

1.7 This Statement of Licensing Policy has effect from 31 January 2016 – 30 January 2019.

1.8 The Gambling Act 2005 requires the Licensing Authority to monitor, review and, where appropriate, amend its statement and then republish it. The Licensing Authority will consult with those groups mentioned in paragraph 1.6 prior to amending any part of the statement.

2 General Principles

The Licensing Objectives

2.1 In exercising most of its functions under The Gambling Act 2005, Licensing Authorities must have regards to the Licensing Objectives as set out in Section 1 of the Act.

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

2.2 Whilst the Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this licensing objective.

2.3 Where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of door supervisors.

2.4 The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a licensing objective under the Gambling Act.

Ensuring that gambling is conducted in a fair and open way

2.5 The Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way as this is a matter more appropriate for the Gambling Commission.

2.6 The Licensing Authority notes however that, in relation to the licensing of tracks the Licensing Authority's role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances, the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

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

- 2.7 The Licensing Authority considers this objective to mean preventing children from taking part in gambling, as well as restrictions on advertising so that gambling products are not aimed at or are, particularly attractive to children.
- 2.8 The Licensing Authority will consider whether specific measures, e.g. supervision of entrances/machines, segregation of areas etc. are required at particular premises with regard to this licensing objective, each case being dealt with on its own merits.
- 2.9 In considering applications in respect of premises, the Licensing Authority will pay attention to the proposed location of gambling premises in terms of this licensing objective. The Authority will have regard to any relevant Codes of Practice issued by the Gambling Commission when considering specific premises, such as casinos.
- 2.10 The Authority regards the term “vulnerable persons” to apply to people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental health needs, learning disability or substance misuse relating to alcohol or drugs. .

Responsibilities under the Act

- 2.11 The Act has introduced a new licensing regime for commercial gambling to be conducted by the Gambling Commission and by Licensing Authorities.
- 2.12 The Gambling Act 2005 establishes each District and borough council as a Licensing Authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Rochford District Council is the Licensing Authority for the Rochford District.
- 2.13 The Gambling Commission are responsible for issuing operator’s and personal licences to persons and organisations who:
- operate a casino;
 - provide facilities for playing bingo or for pool betting;
 - act as intermediaries for betting;
 - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
 - manufacture, supply, install, adapt, maintain or repair gaming machines;
 - manufacture, supply, install or adapt gambling software; or
 - promote a lottery.

2.14 The Licensing Authority is responsible for a number of functions including:

- The issue of premises licences in respect of premises where gambling activities are to take place.
- The issue of provisional statements.
- The issue of club gaming permits and/or club machine permits to members' clubs and miners' welfare institutes.
- The issue of club machine permits to commercial clubs.
- The issue of permits to unlicensed family entertainment centres for the use of certain lower stake gaming machines.
- The issue and regulation of gaming and gaming machines in alcohol licensed premises.
- The registration of small society lotteries.
- The issue of prize gaming permits.
- The receipt and endorsement of temporary use notices.
- The receipt of occasional use notices.
- The provision of information to the Gambling Commission about licences issued (see para 2.50 on information exchange).
- The keeping of registers of the permits and licences issued under these functions.
- The exercise of its powers of compliance and enforcement under the 2005 Act in partnership with the Gambling Commission and other relevant responsible authorities.

NB It should be noted that the Licensing Authority's functions do not include matters concerning the National Lottery, Remote Gambling or Spread Betting.

2.15 Applications must be determined in a manner that is reasonably consistent with the licensing objectives.

2.16 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as it thinks it to be:

- consistent with the Codes of Practice,
- consistent with Guidance issued by the Commission,
- reasonably consistent with the Licensing Objectives,
- in accordance with their Statement of Policy.

2.17 Before the Licensing Authority can consider an application for a premises licence an operator's licence must have been obtained or applied for from the Gambling Commission.

Delegation

- 2.18 With the exception of the approval and review of its Statement of Licensing Policy and any other matters prescribed, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.
- 2.19 Appendix C contains a table setting out delegations in respect of how the Licensing Authority intends to discharge its various functions.

Statement of Licensing Policy

- 2.20 The Licensing Authority is required by the Gambling Act 2005 to publish a statement of the principles that they propose to apply when exercising their functions.
- 2.21 The statement must be published at least every three years and must also be reviewed periodically and, where appropriate, amended.
- 2.22 The Licensing Authority will consult with those groups mentioned in paragraph 1.5 above prior to amending any part of the policy and in preparing its Statement of Licensing Policy for each future three year period.

Approval of Policy

- 2.23 This Statement of Licensing Policy was approved at a meeting of the full Council on and takes effect on 31 January 2016
- 2.24 Any comments concerning this statement should be sent via e-mail to **licensing@rochford.gov.uk** or by letter to the Licensing Unit, Rochford District Council, South Street, Rochford, Essex SS4 1BW.
- 2.25 This statement will not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each will be considered on its own merit and according to the requirements of the Gambling Act 2005.
- 2.26 The policy can be viewed at the Council's offices or on the Council's website on **www.rochford.gov.uk**

Declaration

- 2.27 In producing this Statement of Licensing Policy, the Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission under the Act and any responses from those consulted on the policy statement.
- 2.28 The Licensing Authority recognises its diverse responsibility under equality legislation and will monitor the impact of their statutory duties through the Council's Equalities & Diversity Policy.

Disclaimer

- 2.29 Appendices have been attached to this statement providing further information and guidance that is intended only to assist readers and should not be interpreted as legal advice or as constituent of Rochford District Council's Statement of Licensing Policy (Gambling Act 2005). Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or of the Guidance or Regulations issued under the Act.

Responsible Authorities

- 2.30 The Gambling Act 2005 prescribes the Responsible Authorities that have statutory functions or are considered to be statutory consultees under the Act.
- 2.31 The Licensing Authority is required to designate in writing a body that is competent to advise it about the protection of children from harm. The Authority have applied the following considerations in discharging its responsibility:
- the competency of the body to advise the Licensing Authority;
 - 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 invested interest group etc.
- 2.32 The Licensing Authority designates the Essex County Council Children's Safeguarding Service for this purpose.
- 2.33 Appendix D contains the contact details of all the Responsible Authorities under the Gambling Act 2005.

Interested Parties

- 2.34 Interested Parties can make representations about licensing applications or apply for a review of an existing licence.
- 2.35 The principles the licensing authority will apply to determine whether a person is an interested party are that:
- each case will be decided upon its merits;
 - the authority will not apply a rigid rule to its decision-making and will consider the examples of considerations provided in the Gambling Commission's guidance for local authorities,
 - the authority will also consider the Gambling Commission's guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- 2.36 A person is an Interested Party in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority the person:
- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
 - (b) has business interests that might be affected by the authorised activities, or;
 - (c) represents persons who satisfy paragraphs (a) or (b).
- 2.37 Interested Parties can be persons who are democratically elected such as District and parish councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties.
- 2.38 District councillors who are members of the Licensing Committee will not qualify to act in this way.
- 2.39 This Authority will generally require written evidence that a person is authorised to represent an Interested Party.
- 2.40 The Licensing Authority considers that Trade Associations, Trade Unions and Residents and Tenants Associations qualify as Interested Parties where they can demonstrate that they represent persons in paragraph 2.35 (a) or (b).
- 2.41 This authority will not however generally view these bodies as Interested Parties unless they have a member who can be classed as an Interested Party.
- 2.42 In determining if a person lives or has business interests sufficiently close to the premises that are likely to be affected by the authorised activities the Licensing Authority will consider the following factors:
- The size of the premises.
 - The nature of the premises.
 - The distance of the premises from the location of the person making the representation.
 - The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment).
 - The nature of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises.
 - The catchment area of the premises (i.e. how far people travel to visit).
 - Whether the person making the representation has business interests that might be affected in that catchment area.

Considerations in Licensing of Premises

- 2.43 The Licensing Authority will consider whether the grant of a licence or permit will result in issues of crime and disorder or exposing children or vulnerable adults to harm or of being exploited by gambling.
- 2.44 Gambling operators are undertake a local risk assessment for the premises as part of the application process made make this available to the authority this will include the following:
- the procedures in place to conduct age verification checks and/or a proof-of-age scheme, where premises are subject to age restrictions;
 - physical security features in the premises, e.g. the position of cash registers, CCTV installation;
 - the design and layout of the premises, including physical separation of areas and location of entrances/entry points;
 - door supervision and supervision of entrances/entry points and machine areas;
 - training given to staff appropriate to the premises;
 - notices or signage;
 - specific opening hours;
 - Demonstrate how the Operator will regard local risks and concerns and protect local vulnerable groups.
- 2.45 As regards to the protection of vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, help line numbers for organisations such as GAMCARE, will be considered.
- 2.46 The Licensing Authority will give favourable consideration to licence applications resulting from re-siting of premises within the same locality and extensions in order to enhance the quality of facilities provided but this is without prejudice to the determination of any planning application that may be required.
- 2.47 Appendix F contains further information on premises licences, the application process and additional documentation the Licensing Authority requires in determining the application.

Door Supervisors

- 2.48 Any person that is employed as a door supervisor at any premises, other than those employed in-house in a casino or bingo hall has to be licensed by the Security Industry Authority.

Moral Objections/Unmet Demand

- 2.49 Moral objections to gambling are not a valid reason to reject applications for premises licences and unmet demand is not a criterion for a Licensing Authority to consider.

Location

- 2.50 The question of where a premises is located will only be considered by the Authority within the context of the licensing objectives and each application will be decided on its own merit.

Exchange of Information

- 2.51 In its exchange of information with parties listed in Schedule 6 of the Act the Licensing Authority will have regard to:

- the provisions of the Gambling Act 2005, which includes the provision that the Data Protection Act 1998 will not be contravened;
- the guidance issued by the Gambling Commission;
- the Data Protection Act 1998;
- the Human Rights Act 1998;
- the Freedom of Information 2000;
- the Environmental Information Regulations 2004;
- the Common Law Duty of Confidence;
- the Electronic Communications Act 2000
- Computer Misuse Act 1990
- Criminal Procedure and Investigations Act 1996
- Crime and Disorder Act 1998.

- 2.52 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail of:

- record of data disclosed;
- project chronology; and
- notes of the meeting with other partners and recent correspondence from phone calls.

Licensing Register

- 2.53 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

Enforcement

- 2.54 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice as promulgated by the Better Regulation Executive and the Hampton/McCory Reviews will endeavour to be:
- Proportionate – intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
 - Accountable – authorities must be able to justify decisions and be subject to public scrutiny.
 - Consistent – rules and standards must be joined up and implemented fairly.
 - Transparent – enforcement should be open and keep regulations simple and user friendly.
 - Targeted – enforcement should be focused on the problems and minimise side effects.
- 2.55 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible and adopt a risk based inspection programme.
- 2.56 Where a single point of contact has been supplied by the operator of a number of premises within Rochford District, the Authority will endeavour to contact that person first in respect of any enforcement issues that might arise.
- 2.57 The main enforcement and compliance role of the Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences, Permits and Registrations that it issues.
- 2.58 The Gambling Commission is the enforcement body for Operator and Personal Licences and for concerns about the manufacture, supply or repair of gaming machines.
- 2.59 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.
- 2.60 The Licensing Authority's enforcement/compliance protocols and written agreements and details of the risk-based approach to inspection will be available by contacting the Licensing Section, Rochford District Council,
3–19 South Street, Rochford, SS4 1BW, phone 01702 318058 or by email to:
licensing@rochford.gov.uk

3 Premises Licences

- 3.1 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions or to attach others, where it is thought appropriate.
- 3.2 Licensing Authorities are required by the Gambling Act to aim to permit the use of premises for gambling so far as it thinks it is:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the Authority's Statement of Licensing Principles.

Definition of Premises

- 3.3 A premise is defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of the building can be properly regarded as being separate premises which will always be a question of fact in the circumstances that will be considered in light of guidance issued by the Gambling Commission.
- 3.4 The Authority does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 3.5 Where applications are submitted for multiple licences for a building or for a specific part of a building to be licensed, the Authority expects that entrances and exits from a part or parts of a building covered by one or more licences should be separate and identifiable. This is to ensure a separation of different premises and that people do not 'drift' into a gambling area from another area that is not.
- 3.6 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises, which themselves may be licensed or unlicensed, and will consider, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act.
- 3.7 In addition an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would or should be prohibited under the Act.

Duplication with other Regulatory Regimes

- 3.8 Duplication with other statutory/regulatory regimes will be avoided where possible. This Authority will not consider whether a licence application is likely to be awarded Planning or Building Control consent, in its consideration of it.

Premise Licence Conditions

- 3.9 Any conditions attached to premises licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 3.10 Decisions upon individual conditions will be made on a case-by-case basis. Consideration will be given to using control measures, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. should there be a perceived need. Applicants will also be expected to offer their own suggestions as to the way in which the licensing objectives can be effectively met.
- 3.11 The Licensing Authority will not refuse an application for a premises licence where relevant objections can be dealt with by use of appropriate conditions.
- 3.12 For buildings subject to multiple premises licences, the Licensing Authority will consider specific measures that may be required, such as:
- the supervision of entrances;
 - segregation of gambling from non-gambling areas frequented by children; and
 - the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.
- 3.13 It is noted that the Licensing Authority cannot attach conditions to premises licences that:
- makes it impossible to comply with an Operating Licence condition;
 - relate to gaming machine categories, numbers or method of operation;
 - provide that membership of a club or body be required;
 - relate to stakes, fees or winning of prizes.

Provisional Statements

- 3.14 The Licensing Authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with Planning or Building Law.

Casinos

- 3.15 As provided by Section 166 of the Gambling Act 2005, the Licensing Authority has resolved not to issue casino premise licences for the three year duration of this policy.
- 3.16 This decision was taken following consideration of the current regulations in respect of casino licences, the government criteria for authorities to issue such licences and responses to the consultation process carried out in preparation of this policy.
- 3.17 This matter will continue to be reviewed as part of the on-going review process of the Statement of Licensing Policy.

Casinos and Competitive Bidding

- 3.18 The Licensing Authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino there are likely to be a number of operators which will want to run a casino.
- 3.19 If such situations arise in the future, this Authority will run a competition in line with Regulations and Codes of Practice issued under the Gambling Act 2005 by the Secretary of State.

Bingo Premises

- 3.20 Bingo premises are not generally age-restricted, although certain areas within them may be, e.g. where machines of Category C or above are situated.
- 3.21 The Licensing Authority will consider any further guidance to be issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

Door Supervisors

- 3.22 The Licensing Authority requires any person employed at a casino or bingo premises as a door supervisor must hold a current licence granted under the Private Security Industry Act 2001. (SIA)

Credit and Cash Dispensers

- 3.23 Credit facilities are prohibited from being provided.
- 3.24 Cash machines may be installed in licensed premises but the Licensing Authority may apply conditions on their siting where they are installed in bingo premises.

Betting Offices and Machines

- 3.25 The Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence.

3.26 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority will consider:

- each application its own merit;
- the size of the premises;
- the number of counter positions available for person to person transactions;
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons;
- evidence that such machines have been or are likely to be used in breach of licensing objectives;
- the relevant Codes of Practice or Guidance issued under the Gambling Act 2005 by the Secretary of State.

3.27 In addition, details of GAMCARE and the facilities offered will be included in the appendices to the policy, on the Council's website and also made available in Council reception areas.

Tracks

3.28 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

3.29 The licensing authority will consider the need to ensure that entrances to each type of premises are distinct and that children are prevented from entering gambling areas where they are not permitted.

Adult Gaming Centres and Family Entertainment Centres

3.30 The Licensing Authority will consider the need to apply appropriate conditions in respect of delineating any area containing Category C machines from other forms of amusement.

Representations and Reviews

3.31 Responsible Authorities (including the Licensing Authority) and Interested Parties may make representations in respect of applications for the grant or variation of a premise's licences and may apply for review of a premises licence.

3.32 For the purposes of exercising the Licensing Authority's discretion, the persons authorised to make representations and apply for reviews of a premises licence are:

- Members of the Licensing Authority, other than Members of the Licensing Committee, and
- the staff of the Council's Licensing Unit.

3.33 The Licensing Authority may determine that a representation:

- is frivolous or vexatious,
- will certainly not influence the Authority's determination of the application or review or wish to alter/revoke/suspend the licence.

3.34 The Licensing Authority may reject an application for review of a premises licence if they determine the grounds for the review:

- do not raise a relevant issue to the principles contained in paragraphs 2.1 – 2.10 above;
- are frivolous or vexatious;
- will certainly not cause the Authority to alter/revoke/suspend the licence;
- are substantially the same as representations made in respect of the application for the premises licence.

3.35 There is no appeal against the Authority's determination of the relevance of a representation or an application for review.

3.36 Appendix E contains further information on making representations and applying for reviews of premises licences.

Travelling Fairs

3.37 No authorisation is required for a travelling fair as there is no limit on Category D machines.

3.38 The Licensing Authority will also consider if the applicant falls within the statutory definition of a travelling fair.

3.39 It should be noted that the statutory maximum of 27 days for the land being used as a fair is per calendar year and that it applies to the piece of land on which the fairs are held regardless of whether or not it is the same travelling fair occupying the land.

3.40 Where the 27-day statutory limit is exceeded, a TUN will have to be issued or Premises Licence applied for, as appropriate.

3.41 This Licensing Authority will work with our neighbouring authorities to ensure that land that crosses our boundaries is monitored so that the statutory limits are not exceeded.

4 Gaming Machine Permits

Unlicensed Family Entertainment Centre Gaming Machine Permits

4.1 A premises licence is unnecessary in respect of premises where gaming machines of Category D only are to be provided. In such cases an application may be made to the Licensing Authority for a permit but the Authority has to be satisfied that the premises will be wholly or mainly used for making gaming machines available for use.

- 4.2 The Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.
- 4.3 Where the Licensing Authority intend to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

Statement of Principles

- 4.4 The Licensing Authority will specifically have regard to those matters contained within Section 2, paragraph 2.43–2.46 concerning matters to be considered in licensing of premises.
- 4.5 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 4.6 The efficiency of such policies and procedures will be considered on their merits and may, for example, include such measures as:
- Criminal Record Check from Disclosure and Barring (DBS) checks for staff;
 - staff training in how to deal with suspected truant school children, or unsupervised, very young children on the premises, or children causing perceived problems on/around the premises.
- 4.7 The licensing authority will also expect that:
- applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's;
 - the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 - staff is trained to have a full understanding of the maximum stakes and prizes.
- 4.8 Appendix G contains further information on unlicensed family entertainment centres, the application process and additional documentation the Licensing Authority requires in determining the application.

(Alcohol) Licensed Premises Gaming Machine Permits

- 4.9 A permit under this section cannot be issued in respect of premises for which a premises licence under the Gambling Act 2005 has been granted.
- 4.10 The holder of a premises licence under the Licensing Act 2003 that authorises the sale and consumption of alcohol on premises, which contain a bar at which alcohol is served but without the requirement that food is also served, is automatically entitled to operate two gaming machines of categories C or D.
- 4.11 In order to do so they must first notify the Licensing Authority of their intention to do so and pay the prescribed fee.

Rochford District Council – Statement of Licensing Policy Gambling Act 2005
For period 31 January 2016 – 30 January 2019

- 4.12 It should be noted that those restaurants that did not seek to remove the restriction on the sale of alcohol with food that applied if they had a restaurant licence under the Licensing Act 1964, will not qualify to an automatic entitlement to gaming machines.
- 4.13 Where a permit has been issued under Section 34 of the Gaming Act 1968, the licence-holder must notify the Licensing Authority at least two months prior to its date of expiry.
- 4.14 The Licensing Authority may issue licensed-premises gaming machine permits authorising the use of any number of categories C or D machines. In determining an application for an increase in the number of machines, the Licensing Authority will consider:
- the size of the premises;
 - the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons;
 - any documentary evidence, e.g. supporting statistical evidence providing details of usage, etc.;
 - each application on its own merits;
 - the Codes of Practice or Guidance issued under the Gambling Act 2005.
- 4.15 Once issued there is no requirement to renew a permit. An annual fee has to be paid.
- 4.16 Where the Licensing Authority intend to refuse an application, or grant it for a different number or category of machines to that requested, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.
- 4.17 The Licensing Authority may consider removing the automatic entitlement for a permit if:
- provision of the machines is not reasonably consistent with the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of the Act, e.g. machines have been made available other than in a way that complies with requirements concerning their location and operation;
 - the premises are mainly used for gaming;
 - an offence under the Gambling Act 2005 has been committed on the premises.
- 4.18 Where the Licensing Authority consider exercising their powers to remove the entitlement, the permit-holder must be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.
- 4.19 Appendix G contains further information on gaming machines in alcohol-licensed premises, the application process and additional documentation the Licensing Authority requires in determining the application.
-

Prize Gaming Permits

- 4.20 Prize gaming is gaming in which the nature and size of the prize is not determined by the number of players or the amount paid or raised by the gaming, the prizes having been determined before play commences, e.g. bingo with non-cash prizes. (Note: bingo with cash prizes and that carried on in commercial bingo halls will need to be licensed by the Gambling Commission.)
- 4.21 Prize gaming may be carried on in premises under a permit issued by the Licensing Authority.
- 4.22 The Licensing Authority may refuse an application on the grounds that its grant or renewal would not be reasonably consistent with the pursuit of the licensing objectives.
- 4.23 In determining an application, the Licensing Authority need not have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 4.24 Where the Licensing Authority intend to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

Statement of Principles

- 4.25 The Licensing Authority will specifically have regard to those matters contained within Section 2, paragraph 2.43–2.46 concerning matters to be considered in licensing of premises.
- 4.26 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 4.27 The efficiency of such policies and procedures will be considered on their merits and may, for example, include such measures as:
- Criminal Record Check from Disclosure and Barring (DBS) for staff;
 - staff training in how to deal with suspected truant school children, or unsupervised, very young children on the premises, or children causing perceived problems on/around the premises.
- 4.28 The Licensing Authority also expects that applicants:
- set out the type/s of gaming that it is intended to be offered;
 - demonstrate a full understanding of the maximum stakes and prizes of the gaming that is permitted, and that staff receive appropriate training in relation to those matters;
 - have no relevant convictions (those that are set out in Schedule 7 of the Act).
- 4.29 Appendix G contains further information on prize gaming, the application process and additional documentation the Licensing Authority requires in determining the application.

Club Gaming and Club Machine Permits

Members' Clubs and Miners' Welfare Institutes

- 4.30 Members' Clubs and Miner's Welfare Institutes may apply for either a Club Gaming Permit or Club Gaming Machine Permit.
- 4.31 Club Gaming Permits authorise the provision of equal-chance gaming, games of chance and a maximum of three gaming machines of Category B4, C or D, equal chance gaming and other games of chance (as prescribed in regulations).
- 4.32 A Club Gaming Machine Permit enables the premises to provide a maximum of three gaming machines only, of Category B3a, C or D.

Commercial Clubs

- 4.33 Commercial or proprietary clubs may only apply for a Club Gaming Machine Permit enabling the premises to provide a maximum of three gaming machines only, of Category B4, C or D.
- 4.34 Premises that have work-based members' social clubs, but which may not be licensed to sell or supply alcohol, may apply for a permit. This type of premises includes, for example, those where machines are sited in works' canteens.
- 4.35 Before granting a permit to premises described in the preceding paragraph, the Licensing Authority will need to be satisfied that the premises meet the requirements of a members' club and that the majority of members are over 18 years of age.
- 4.36 Both categories of permits have effect for 10 years. An annual fee has to be paid on the anniversary of the permit's grant.
- 4.37 Appendix G contains further information on gaming in club premises, the application process and additional documentation the Licensing Authority requires in determining the application.

5 Temporary and Occasional Use Notices

Temporary Use Notices (TUN's)

- 5.1 A TUN may only be granted to a person or company holding an operating licence relevant to the temporary use of the premises.
- 5.2 The type of activity for which a TUN may be issued is determined by the Secretary of State. Currently, a TUN may only be issued in respect of Equal Chance Gaming.
- 5.3 A set of premises is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premise from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.
- 5.4 In considering whether a place falls within the definition of "a set of premises", the Licensing Authorities will consider, amongst other things, the ownership/ occupation and control of the premises.

- 5.5 The Licensing Authority will 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.
- 5.6 Appendix F contains further information on these notices.

Occasional Use Notices (OUN's)

- 5.7 OUN's apply only to tracks, which can be any part of a premise on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.
- 5.8 OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a betting premises licence for the track.
- 5.9 The Licensing Authority has very little discretion as regards these notices, aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded.
- 5.10 The Licensing Authority will, however, consider the definition of a "track" and whether the applicant is permitted to avail him/herself of the notice.
- 5.11 Appendix F contains further information on these notices.

6 Lotteries

- 6.1 A lottery is unlawful unless it is run in accordance with an Operating Licence issued by the Gambling Commission, or is exempt from such a licence.
- 6.2 There are four types of exempt lottery:
- An Incidental Non – commercial Lottery.
 - A Private Lottery.
 - A Customer Lottery.
 - A Small Society Lottery.
- 6.3 A Small Society Lottery must be registered with the Licensing Authority.
- 6.4 Local authorities may promote a lottery for the benefit of the community under an operating licence issued by the Gambling Commission.
- 6.5 Appendix K contains further information concerning lotteries, generally, and requirements for registration.

7 Fees

- 7.1 Rochford District Council's current fees are reviewed annually and published on the Council web site www.rochford@gov.uk



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For the period 31 January 2016
to 30 January 2019

Appendices

Statement of Licensing Policy

Gambling Act 2005



If you would like this information in large print, Braille or another language, please contact 01702 318111.

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Disclaimer

The advice and guidance contained in these appendices is intended only to assist readers in consulting the policy and should not be interpreted as legal advice or as constituent of Rochford District Council’s Statement of Licensing Policy (Gambling Act 2005).

Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or of the Guidance or Regulations issued under the Act.

Appendix A – Glossary of Terms

Admissible Representations	Representations submitted by a Responsible Authority or Interested Party
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area.
Authorised Person	<p>A licensing officer and an officer of an authority other than a Licensing Authority, both of whom have been authorised for a purpose relating to premises in that authority's area. The following are considered authorised persons:</p> <ul style="list-style-type: none">• Inspectors appointed under the Fire Precautions Act 1971;• Inspectors appointed under the Health and Safety at Work, etc. Act 1974;• Inspectors or Surveyors of ships appointed under the Merchant Shipping Act 1995;• A person in a class prescribed in regulations by the Secretary of State.
Automated Roulette Equipment	Equipment that is either linked to a live game of chance, e.g. roulette or plays live automated games, i.e. operates without human intervention.
Automatic Conditions	Conditions attached automatically to premises licences or authorisations. The Licensing Authority has no discretion not to include or modify them.
AWP machines	Amusement with Prizes Machines
BACTA	The British Amusement Catering Trade Association
Betting Intermediary	Someone who offers services via remote communication, such as the internet.
Betting Ring	An area that is used for temporary 'on course' betting facilities.
Betting Machine	A machine designed or adapted for use to bet on future real events (not a Gaming Machine).
Bingo	A game of equal chance.

Casino	An arrangement whereby people are given an opportunity to participate in one or more casino games.
Casino Games	Games of chance that are not equal chance gaming.
Casino Premises Licence Categories	Regional, large, small, casinos permitted under transitional arrangements.
Casino Resolution	Resolution concerning whether or not to issue Casino Premises Licences.
Child	An individual who is less than 16 years old.
Christmas Day Period	The period of 24 hours from midnight on 24 December.
Club Gaming Machine Permit	A permit to enable the premises to provide gaming machines (three machines of Categories B, C or D)
Club Gaming Permit	A permit to enable the premises to provide gaming machines (three machines of Categories B C or D), equal chance gaming and games of chance.
Complex Lottery	<p>An arrangement where:</p> <ul style="list-style-type: none">• Persons are required to pay to participate in the arrangement;• In the course of the arrangement, one or more prizes are allocated to one or more members of a class;• The prizes are allocated by a series of processes; and• The first of those processes relies wholly on chance.
Conditions	<p>Conditions to be attached to licences by way of:</p> <ul style="list-style-type: none">• Automatic provision• Regulations provided by Sec. of State• Conditions provided by Gambling Commission• Conditions provided by Licensing Authority• Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.

Customer Lotteries	Lotteries run by the occupiers of business premises who sell tickets only to customers present on their premises. These lotteries may not be conducted on vessels.
Default Conditions	Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
Delegated Powers	Decisions delegated by the Licensing Authority either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	In the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Domestic Computer	One used for in a residential property for private, non-commercial purposes and is exempt from a Gaming Machine Permit.
Dual Use Computer	<i>Definition in forthcoming Regulations.</i> Exempt from a Gaming Machine Permit.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
EBT	Electronic Bingo Ticket Minders consisting of electronic equipment operated by a Bingo Operators Licence for the purposes of playing bingo.
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none">• Small Society Lottery (required to register with Licensing Authorities)• Incidental Non Commercial Lotteries• Private Lotteries• Customer Lotteries

External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.
Fixed Odds Betting	General betting on tracks.
Gaming	Prize gaming where 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 and where the prizes are determined by the operator before the play commences.
Gaming Machine	A machine used for gambling under all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission dated April 2006.
Human Rights Act 1998	Articles 1, 6, 8 and 10 Article 1: Protocol 1 – The right to peaceful enjoyment of possessions Article 6: The right to a fair hearing Article 8: The right of respect for private and family life Article 10: The right to freedom of expression
Inadmissible Representation	A representation not made by a Responsible Authority or Interested Party.
Incidental non-commercial lottery	A lottery that is run as an additional amusement at non-commercial events with tickets only sold and drawn during the event, such as a raffle at a dance, bazaar etc.
Information Exchange	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	A person who in the opinion of the Licensing Authority: <ul style="list-style-type: none">• lives sufficiently close to the premises to be likely to be affected by the authorised activities;• has business interests that might be affected by the authorised activities; or

- represents persons above, including Trade Associations, Trade Unions, Residents and Tenants Associations where they can demonstrate that they represent such persons.

In determining if a person lives or has business interests sufficiently close to the premises, the following factors will be considered:

- The size and nature of the premises to be licensed.
- The distance of the premises from the location of the person making the representation.
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment).
- The nature of the complaint, i.e. not the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises.
- The catchment area of the premises (i.e. how far people travel to visit).
- Whether the person making the representation has business interests that might be affected in that catchment area.

**Irrelevant
Representations**

Representations that are vexatious, frivolous or will certainly not influence the authority's determination of the application.

Large Lottery

Where the total value of tickets in any one lottery exceeds £20,000 or tickets in separate lotteries in one calendar year exceeds £250,000. This type of lottery requires an operating Licence from the Gambling Commission.

Licensed Lottery

Large society lotteries and lotteries run for the benefit of local authorities will require operating licences to be issued by the Gambling Commission.

Licensing Objectives	<p>There are three objectives:</p> <ul style="list-style-type: none">• 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.
Live Gaming	<p>Gambling on a live game as it happens.</p>
Lottery	<p>An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.</p>
Lottery Tickets	<p>Every lottery must have tickets for each chance:</p> <ul style="list-style-type: none">• Identifying the promoting society;• Stating the price of the ticket, which must be the same for all tickets;• Stating the name and address of the member of the Society who is designated as having responsibility at the Society for the promotion of the lottery, or, if there is one, the external lottery manager; and• Stating the date of the draw, or sufficient information to enable the date of the draw to be determined.
Mandatory Conditions	<p>Conditions that must be attached to a Premises Licences, to a class of Premises Licence or licences for specified circumstances.</p>
Members Club	<p>A club must have at least 25 members, be established and conducted ‘wholly or mainly’ for purposes other than gaming, be permanent in nature, not established to make commercial profit and controlled by its members equally.</p>
Non-commercial event	<p>An event where all the money raised at the event, including entrance fees, goes entirely to purposes that are not for private gain.</p>

Non-commercial society	A society established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; or for any other non-commercial purpose other than that of private gain.
Occasional Use Notice	A notice that may only be issued in respect of a track, that permits betting on a track without the need for a Premises Licence and which only the person responsible for administration of events on the track or the occupier of the track may issue.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting	Betting that takes place in self contained betting premises within the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operate only on race days.
On Course Betting	Betting that takes place on a track while races are taking place.
Operating Licence	A licence issued by the Gambling Commission to permit individuals and companies to provide facilities for certain types of gambling, including remote or non remote gambling.
Permit	An authorisation issued by the Licensing Authority to provide gambling facilities where the stakes and prizes are low or gambling is not the main function of the premises.
Personal Licence	A licence issued by the Gambling Commission to individuals who control facilities for gambling or are able to influence the outcome of gambling.
Pool Betting (Tracks)	Pool betting may only be offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.
Premises	Any place' including anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water, a hovercraft or anything or any place situated on or in water. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.

Premises Licence	<p>A licence issued by the Licensing Authority to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres where an operator's licence and personal licence have been issued by the Gambling Commission. A licence is restricted to one premise only but one set of premises may have separate licences issued in respect of different parts of the building.</p>
Private Lottery	<p>There are three types of private lottery:</p> <ul style="list-style-type: none">• Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society.• Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises.• Residents' Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises.
Prize Gaming	<p>Gaming in which the nature and size of the prize is not determined by the number of players or the amount paid for or raised by the gaming, the prizes having been determined before play commences, e.g. bingo with non-cash prizes.</p> <p>(NB: bingo with cash prizes and that carried on in commercial bingo halls will need to be licensed by the Gambling Commission; prize gaming does not include gaming by use of gaming machines.)</p>
Prize Gaming Permit	<p>A permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specific premises.</p>
Provisional Statement	<p>An application to the Licensing Authority in respect of premises that are:</p> <ul style="list-style-type: none">• Expected to be constructed.• Expected to be altered.• Expected to acquire a right to occupy.
Relevant Representations	<p>Representations that relate to the Gambling Licensing Objectives, the Gambling Commission's Guidance, the Codes of Practice.</p>

Responsible Authorities	<p>Public bodies for the area in which the premises are mainly or wholly situated:</p> <ul style="list-style-type: none">• Licensing Authority in whose area the premise is partly or wholly situated• Chief Officer of Police• Fire & Rescue Service• Planning Authority• Environmental Health (related to pollution and harm to human health)• Body competent to advise on protection of children from harm, i.e. Children & Young Peoples' Service• Authority in relation to vulnerable adults• Navigation Authority whose statutory functions are in relation to waters where a vessel is usually moored or berthed• Environment Agency• British Waterways Board• Maritime & Coastguard Agency• HM Revenue & Customs• Gambling Commission
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Simple Lottery	<p>An arrangement where:</p> <ul style="list-style-type: none">• Persons are required to pay to participate in the arrangement.• In the course of the arrangement, one or more prizes are allocated to one or more members of a class; and• The prizes are allocated by a process which relies wholly on chance.
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SWP	A Skills-with-Prizes machine
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Skills with Prizes Machine	A machine on which the winning of a prize is determined only by the player's skill and there is no element of chance. SWP's are unregulated.
Small Lottery	Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less.
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Small Operations	Independent on course betting operators with only one or two employees or a bookmaker running just one shop.
Statement of Principles	Matters the Licensing Authority may publish in the Statement of Licensing Principles that they intend to apply when considering an applicant's suitability in applications for permits for unlicensed family entertainment centres and prize gaming.
Temporary Use Notice	A notice that may be issued in respect of a set of premises where there is no premises licence, but where a person or company holding an operating licence relevant to the proposed temporary use of premises wishes to use the premises temporarily for providing facilities for gambling.
Totalisator (Tote)	The only permitted operators of pool betting on horseracing tracks.
Track	A site where races or other sporting events take place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Travelling Fair	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
Vehicles	Includes trains, aircraft, sea planes and amphibious vehicles other than hovercraft.
Vessel	Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything or part of any place situated on or in water.
Virtual Betting	Gambling by machine that takes bets on virtual races, i.e. mages generated by computer to resemble races or other events.

Vulnerable Persons	No set definition but likely to mean group to include people who gamble more than they want to, people who gamble beyond their means; people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.
Young Person	An individual who is over 16 years of age but who is under 18 years of age

Appendix B – Consultees to Statement of Licensing Policy

All holders of premise's licences under Licensing Act 2003	All holders of betting office licences
All holders of permits for Amusement With Prizes machines	Association of British Bookmakers
British Beer & Pub Association	British Casino Association
Capitol Coins Limited (suppliers of gaming machines)	Castle Point & Rochford PCT
Churches Together	Citizens Advice Bureau
Claremont Automatics Limited (suppliers of gaming machines)	Club & Institute Union
Coral Group	Essex County Fire & Rescue Service
Essex County Libraries within the district	Essex Leisure Limited
Essex Police	Gamblers Anonymous
Gambling Commission	GamCare
GamesTec Leisure Limited (suppliers of gaming machines)	Head of Child Protection, ECC
HM Customs & Excise	Manager of Environmental Protection Unit, Rochford District Council
Head of Planning and Transportation Services, Rochford District Council	Ladbrokes Group
Leisure Link Limited	Parish Councils within the district
Responsibility in Gambling Trust	The Salvation Army
William Hill Limited	

Appendix C – Delegation of Functions

All functions are delegated to Officers except those shown below.

Matter to be dealt with	By whom	When
Setting of fees	Full Council	All cases
Application for grant or variation of a premises licence	Licensing Sub-Committee	Where a relevant representation is made and not withdrawn.
Application for grant of a provisional statement	Licensing Sub-Committee	Where a relevant representation is made and not withdrawn.
Application for transfer of premises licence	Licensing Sub-Committee	Where a relevant representation is made and not withdrawn.
Application for a provisional statement	Licensing Sub-Committee	Where a relevant representation is made and not withdrawn.
Application for review of premises licence	Licensing Sub-Committee	All cases
Determining relevance of a representation	Assistant Director-Legal Services	All cases
Licensing authority initiating a review of a premise licence	Assistant Director-Legal Services	All cases
Licensing authority making representations in respect of an application for grant or variation of a premise licence	Assistant Director-Legal Services	All cases
Issue of temporary use notice	Licensing Sub-Committee	Where a relevant representation is made and not withdrawn.
Issue of counter notice	Licensing Sub Committee	All cases except where statutory limit of 21 days/ year exceeded.
Grant or renewal of club gaming permit or club gaming machine permit	Licensing Sub-Committee	Where a relevant representation is made and not withdrawn.
Cancellation of club gaming permit or club gaming machine permit	Licensing Sub-Committee	All cases

Rochford District Council – Appendices

**Statement of Licensing Policy Gambling Act 2005
For period 31 January 2016 – 30 January 2019**

Matter to be dealt with	By whom	When
Grant or renewal of a permit for gaming machines in alcohol-licensed premises	Licensing Sub-Committee	Where it is intended to refuse the application.
Increase in number of gaming machines in alcohol-licensed premises	Licensing Sub-Committee	Where it is intended to approve a lesser number of machines than applied for.
Grant or renewal of a permit for an Unlicensed Family Entertainment Centre	Licensing Sub-Committee	Where it is intended to refuse the application.
Grant or renewal of a permit for Prize Gaming	Licensing Sub-Committee	Where it is intended to refuse the application.

Appendix D – Responsible Authorities

Rochford District Council: Licensing Authority, Planning, Environment/Pollution	Senior Licensing Officer Assistant Director – Community and Housing Services Rochford District Council 3 – 19 South Street Rochford Essex SS4 1BW Phone: 01702 318111
Police	Essex Police Licensing Unit (Alcohol) PO Box 12306 Police Station Newland Street Witham CM8 2AS Email: licensing.applications@essex.police.uk
Fire	Chief Fire Officer Southend & Rochford Community Command Team R/o Fire Station Sutton Road Southend-on-Sea Essex SS2 5PX Phone: 01702 614433
Essex Children Safeguarding Service	Head of Child Protection (Licensing Applications) Essex County Council PO Box 297 Chelmsford Essex CM1 1YS
Gambling Commission	Victoria Square House Victoria Square Birmingham B2 4BP Phone: 0121 230 6500
Her Majesty's Commissioners of Customs and Excise	Greenock Accounting Centre Custom House Custom House Quay Greenock PA15 1EQ Phone: 01475 726331

Appendix E – Representations/Reviews/Hearings/Appeals

Who can make representations or seek reviews?

Only ‘Interested Parties’ and ‘Responsible Authorities’ may make ‘relevant representations’ in respect of applications made for the grant or variation of a Premises Licence and may seek a review of licences granted.

What are relevant representations?

‘Relevant representations’ generally fall into two categories – those in relation to an application for the grant or variation of a premise’s licence and those for an application to review a premise’s licence.

Representations will be relevant if they:

- relate to the promotion of the licensing objectives, the Statement of Licensing Principles, the Gambling Commission’s Guidance or any Codes of Practice; and
- are made within the prescribed period and have not been withdrawn.

But representations will not be relevant if they relate solely to issues such as demand, planning, traffic congestion, public nuisance or fire. This list is not exhaustive and each case will be judged on its own merits. However it should be noted that there is no appeal against the Authority’s determination of whether a representation is relevant, or not.

The table below lists those provisions about which representations may be made, by whom they may be made and the timescales within which they must be made.

Provision under which hearing is held	Period of time within which representations must be made	Persons who may make representations
Application for premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties
Application for a provisional statement	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties
Application to vary premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties

Provision under which hearing is held	Period of time within which representations must be made	Persons who may make representations
Application for transfer of premises licence	28 days of receipt of application.	Chief of police
Application for review of premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties
Counter notice to Temporary Use Notice*	14 days of receipt of temporary use notice.	Those bodies upon whom the notice must be served
Counter notice to Occasional Use Notice		Licensing authority

*It should be noted that the Licensing Authority **must** issue a counter notice where the use of the same premises under a Temporary Use Notice or Occasional Use Notice would exceed the permitted limits, which are 21 days per 12-month period in respect of TUN's and eight days per calendar year in respect of OUN's.

Reviews

The Licensing Authority must hold a hearing to review a premise's licence where an application is made in the prescribed form by a Responsible Authority or Interested Party seeking a review of the licence unless in the opinion of the Licensing Authority the grounds on which the review is sought:

- are not relevant to the licensing objectives, the Statement of Licensing Principles, the Gambling Commission's Guidance or any Codes of Practice,
- are frivolous, vexatious or will certainly not cause the authority to revoke, suspend, remove, amend or attach conditions to a licence,
- are identical or substantially similar to:
 - grounds in an earlier application for review made in respect of the same premises and already determined, or
 - representations considered by the Licensing Authority in granting the premises licence or certificate, or
 - representations which would have been considered except they were excluded representations following a provisional statement, and
 - a reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

It should be noted that there is no appeal against the Authority's determination of whether a representation is relevant, or not.

Hearings

A hearing must be held within a prescribed period of time where relevant representations are made in respect of any licensing application or issue of a Temporary Use Notice.

Notices must be sent to each party informing them of the date of hearing at least 10 working days before the day of the hearing in respect of all applications except:

- (a) notices must be sent at least two working days before the day of the hearing for cancellation of an interim authority notice and counter notice to a temporary event notice following police objection, and
- (b) notices must be sent at least five working days before the day of the hearing for review of a premises licence following a closure order, determination of an application for conversion of an existing licence or club certificate and determination of an application by the holder of a justice's licence for the grant of a personal licence.

Copies of the representations must also be given to the applicant, the holder of the premises licence or the club, as appropriate.

The table below lists the provisions, the timescales within which hearings have to be held and the persons to whom notices must be given.

Provision under which hearing is held	Period of time in which hearing must be held	Persons to whom notices must be sent
Application for premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application for a provisional statement	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application to vary premises licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Persons who have made relevant representations.
Application for transfer of premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police Holder of licence.

Provision under which hearing is held	Period of time in which hearing must be held	Persons to whom notices must be sent
Application for review of premises licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Persons who have made relevant representations. Applicant.
Counter notice following objection to temporary event notice	Seven working days beginning with the day after the end of the period for making representations.	The premises user. Chief of police

Appeals against Decisions

Any person aggrieved by the decision of the Licensing Committee can appeal to the Magistrates' Court.

Appendix F – Premises Licences

This guidance covers only those aspects concerning the issue of premises licences, temporary use notices and occasional use notices that are the responsibility of the Licensing Authority; guidance on aspects dealt with by the Gambling Commission can be obtained via the following link www.gamblingcommission.gov.uk

A premise's licence is required for any premises where gambling activity is carried out of a type requiring personal and operator's licences to have been issued by the Gambling Commission.

An application may only be made by persons having the right to occupy the premises and who have, or have applied for, an operating licence allowing the proposed activities to be carried out. The premise's licence cannot be granted until the necessary operator's licence has been issued.

Premise's licences are issued by the Licensing Authority and are required for casinos, bingo premises, betting premises (including tracks and premises used by betting intermediaries) adult gaming centres and family entertainment centres providing Category C gaming machines.

A licence is restricted to one premise only. However one set of premises may have separate licences issued in respect of different parts of the building.

Licensing authorities are obliged to grant an application for a premise's licence, provided the application is made in accordance with the Act, the Gambling Commission's guidance and the Licensing Authority's Statement of Licensing Principles. Licence will be subject of mandatory and default conditions applied by regulations issued under the Act.

Premise's licences are valid indefinitely from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the licensing authority.

Bingo, Betting, Arcades (Adult Gaming Centres & Licensed Family Entertainment Centres).

Tracks

An operator's licence is not required from the Gambling Commission to operate a track but a premise's licence from the Licensing Authority is required. A number of premise's licences may be granted for one track, provided each is for a different part of the track.

Betting is usually divided into on-course, off-course and pool betting, the provision of which requires operators to hold either a general betting operator's licence or a pool betting operating licence from the Commission.

Pool betting on tracks may only be offered by the Tote (in relation to horse-tracks) and by the premise's licence-holder (in relation to dog-tracks). Pool betting may not be provided elsewhere.

Gaming machines, consisting of a maximum of four machines of Categories B2 – D, may be operated at a track by the premise's licence-holder provided they hold a pool betting operator's licence (for siting and other special considerations in respect of gaming machines at tracks, see *'the Gambling Commission's guidance'* at www.gamblingcommission.gov.uk).

Betting machines may also be operated at tracks (see '*Betting machines*').

The licensing process is the same as for other premises described above.

Betting machines

Betting machines are used for accepting bets on live events such as racing, in place of making bets at a counter, e.g. in a betting shop or on a track. These machines are not classed as gaming machines. The Licensing Authority may impose a limit on the number of betting machines that may be used in conjunction with a premise's licence.

Gaming machine supply and repair

These activities require operator's licences to be issued by the Gambling Commission. For advice on applying for licences from the Commission, see their website at www.gamblingcommission.gov.uk).

Gaming machines in premises licensed under Gambling Act 2005

Premise's licences issued under the Gambling Act 2005 automatically authorise the provision of gaming machines, according to the type of premises and gambling activities permitted (but see also '*Tracks*').

The Gambling Act 2005 introduced new classes of gaming machines, as shown in Figure 1 below. The category and number of machines that may be operated under a premise's licence are shown in Figure 2 below.

Figure 1

Category of Machine	Maximum Stake £	Maximum Prize £
A	Unlimited	Unlimited
B1	£5	£10,000 or where the prize value available through its use is wholly or partly determined by reference to use made of one or more sub-category B1 machines £20,000
B2	In multiples of £10	
B3	£2	£500
B3a	£2	£500
B4	£2	£400
C	£1	£100
D money prize	10p	5

Category of Machine	Maximum Stake £	Maximum Prize £
D non-money prize (other than a crane grab machine)	30p	£8
D Non money prize (Crane grab machine)	£1	£50
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which not more than £10 may be a money prize)

Figure 2

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in Categories A to D, except for B3 within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in Categories B to D, within the total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in Categories B to D, within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/ table ratio)		Maximum of 20 machines Categories B to D or C or D machines instead					

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Premises Type	Machine Category							
	A	B1	B2	B3	B4	C	D	
Betting premises and tracks occupied by Pool Betting			Maximum of four machines Categories B2 to D					
Bingo Premises				20% of total gaming machines which are available on the premises categories B3 or B4		No limit on Category C or D machines		
Adult gaming centre				20%of total gaming machines which are available on the premises categories B3 or B4		No limit on Category C or D machines		
Family entertainment centre (with premises licence)								No limit on Category C or D machines
Family entertainment centres (with gaming machine permit)								No limit on Category C or D machines
Club machine permit or club gaming permit				Maximum 3 machines Members club – from cat B3a/B4/C/D Commercial clubs – from cat B4/C/D				
Alcohol licensed premises automatic entitlement							1 or 2 machines of cat C or D automatic upon notification to LA	
Alcohol licensed premises game machine permit							Number as specified on permit	
Travelling fair (no authorisation required)							No limit to D category D machines	

Temporary Use Notices (TUN'S)

A TUN may only be issued by a person or company holding an operating licence relevant to the proposed temporary use of the premises and may be issued in respect of a 'set of premises' for a maximum of 21 days in any 12-month period.

(**NB** A TUN may not be issued in respect of a vehicle).

A 'set of premises' is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premise from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.

In considering whether a place falls within the definition of "a set of premises", the Licensing Authorities will consider, amongst other things, the ownership/occupation and control of the premises.

The Licensing Authority should generally aim to permit gambling activities under a TUN but will 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.

Issue

Not less than three months and one day prior to the day on which the gambling event is to take place, a TUN must be given to:

- the Licensing Authority,
- the police,
- HM Commissioners for Revenue and Customs, and, if applicable,
- any other licensing authority in whose area the premises are situated.

The notice must include details of:

- the date the notice is given,
- the gambling activity to be carried on,
- the premises where it will take place,
- the dates and times it will take place,
- any periods during the preceding 12 months that a TUN has had effect for the same premises, and
- any other information prescribed by regulations.

If there are no objections, the notice will be endorsed by the Licensing Authority and returned to the issuer for display upon the premises at the time the activity takes place.

Objections

Having regard to the licensing objectives, those authorities upon whom the TUN is served may make objections within 14 days of the date of the notice to the gambling activity taking place. Objections must be made to the Licensing Authority and TUN issuer.

Modifications to the notice may be suggested by those objecting to it. If accepted by the issuer, a new notice must be issued. It should be noted that the three months, one day time limit and a new fee will not apply to the new notice, nor may the original objector/s object to the new notice.

A hearing must be held before the Licensing Sub-Committee to hear representations from all parties, unless agreement is reached that a hearing is unnecessary, e.g. by modification of the notice, within six weeks of the date of the notice.

Following a hearing the Licensing Authority must issue a counter notice setting out whether or not the TUN will have effect, any limitations to the activities permitted, the time period when activities may take place and any conditions that are imposed.

Occasional Use Notices (OUN'S)

Occasional Use Notices may only be issued in relation to tracks that are used on eight days or less in a calendar year.

A track can be any part of a premise on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.

OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. An OUN dispenses with the need for a betting premises licence for the track.

Issue

The notice may be issued by the person responsible for the administration of events on the track or the occupier of the track.

The notice must be served on the Licensing Authority and a copy on the Chief Officer of Police.

Objections

Generally objections may not be made to the issue of an OUN, except the Licensing Authority must issue a counter notice where the effect of the OUN would result in betting facilities being made available for more than eight days in a calendar year.

Premises Licences

Premises where an operator's licence has been granted to operate a casino, bingo premises, betting premises, adult gaming centre or licensed family entertainment centre

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graph TD; A["Premises where an operator's licence has been granted to operate a casino, bingo premises, betting premises, adult gaming centre or licensed family entertainment centre"] --> B["1. Application and risk assessment
2. Attach required documentation
3. Pay prescribed fee"]; B --> C["1. Licence lasts indefinitely unless surrendered, lapsed etc.
2. Annual charge payable to licensing authority"]
```
1. Application and risk assessment
  2. Attach required documentation
  3. Pay prescribed fee

1. Licence lasts indefinitely unless surrendered, lapsed etc.
2. Annual charge payable to licensing authority

## Appendix G – Gaming Permits

Certain types of gambling are authorised by permits issued by the Licensing Authority. The permits generally authorise low stake gambling for small prizes by:

- Gaming machines in alcohol-licensed premises, member's clubs, unlicensed family entertainment centres (FEC's) and certain other premises, e.g. taxi offices (see '*Other premises*' below);
- Equal chance gaming, games of chance and gaming machines in member's clubs; and
- Prize gaming, e.g. at travelling fairs.
- Gaming machines

The Gambling Act 2005 introduced new classes of gaming machines that may be operated under a permit, as shown in Figure 1 below.

**Figure 1**

| Category of Machine | Maximum Stake<br>£                    | Maximum Prize<br>£                  |
|---------------------|---------------------------------------|-------------------------------------|
| B3a                 | £2                                    | 500                                 |
| B4                  | £2                                    | £400                                |
| C                   | £1                                    | £70                                 |
| D                   | 10p or 30p when<br>non-monetary prize | £5 cash or £8<br>non-monetary prize |

The category and number of machines that may be operated under a premise's licence are shown in Figure 2 below.

**Figure 2**

| Premises Type                                                   | Machine Category |    |    |    |                                                            |   |                               |
|-----------------------------------------------------------------|------------------|----|----|----|------------------------------------------------------------|---|-------------------------------|
|                                                                 | A                | B1 | B2 | B3 | B4                                                         | C | D                             |
| Clubs or miners' welfare institutes with permits                |                  |    |    |    | Maximum of three Category B4 to D machines                 |   |                               |
| Qualifying alcohol licensed premises upon notification          |                  |    |    |    | Automatic entitlement up to two Category C or D machines   |   |                               |
| Qualifying alcohol licensed premises with gaming machine permit |                  |    |    |    | Unlimited Category C or D machines, as specified on permit |   |                               |
| Family entertainment centre (with permit)                       |                  |    |    |    |                                                            |   | Unlimited Category D machines |
| Travelling fair                                                 |                  |    |    |    |                                                            |   | Unlimited Category D machines |

## Alcohol licensed premises

Certain types of gambling may take place on alcohol-licensed premises under the Licensing Act 2003 without any authorisation being required. Generally these consist of the playing of cribbage, dominoes and other games for low stakes.

The holder of a premises licence under the Licensing Act 2003 that authorises the sale and consumption of alcohol on premises, which contain a bar at which alcohol is served but without the requirement that food is also served, is automatically entitled to operate two gaming machines of Categories C or D.

The following paragraphs apply only to those premises.

### Automatic entitlement

The Gambling Act 2005 gives an automatic entitlement for the holder of a premise's licence under the 2003 Act to provide up to two gaming machines on their premises.

An application for a permit is not required but premise's licence-holders must notify their Licensing Authority in writing of their intention to provide the machines, and pay the prescribed fee. Having done so, there will be no need to give any further notice or pay a further fee.

Where the premise licence is transferred to another person, there will be no need for the new licence-holder to notify the Licensing Authority in respect of the automatic entitlement.

The entitlement may be withdrawn if provision of the machines is not reasonably consistent with the pursuit of the licensing objectives; gaming has taken place on the premises that has breached a condition of the Act, e.g. they do not comply with siting and operation requirements; the premises are mainly used for gaming; or where an offence under the Gambling Act 2005 has been committed on the premises.

The Licensing Authority may not exercise their powers to remove the entitlement without first giving the permit-holder the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

### **New permits**

Where the holder of a premise's licence wishes to provide more than two gaming machines, an application for a permit must be made to the Licensing Authority with the prescribed fee. There is no restriction on the number of machines that may be applied for and applications to vary the number of machines may be made at any time.

In determining an application for an increase in the number of machines, the Licensing Authority will consider:

- the size of the premises;
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons;
- any documentary evidence, e.g. supporting statistical evidence providing details of usage, etc.;
- each application on its own merits;
- the Codes of Practice or Guidance issued under the Gambling Act 2005.

Where the Authority grants the application, a permit will be issued for the number of machines authorised, which will include the automatic entitlement of two machines.

Where the Authority intend to refuse an application, or grant it for a different number or category of machines to that requested, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary

Where the premise's licence is transferred, the gaming machine permit must also be transferred or it will lapse. In all other cases the permit will last indefinitely, unless surrendered or revoked.

Although the permit will not need to be renewed, an annual charge will have to be paid to the Licensing Authority.

### **Member's clubs**

The Gambling Act 2005 permits a member's club holding a club premise's certificate issued under the Licensing Act 2003, or miner's welfare institute, to hold a **club gaming permit** allowing participation in equal chance gaming or playing games of chance (see 'Appendix A' for definitions of 'equal chance gaming' and 'games of chance'). In addition they may operate a maximum of three machines of either class B3a, B44, C or D.

The Act also permits a member's club holding a club premise's certificate or a commercial club holding a premise's licence under the Licensing Act 2003 to operate a maximum of three machines of either class B4, C or D under a **club machine permit**.

### **New permits**

An application and payment of the prescribed fee is required. A permit has effect for 10 years unless surrendered or revoked.

Applications for a permit for premises not holding a club premise's certificate e.g. a commercial member's club with a premise's licence, may be refused by the Licensing Authority on the grounds that the applicant does not fulfil the requirements for a member's or commercial club; the premises are used wholly or mainly by children and/or young persons; an offence under the Act or breach of a permit has been committed by the applicant while providing gaming facilities; a permit held by the applicant has been cancelled in the previous 10 years; an objection has been made by the police or Gambling Commission.

Permits may be varied at any time to meet changing circumstances, other than an increase above three to the number of machines. Licensing authorities may only refuse a variation if, on consideration of the proposed variation as a new application, they would refuse a permit.

A permit will lapse if the holder no longer qualifies as a member's club or the permit is surrendered. A permit may be cancelled if the premises are used wholly or mainly by children and/or young persons or where an offence under the Act or breach of a permit condition has been committed by the applicant in the course of gaming activities.

Permits are valid for 10 years from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the licensing authority.

### **Other premises (taxi offices, take-away restaurants, etc.)**

Premises are prohibited from obtaining a new gaming machine permit under the Gambling Act 2005 and will be unable to operate gaming machines of any kind after their current permit expires.

## Unlicensed family entertainment centres

The Licensing Authority may grant an application for a permit for Category D gaming machines in an unlicensed family entertainment centre (FEC) provided it is satisfied the premises will be used as an unlicensed FEC and that the Chief Officer of Police has been consulted. There are no limits to the number of machines that may be applied for in an unlicensed FEC.

The Authority will apply its Statement of Principles in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

An application for a permit will Disclosure and Barring Service in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the DBS certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

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

Where the Authority intends to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

Permits will last for 10 years unless it ceases to have effect because it is surrendered, it lapses or it is renewed. There is no annual charge payable to the Licensing Authority.

Unlicensed FEC's may also offer equal chance gaming under the authority of their gaming machine permit.

## Prize gaming

Prize gaming may be carried on in premises under a permit issued by the Licensing Authority. A prize gaming permit will **not** authorise the use of gaming machines.

The Authority may apply its Statement of Principles in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Bureau Disclosure and Barring Service in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the DBS certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

Where the Authority intends to refuse an application, the applicant must be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

A prize gaming permit will last for 10 years unless it ceases to have effect or is renewed. There is no annual charge payable to the Licensing Authority.

#### **Prize gaming without a permit**

Prize gaming without a prize gaming permit may be carried on in any premises with a premise's licence issued under the Gambling Act 2005, except that casinos may not offer prize bingo.

Unlicensed FEC's may also offer equal chance gaming only, under the authority of their gaming machine permit.

Travelling fairs may also offer equal chance gaming only without a permit provided the facilities for gaming are ancillary amusements to the fair.

#### **Travelling fairs**

Travelling fairs do not require a permit to provide gaming machines but must comply with codes of practice on how they are operating.

Travelling fairs may provide an unlimited number of Category D machines and prize gaming in the form of equal chance gaming provided that facilities for gambling amount to no more than ancillary amusement at the fair.

## Alcohol Licensed Premises

**Premises where the licence permits the sale of alcohol for consumption on the premises and the sale is not conditional upon food being sold may have gaming machines of Class C or D**

**Up to two machines**

1. Automatic entitlement to two machines
2. Notify Licensing Authority in writing of proposed intention to operate machines.
3. Pay prescribed fee

**More than two machines**

1. Apply to Licensing Authority for a permit
2. Attach statistical justification showing 'need'
3. Attach plan of premises showing location of machines
4. Pay prescribed fee

1. Permit has effect date of grant unless surrendered or cancelled
2. Annual charge to be paid to Licensing Authority

1. Licensing authority can withdraw entitlement for two machines where their provision is not consistent with licensing objectives; gaming has taken place in breach of a condition; premises are used mainly for gaming; an offence under the Act has been committed.
2. Licensing authority can cancel a permit where the premises are used wholly or mainly by children or young persons or an offence under the Act has been committed.

**But**

1. Permit holder must be given 21 days notice of the intention to withdraw or cancel
2. Hearing must be held if permit holder requests one
3. Withdrawal or cancellation has no effect until 21 days has elapsed from notice being served where no hearing is requested or 21 days following a hearing or appeal.

## Member's Club

### Maximum of three Category B4, C or D machines

Applications for new permits and renewals must be made to Licensing Authority

#### Attach to application

1. Application
2. Rules of club (if not CPC)
3. Plan of premises showing location of machines
4. Prescribed fee

1. Application with accompanying documents
2. Objections may be made
3. Permit lasts 10 years.

Application for grant may be refused if:

1. Applicant does not qualify as a member's or commercial club or miner's welfare institute.
2. The premises are used wholly or mainly by children or young persons.
3. An offence under the Act or a breach of a permit has been committed while providing gaming facilities.
4. A permit held by the applicant has been cancelled in previous 10 years.
5. An objection has been made by police or Commission.

Application for renewal must be sent to licensing authority with fee between three and six weeks before permit expires and may only be refused on the same grounds as for original grant.

Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

## Unlicensed Family Entertainment Centre

**Permit may be issued for premises whose primary use is as an unlicensed family entertainment centre to have an unlimited number of gaming machines of Class D**

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graph TD; A[Permit may be issued for premises whose primary use is as an unlicensed family entertainment centre to have an unlimited number of gaming machines of Class D] --> B[1. Application<br/>2. Attach information required by Statement of Principles<br/>3. Attach plan of premises showing location of machines<br/>4. Consult Chief of Police<br/>5. Pay prescribed fee]; B --> C[Permit lasts for 10 years]; C --> D[Application for grant may be refused if the grant would not be reasonably consistent with the licensing objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.<br/>Application for renewal must be sent to licensing authority with fee between two and six months before permit expires and may only be refused if an authorised officer has been refused access to the premises w/o reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding]; D --> E[Permits will lapse if:<br/>1. Licensing authority notifies holder premises are no longer being used as an unlicensed FEC<br/>2. Holder no longer occupies premises<br/>3. Holder dies, becomes mentally incapacitate, bankrupt or, in case of a company, ceases to exist or goes into liquidation<br/>4. Court orders holder to forfeit permit<br/>5. Holder surrenders or fails to renew it];
```
1. Application
 2. Attach information required by Statement of Principles
 3. Attach plan of premises showing location of machines
 4. Consult Chief of Police
 5. Pay prescribed fee

Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the licensing objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to licensing authority with fee between two and six months before permit expires and may only be refused if an authorised officer has been refused access to the premises w/o reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

Permits will lapse if:

1. Licensing authority notifies holder premises are no longer being used as an unlicensed FEC
2. Holder no longer occupies premises
3. Holder dies, becomes mentally incapacitate, bankrupt or, in case of a company, ceases to exist or goes into liquidation
4. Court orders holder to forfeit permit
5. Holder surrenders or fails to renew it

Prize Gaming Permit

Prize gaming permits may only be issued in respect of premises for which there is no premises licence or club gaming permit issued under the Gaming Act 2005

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graph TD; A[Prize gaming permits may only be issued in respect of premises for which there is no premises licence or club gaming permit issued under the Gaming Act 2005] --> B[1. Application
2. Attach information required by Statement of Principles
3. Attach plans of premises
4. Pay prescribed fee]; B --> C[Permit lasts for 10 years]; C --> D[Application for grant may be refused if the grant would not be reasonably consistent with the licensing objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.
Application for renewal must be sent to licensing authority with fee between two and six months before permit expires and may only be refused if an authorised officer has been refused access to the premises w/o reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding]; D --> E[Permits will lapse if:
1. Holder no longer occupies premises
2. Holder dies, becomes mentally incapacitate, bankrupt or, in case of a company, ceases to exist or goes into liquidation
3. Court orders holder to forfeit permit
4. Holder surrenders or fails to renew it];
```
1. Application
  2. Attach information required by Statement of Principles
  3. Attach plans of premises
  4. Pay prescribed fee

Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the licensing objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to licensing authority with fee between two and six months before permit expires and may only be refused if an authorised officer has been refused access to the premises w/o reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

Permits will lapse if:

1. Holder no longer occupies premises
2. Holder dies, becomes mentally incapacitate, bankrupt or, in case of a company, ceases to exist or goes into liquidation
3. Court orders holder to forfeit permit
4. Holder surrenders or fails to renew it

## Appendix H– Machine Category

| Premises Type                                                   | Machine Category                                                                                             |                                    |    |                                  |    |   |   |
|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|------------------------------------|----|----------------------------------|----|---|---|
|                                                                 | A                                                                                                            | B1                                 | B2 | B3/A                             | B4 | C | D |
| Regional casino (machine/table ratio 25-1)                      | Maximum of 1250 machines in any combination in Categories A, B1, B2, B3, B4, C or D (subject to table ratio) |                                    |    |                                  |    |   |   |
| Large casino (machine/table ratio 5-1)                          |                                                                                                              |                                    |    |                                  |    |   |   |
| Small casino (machine/table ratio 2-1)                          |                                                                                                              |                                    |    |                                  |    |   |   |
| Pre-2005 Act casinos                                            |                                                                                                              |                                    |    |                                  |    |   |   |
| Betting premises and tracks occupied by Pool Betting            |                                                                                                              |                                    |    |                                  |    |   |   |
| Bingo Premises                                                  |                                                                                                              |                                    |    |                                  |    |   |   |
| Adult gaming centre                                             |                                                                                                              |                                    |    |                                  |    |   |   |
| Clubs & miners' welfare institutes with permits                 |                                                                                                              |                                    |    |                                  |    |   |   |
| Commercial clubs                                                |                                                                                                              |                                    |    |                                  |    |   |   |
| Family entertainment centre (with premises licence)             |                                                                                                              |                                    |    |                                  |    |   |   |
| Qualifying alcohol licensed premises upon notification          |                                                                                                              |                                    |    |                                  |    |   |   |
| Qualifying alcohol licensed premises with gaming machine permit |                                                                                                              |                                    |    |                                  |    |   |   |
| Family entertainment centre (with FEC permit)                   |                                                                                                              |                                    |    |                                  |    |   |   |
| Travelling fair                                                 |                                                                                                              |                                    |    |                                  |    |   |   |
| Category of machine                                             |                                                                                                              | Maximum Stake £                    |    | Maximum Prize £                  |    |   |   |
| A                                                               |                                                                                                              | Unlimited                          |    | Unlimited                        |    |   |   |
| B1                                                              |                                                                                                              | 2                                  |    | 4000                             |    |   |   |
| B2                                                              |                                                                                                              | 100                                |    | 500                              |    |   |   |
| B3                                                              |                                                                                                              | 1                                  |    | 500                              |    |   |   |
| B3A                                                             |                                                                                                              | 1                                  |    | 500                              |    |   |   |
| B4                                                              |                                                                                                              | 1                                  |    | 400                              |    |   |   |
| C                                                               |                                                                                                              | 1                                  |    | 100                              |    |   |   |
| D                                                               |                                                                                                              | 10p or 30p when non-monetary prize |    | £5 cash or £8 non-monetary prize |    |   |   |

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For period 31 January 2016 – 30 January 2019**

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| Category of machine                                                                   | Maximum Stake £ | Maximum Prize £                                             |
|---------------------------------------------------------------------------------------|-----------------|-------------------------------------------------------------|
| D Non Money prize (crane machine grab)                                                | £1              | £50                                                         |
| D Combined money and non-money prize (other than coin pusher or penny falls machines) | 10p             | £8<br>(of which no more than £5 may be a money prize)       |
| D Combined money and non-money prize (coin pusher or penny falls machines)            | 10p             | £15.00<br>(of which not more than £10 may be a money prize) |

## Appendix I – Gambling in Premises

### Gaming (Premise Licence)

|                                | Gaming machines<br>(see Appendix I) | Casino games | Betting | Bingo | Virtual gaming | Games of chance other<br>than casino games |
|--------------------------------|-------------------------------------|--------------|---------|-------|----------------|--------------------------------------------|
| Regional casino                | Yes                                 | Yes          | Yes     | Yes   | Yes            | Yes                                        |
| Large casino                   | Yes                                 | Yes          | Yes     | Yes   | Yes            | Yes                                        |
| Small casino                   | Yes                                 | Yes          | Yes     |       | Yes            | Yes                                        |
| Adult gaming centre            | Yes                                 |              |         |       |                |                                            |
| Family entertainment<br>centre | Yes                                 |              |         |       |                |                                            |
| Bingo premises                 | Yes                                 |              |         | Yes   |                |                                            |
| Betting office                 | Yes                                 |              | Yes     |       | Yes            |                                            |

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Gaming Clubs

|                                   | Members' Club/<br>Commercial Club/ Miner's<br>Welfare Institute<br>(no Permit)                                                                                                  | Members' Club/<br>Commercial Gaming Club<br>(no Permit)                                                                                                                         | Members' Club/<br>Miner's Welfare<br>Institute (Club<br>Gaming Permit) | Clubs established<br>to provide facilities<br>for gaming of a<br>prescribed kind<br>(currently bridge<br>or whist clubs) | Members' Club/<br>Commercial Club/<br>Miner's Welfare<br>Institute (Club<br>Gaming Machine<br>Permit)                                                                        | Pubs and other<br>alcohol licensed<br>premises                                                                                          |
|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Equal chance gaming               | Yes                                                                                                                                                                             | Yes                                                                                                                                                                             | Yes                                                                    | Bridge and or<br>whist only                                                                                              | Yes                                                                                                                                                                          | Yes                                                                                                                                     |
| Banker's/unequal<br>chance gaming | No                                                                                                                                                                              | No                                                                                                                                                                              | Pontoon &<br>Chemin de Fer                                             | No                                                                                                                       | No                                                                                                                                                                           | No                                                                                                                                      |
| Stake and prize<br>limits         | <b>Poker</b><br>£1,000 per week<br>£250 per day<br>£10 per<br>person, per<br>game<br><br><b>Other Gaming</b><br>None, but<br>expectation that<br>it should be for<br>low stakes | <b>Poker</b><br>£1,000 per week<br>£250 per day<br>£10 per<br>person, per<br>game<br><br><b>Other Gaming</b><br>None, but<br>expectation that it<br>should be for low<br>stakes | None                                                                   | None                                                                                                                     | <b>Poker</b><br>£1,000 per week<br>£250 per day<br>£10 per person,<br>per game<br><br><b>Other Gaming</b><br>None, but<br>expectation that it<br>should be for low<br>stakes | <b>Poker</b><br>£100/premises per<br>day<br><b>Other gaming</b><br>£5/person per game<br><b>Cribbage &amp;<br/>dominoes</b><br>No limit |
| Prize limits                      | Poker 250/game<br>Other gaming<br>No limit                                                                                                                                      | Poker 250/game<br>Other gaming<br>No limit                                                                                                                                      | No limit                                                               | No limit                                                                                                                 | Poker 250/game<br>Other gaming<br>No limit                                                                                                                                   | Poker £100 per game<br>Other gaming<br>No limit                                                                                         |

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|                                               | <b>Members' Club/<br/>Commercial Club/<br/>Miner's Welfare<br/>Institute<br/>(no Permit)</b> | <b>Members' Club/<br/>Commercial<br/>Gaming Club<br/>(no Permit)</b>                     | <b>Members' Club/<br/>Miner's Welfare<br/>Institute (Club<br/>Gaming Permit)</b>         | <b>Clubs established<br/>to provide facilities<br/>for gaming of a<br/>prescribed kind<br/>(currently bridge<br/>or whist clubs)</b> | <b>Members' Club/<br/>Commercial Club/<br/>Miner's Welfare<br/>Institute (Club<br/>Gaming Machine<br/>Permit)</b>                              | <b>Pubs and other<br/>alcohol licensed<br/>premises</b>                                               |
|-----------------------------------------------|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Maximum participation fees per person per day | <b>Bridge and/or Whist</b><br>£18 per person<br><br><b>Other Gaming</b><br>£1 per person     | <b>Bridge and/or Whist</b><br>£18 per person<br><br><b>Other Gaming</b><br>£1 per person | <b>Bridge and/or Whist</b><br>£20 per person<br><br><b>Other Gaming</b><br>£3 per person | £18 per person without a game machine permit<br>£20 per person with a game machine permit                                            | <b>Bridge and/or Whist</b><br>£18 per person<br><br><b>Other Gaming</b><br>£3 per person for Commercial club<br>£1 per person for members club | Not permitted                                                                                         |
| Limits on bingo**                             | Maximum of £2000/week in stakes and prizes                                                   | Maximum of £2000/week in stakes and prizes                                               | Maximum of £2000/week in stakes and prizes                                               | No Bingo                                                                                                                             | Maximum of £2000/week in stakes and prizes                                                                                                     | Maximum of £2000/week in stakes and prizes                                                            |
| Levies/deductions – stakes or prizes          | No                                                                                           | No                                                                                       | No                                                                                       | No                                                                                                                                   | No                                                                                                                                             | No                                                                                                    |
| Gaming machines                               | No                                                                                           | No                                                                                       | Three Cat B4, C or D                                                                     | Three Cat B4, C or D                                                                                                                 | Three Cat B4, C or D                                                                                                                           | 2 cat C or D machines automatic entitlement<br>3 or more cat C or D machines maximum stated on permit |

\*\* If more than the maximum, then an operating licence will be required.

## **Appendix J – Lotteries**

A lottery is unlawful unless it is run in accordance with an operating licence issued by the Gambling Commission, or it is exempt. This advice covers only those categories of lottery that are exempt. For more information on the licensing requirements for lotteries, see the Gambling Commission's website on **[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**

The Gambling Act 2005 defines three categories of lottery that are exempt from needing an operating licence:

- Incidental non-commercial lottery: run as an additional amusement at non-commercial events such as a raffle at a church bazaar, with tickets only being sold and drawn during the event.
- Private lottery: that require membership of a society, place of work or single place of residence.
- Customer lottery: run by occupiers of a business for the benefit of customers who can only buy tickets sold on the premises, e.g. a shop selling tickets for a Christmas hamper.
- Small society lottery: a lottery promoted on behalf of a non-commercial society, i.e. a lottery run by a society established and conducted for charitable purposes; or of enabling the participation in or support of sport, athletics or cultural activity; or for other non-commercial purposes other than private gain.

### **Registration**

Only a small society lottery is required to be registered.

Applications and payment of the prescribed fee must be made by the promoting society to the licensing authority for the area in which the principal address of the society is located. The Licensing Authority must record details of the society in a register and notify the applicant and the Gambling Commission of the registration.

The Licensing Authority will require applicants to declare:

the purposes for which the society is established,

- that they represent a bona fide non-commercial society, and
- that they have no relevant convictions.

The Licensing Authority may refuse an application if:

- they consider the applicant is not a non-commercial society,
- any 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 an application is false or misleading.

An application shall be refused if an operating licence held or applied for by the applicant has been revoked or refused in the previous five years.

The Licensing Authority may revoke a registration where it believes the grounds exist that would permit or require it to refuse an application for registration.

Where the Licensing Authority intend to refuse an application or revoke the registration it will give the society:

- details of the reasons;
- evidence upon which it reached the decision; and
- the opportunity to make written and/or oral representations.

The Licensing Authority may cancel a registration where the prescribed annual fee is not paid by the society. Where it does so, the Authority must notify the society and the Gambling Commission as soon as reasonably practicable.

### **Lottery requirements**

To ensure the main purposes of the lottery are met:

- the society must apply a minimum of 20% of the proceeds of the lottery to the purposes of the society;
- no single prize may exceed £25000;
- rollovers may be permitted provided every lottery affected is also a small society lottery by the same society and the maximum single prize does not exceed £25000; and
- every ticket must cost the same and must be paid for before being entered into the draw.

### **Returns**

No later than three months after making the draw (or in the case of a rollover, the last draw), a return must be sent to the Licensing Authority that:

- has been signed by two members of the society over 18 years of age who are appointed for the purpose in writing by the society, or its governing body, if it has one,
- is accompanied by a copy of the member's letter of appointment,

and include the following details:

- the dates when tickets were available for sale;
- the dates of any draw and value of prizes, including any rollover;

- the proceeds raised;
- the amounts deducted for prizes and expenses incurred in organising the lottery;
- the amount applied or to be applied to the purposes of the promoting society,; and
- whether any expenses incurred in connection with the lottery were paid for other than from the proceeds of the lottery and, if so, the amount and the source/s from which they were paid.

#### **External lottery managers**

External lottery managers require operator's licences issued by the Gambling Commission. For more information, see the Gambling Commission's website on

**[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**

## Small Society Lotteries

**Promoted by a non-commercial society established for charitable purposes; for purpose of enabling participation in or of supporting sport, athletics or cultural activity; or for other non-commercial**

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graph TD; A["Promoted by a non-commercial society established for charitable purposes; for purpose of enabling participation in or of supporting sport, athletics or cultural activity; or for other non-commercial"] --> B["1. Apply after 31/08/07 Application<br/>2. Attach information required:<br/>(a) Purpose for which society established<br/>(b) Confirm bona fides of society as non-commercial<br/>(c) Declare convictions, if any<br/>3. Pay prescribed fee<br/>4. Registration valid for life, annual fee payable to licensing authority"]; B --> C["Lottery requirements:<br/>1. Society must apply minimum 20% of proceeds to purposes of society<br/>2. No single prize to exceed £25,000<br/>3. Rollovers permitted provided all lotteries effected are small society lotteries and maximum single prize does not exceed £25,000<br/>4. Tickets must cost same, be paid for before being entered in draw and include details of society, price, name and address of person responsible for promotion of the lottery and date of draw<br/>Returns, which must be made no later than three months after draw, must be signed by two members and include details of:<br/>5. Dates tickets were available for sale, dates of draw and value of prizes<br/>6. Proceeds raised, amounts deducted for prizes, expenses incurred in organising lottery and where any were paid for other than from proceeds of lottery, the amount and source<br/>7. Amount to be applied to purposes of the promoting society"]; C --> D["Registration may be refused if:<br/>1. Society is not considered to be non-commercial<br/>2. Any person connected with promotion of lottery has been convicted of relevant offence, or<br/>3. Information provided in application is false/misleading<br/>Registration must be refused if an operating licence held by or applied for by the applicant has been revoked or refused in the previous five years<br/>Registration may be revoked where grounds exist for an application for registration to be refused.<br/>But a registration will not be refused or revoked unless the society has been informed of the reasons and the evidence supporting them and been given the opportunity to make representations"]; B
```
1. Apply after 31/08/07 Application
 2. Attach information required:
 - (a) Purpose for which society established
 - (b) Confirm bona fides of society as non-commercial
 - (c) Declare convictions, if any
 3. Pay prescribed fee
 4. Registration valid for life, annual fee payable to licensing authority

Lottery requirements:

1. Society must apply minimum 20% of proceeds to purposes of society
2. No single prize to exceed £25,000
3. Rollovers permitted provided all lotteries effected are small society lotteries and maximum single prize does not exceed £25,000
4. Tickets must cost same, be paid for before being entered in draw and include details of society, price, name and address of person responsible for promotion of the lottery and date of draw

Returns, which must be made no later than three months after draw, must be signed by two members and include details of:

5. Dates tickets were available for sale, dates of draw and value of prizes
6. Proceeds raised, amounts deducted for prizes, expenses incurred in organising lottery and where any were paid for other than from proceeds of lottery, the amount and source
7. Amount to be applied to purposes of the promoting society

Registration may be refused if:

1. Society is not considered to be non-commercial
2. Any person connected with promotion of lottery has been convicted of relevant offence, or
3. Information provided in application is false/misleading

Registration must be refused if an operating licence held by or applied for by the applicant has been revoked or refused in the previous five years

Registration may be revoked where grounds exist for an application for registration to be refused.

But a registration will not be refused or revoked unless the society has been informed of the reasons and the evidence supporting them and been given the opportunity to make representations



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2015/16 MID YEAR TREASURY MANAGEMENT REVIEW

1 SUMMARY

- 1.1 The purpose of this report is to provide an update of the Council's Treasury Management activity for the period 1 April 2015 to 30 September 2015 in accordance with the Council's Treasury Management Policy and good practice in treasury management.
- 1.2 It is recommended that the Treasury Management Task & Finish Group notes the Council's treasury activities for the period ending 30 September 2015 and provide comments on the information presented in this report, before it is presented for approval by Full Council on 15 December 2015.

2 INTRODUCTION

- 2.1 The Council has adopted the Code of Practice on Treasury Management and a requirement of this is to produce a mid-year review looking at the Authority's performance in line with the strategy agreed by Council in February 2015.
- 2.2 The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the Treasury Management operation is to ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering optimising investment return.
- 2.3 The second main function of the Treasury Management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending liabilities.

Accordingly, treasury management is defined as: 'The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks'.

- 2.4 This mid-year report has been prepared in compliance with CIPFA's Code of Practice on Treasury Management, and covers the following:-
- An economic update for the 2015/16 financial year to 30 September 2015;
 - A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
 - The Council's capital expenditure (prudential indicators);
 - A review of the Council's investment portfolio for 2015/16;
 - A review of the Council's borrowing strategy for 2015/16;
 - A review of compliance with Treasury and Prudential Limits for 2015/16.

- 2.5 The Council employs treasury advisors, Capita Treasury Services Ltd. (Capita), formerly known as Sector Treasury Services Ltd., to provide advice on its Treasury Management strategy and analysis of the economy and expectations for interest rates.

3 KEY MOVEMENT/CHANGES TO THE CAPITAL AND TREASURY STRATEGIES

- 3.1 There are no changes to the Treasury Management Strategy (TMS) to report. However, with some institutions starting to re-establish themselves and credit rates starting to improve, it is felt useful to clarify part of the TMS to Members.
- 3.2 The credit worthiness policy in the TMS provides limits and duration of investments dependent on the colour status of an institution. The limits increase with the strength of the counterparty either in duration or the amount to be placed. For a counterparty in one of the higher colour bandings, any limit in the colour bandings below it can also be applied. The limits and durations are as follows:-

Capita Colour Coding	Maximum Duration	Maximum Investment
No Colour	Not to be used	-
Green	100 days	£6m
Red	6 months 100 days	£3m £6m
Orange	1 year 6 months 100 days	£1m £3m £6m
Blue	1 year	£4m
Purple	2 years 100 days	£3m £6m

Prudential Indicator for Capital Expenditure

- 3.3 This table shows the forecasted outturn for capital expenditure as at 30 September 2015 and the changes since the Capital Programme was agreed in July 2015, as well as the indicative financing for the programme.

Capital Expenditure	2015/16 Original Estimate £'000s	2015/16 Revised Estimate £'000s	2015/16 Latest & End of Year Forecast £'000s
Total	3,737	4,008	3,670
Financed by:			
Prudential Borrowing	1,709	1,726	-
Funded Internally	-	-	1,607
Capital Receipts	1,878	1,763	1,613
Grants	150	519	450

Changes to the Prudential Indicators for the Capital Financing Requirement and the Operational Boundary

- 3.4 The original capital programme outlined in January 2015 showed a requirement for net new borrowing of £1.709m in the current financial year. However, with the current forecast and internally identified resources it is anticipated that this will reduce to £1.607m and an internal, rather than external, borrowing opportunity will be explored.
- 3.5 Net external borrowing should not, except in the short term, exceed the total of Capital Financing Requirement (CFR) in the preceding year plus the estimates of any additional CFR for 2015/16 and next two financial years. The Council has no external borrowing and the capital financing requirement is expected to increase as per the table below.

£000s	2014/15 Actual	2015/16 Estimate	2016/17 Estimate	2017/18 Estimate
CFR	687	2,294	2,850	3,116
Movement in CFR	-	1,607	556	266

- 3.6 The anticipated borrowing position as indicated above will mean a Minimum Revenue Provision charge (MRP) will be made to repay the borrowing and interest costs to the respected service areas.
- 3.7 There are no changes to the authorised and operational limits (upper limit beyond which external debt is prohibited) which is outlined in the Treasury Management Strategy and can only be revised by Full Council.

Economic performance to date

- 3.8 During the quarter ended 30 September 2015:-
- **The economic recovery lost some pace;**
Growth in the UK Gross Domestic Product (GDP) of 3.0% in 2014 was the strongest growth since 2006. Quarter 1 of 2015 was weak at +0.4% quarter 2 to +0.7%. The Bank of England is forecasting growth to remain around 2.4 – 2.8% over the next three years.
 - **Wage growth picked up further in response to labour market tightening;**
This overall strong growth has resulted in unemployment falling quickly over the last few years and now encouraging in 2015 to see wage inflation rising significantly above the Consumer Prices Index (CPI).
 - **CPI inflation hovered around 0% and poised to turn negative;**
Consumer Prices Index (CPI) which slipped back to zero in June before rising slightly to +0.1% in July and oil prices taking a fresh downward direction there could be several more months of low inflation still to come.

The August Bank of England Inflation Report forecast inflation barely getting back up to the 2% target within the 2-3 year time horizon.

- **The prospect of a 2015/16 Bank of England base rate hike became extremely unlikely;**
Major concerns around the slowdown in Chinese growth, the knock on impact on emerging countries from falling oil and commodity prices, and the volatility we have seen in equity and bond markets in 2015 so far it is hardly likely that rates will rise.

Outlook for the last six months of 2015/16

3.9 Risks to current forecasts:-

- A resurgence of the Eurozone sovereign debt crisis.
- Recapitalisation of European banks requiring more government financial support
- Slow down in the rate of growth for the services and manufacturing sectors given the appreciation of Sterling against the Euro and the slowdown in China and emerging markets; creating headwinds for our exporters of goods.
- Monetary policy action failing to stimulate sustainable growth and to combat the threat of deflation in western economies, especially the Eurozone and Japan.

- 3.10 The Monetary Policy Committee (MPC) revealed recently an increase in caution over UK growth prospects, with this in mind, Capita have updated their interest rate forecast, they now advise that a base rate rise is unlikely until June 2016.

Capita's interest rate forecast has been updated as follows:-

	Sept 2015 Actual	Dec 2015	Mar 2016	Jun 2016	Sept 2016	Dec 2016	Mar 2017
	%	%	%	%	%	%	%
Interest Rate Forecast February 2015	0.50	0.50	0.50	0.75	0.75	1.00	1.25
Current Forecast	0.50	0.50	0.50	0.75	0.75	1.00	1.00
5 Year PWLB Forecast	2.13	2.30	2.40	2.50	2.60	2.80	2.90
10 Year PWLB Forecast	2.58	2.90	3.00	3.20	3.30	3.40	3.50
25 Year PWLB Forecast	3.30	3.50	3.60	3.80	3.90	4.00	4.10

Treasury Management Strategy Statement and Annual Investment Strategy update

- 3.11 The Treasury Management Strategy Statement (TMSS) for 2015/16 was approved by Council on 24 February 2015. All areas of the TMS including

Prudential Indicators remain the same. No changes to the Capital Indicators have been reported.

Investment Portfolio 2015/16

- 3.12 In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council's risk appetite. Given this risk environment, investment returns are likely to remain low.
- 3.13 The Council's cash flow position is generally such that it has scope to undertake only short term investments of surplus funds. The Council started the year with investments of £3.9m, plus £0.96m in its main current account. The balance of investments held as at 30 September was £4.51m, plus £0.67m in the main current account. The table below summarises the investment transactions that have taken place:-

	Investments £000's	Current Account £'000's	No. of Investments
Balance on Investments 1 April 2015	3,900	960	3
Investments placed 01/04/15 – 30/09/15	18,800		
Investments realised 01/04/15 – 30/09/15	18,190		
Balance on Investments 30 Sept 2015	4,510	670	2

- 3.14 The 2 investments comprising the balance of £4.51m were placed with the following counterparties:-

Counterparty	£000's of Investments	% of Investments including current account
Barclays Bank	10	0.2
Svenska Handelsbanken	4,500	86.9
Lloyds Bank	670	12.9

- 3.15 The bank base rate has remained at 0.5% since March 2009. In terms of the relative performance of the Council's investment portfolio the target/benchmark investment is 0.5%. Forecast investment return for 2015/16 is £40,000, around £7,000 lower than originally anticipated. The investment rates on offer for short term deposits have remained low during the year primarily as a consequence of general economic conditions.
- 3.16 The Chief Financial Officer (Section 151 Officer) confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of 2015/16. A review of the Council's investment strategy will be

undertaken in the New Year and strategy considered which seeks to maximise returns on investment.

Investment Counterparty criteria

- 3.17 The current investment counterparty criteria selection approved in the TMS is meeting the requirement of the treasury management function.
- 3.18 The financial institutions that the Authority is investing with are monitored on a regular basis in line with the risk document issued by Capita, the treasury advisors.

4 RISK IMPLICATIONS

- 4.1 There are no new risk management implications arising from the contents of this report. However, Members will be aware of the uncertainty in the financial markets and the economy as a whole and the potential risks that this may have in general. TMS outlines the risks involved in the investments made by the Council and there have been no changes to the assessment of risk.

REPORT TO THE MEETING OF THE EXECUTIVE 2 DECEMBER 2015

PORTFOLIO: FINANCE

REPORT FROM: SECTION 151 OFFICER

**SUBJECT: QUARTER 2 2015/16 FINANCIAL MANAGEMENT
REPORT**

1 DECISION BEING RECOMMENDED

Revenue and Capital Budget: the following are recommended to be submitted to Full Council to note and approve as appropriate:-

- 1.1 The Quarter 2 2015/16 revenue budget and capital position of the Council contained in sections 3 and 4 and as shown in Appendices 1 and 2.
- 1.2 The reasons for variations to the previously approved budgets as detailed in sections 3 and 4.
- 1.3 The latest net revenue budget to be set at £9.72m for 2015/16 as outlined in paragraphs 3.1 and 3.6.
- 1.4 The general fund balance and transfers sought to and from general reserves outlined in paragraphs 5.3 and 5.4.

Key Financial Performance Indicators: the following is recommended to be submitted to Full Council to note:-

- 1.5 The current financial performance on key revenue financial indicators, as shown in section 6 and Appendix 3.

2 REASON/S FOR RECOMMENDATION

General Fund Revenue Budget

- 2.1 The Council approved a General Fund Revenue Budget of £10.33m in February 2015. The actual position compared to this budget is continuously monitored by Managers, the Leadership Team and Portfolio Holders, in order to identify all significant emerging variances of expenditure or income from the approved amounts contained in the budget.
- 2.2 The purpose of this report is to update the Executive on the quarter 2 (1st April to 30th September) 2015/16 forecast outturn and highlight any significant factors giving rise to variances.
- 2.3 The report outlines allocations for supplementary estimates (endorsed unplanned expenditure), proposals to return underspends generated within the service to general balance and transfers to and from general reserves. It

should be noted that these proposals are to allow the budget, as agreed by Council, to be met and maximise the use of available sums. Endorsement is sought from the Executive to recommend the latest net revenue budget for 2015/16, and general reserve transfers to Full Council on 15 December.

Capital Programme

A Capital Programme totalling £4.01m, covering 2015/16, was approved at the 28 July 2015 Council meeting. Of this total, £3.67m is estimated to be expended in 2015/16. This report provides an up to date position on how projects funded through the capital programme are progressing.

3 OVERALL FINANCIAL POSITION – REVENUE

- 3.1 The forecasted quarter 2 general fund expenditure outturn (after reserve movements) is £9.72m, which is a favourable variance of £610,330 (c.6%) against the original budget of £10.33m. A breakdown of revenue monitoring by each portfolio is set out in Appendix 1 and summarised in the table below.

<u>Portfolio</u>	<u>2015/16 Original Budget</u>	<u>Q2 Actual YTD</u>	<u>Forecast Outturn & Latest Budget</u>	<u>Variance (Budget to End of Year Forecast)</u>
	£	£	£	£
Leader	1,682,900	808,569	1,580,500	(102,400)
Finance	1,155,261	852,009	1,131,061	(24,200)
Enterprise	948,100	315,397	758,700	(189,400)
Planning	277,100	60,255	145,400	(131,700)
Environment	3,270,300	615,606	3,290,600	20,300
Community	1,846,400	327,401	1,708,800	(137,600)
Governance	1,451,930	818,304	1,106,600	(345,330)
Centrally Held Vacancy Factor	(300,000)	-	-	300,000
Total	10,331,991	3,797,541	9,721,661	(610,330)

- 3.2 In achieving the position above there are a number of both favourable and adverse variances to bring to your attention and, where the overall variation to budget exceeds £25,000 or 5% of the budget, the recovery plans in place to ensure that adverse variances are bought back in-line are outlined.
- 3.3 The main factors that are contributing to the reduction of C.£617,000 in the overall net expenditure are:-

- Staffing - Expenditure on salaries (excluding the environment portfolio) is expected to be circa £523,000 less than original budget as a result of current vacancy levels.
- Planning - Income from pre application planning advice is expected to exceed the original budget by £23,000 due to a higher demand for the service than anticipated (£13,000 higher than prior year).
- Pest Control - Take up of the new pest control contract has been slower than expected. It is anticipated that the service provision should increase with additional marketing. Current forecast is that the budget will be underspent by about £20,000.
- Fees and Charges - Income from Planning and Building Control fees and charges is expected to generate £40,000 more than originally budgeted (£63,000 less than last year).
- Car Parking - Income from car park pay and display machines is expected to generate £11,500 more than the original budget (£44,600 more than last year).

3.4 The key factors that are contributing to the increase of C.£7,000 in the overall net expenditure are:-

- Car Parking - Whilst pay and display income is expected to exceed original budget, income generated from car parking season tickets and permits, is expected to be about £7,000 short of the original budget (£15,000 less than prior year).
- Waste - The cost of processing waste through the Materials Recycling Facility is expected to cost the authority approximately £340,000. The market for recycling has collapsed and, therefore, this has impacted on the price of the new contract resulting in what was once an income generation to now becoming a cost for the authority. This was unknown when the original Council budget was set.

The Recovery Plan

- A range of in-year mitigations have been identified and efficiencies generated to contain the impact within the overall portfolio budgets. These measures consist of the following:-
 - reviewing vacancies and, where appropriate, freezing non-essential recruitment (£180,000);
 - removal of the grounds maintenance contingency (£50,000);
 - Contract efficiencies derived through the renegotiated waste and street scene contract (£100,000); and the renewal of the insurance policy (£10,000).

Collectively these measures have yielded £340,000 which can be sustained as ongoing mitigation for the pressure in current and future years. There are also a number of smaller variances, both positive and negative, that contribute to the overall outturn.

- 3.5 Within service areas there are budget headings which are considered significant to the overall financial position of the authority. An example of this would be salaries, which account for 57% of total expenditure, or significant income streams such as planning fees or parking. These key financial indicators are summarised in Appendix 3.
- 3.6 The position above has been closely monitored and forms the basis upon which the latest 2015/16 budget of £9.72m (see paragraph 3.1) is built and being considered as part of the medium term resource strategy.

Endorsement is sought for the supplementary estimate of £340,000 offset by the measures outlined in the recovery plan (paragraph 3.4) and approval is sought to establish the latest budget above (endorsing the underlining virements) and continue residual in-year monitoring to this new baseline.

4 OVERALL FINANCIAL POSITION – CAPITAL

- 4.1 The Capital Programme approved by Council in January 2015 has been updated to take account of further approval received from Council in July to reflect 2014/15 slipped schemes (where planned expenditure did not occur last year) into 2015/16 and the addition of new schemes to the programme. The revised budget for capital projects in 2015/16 totals £4.01m.
- 4.2 The forecasted outturn on the programme as at quarter 2 is £3.67m (92%); this is a variance of £338,574 against the original budget. The table at appendix 2 summarises the expenditure by programme.

The variance for 2015/16 is mainly attributable to the following:-

- ICT - £15,600 for purchase of iPad's, not expected to be used.
- Home maintenance, adaptation and Disabled Facility Grants - Delivery profile slower than anticipated, review underway to determine the residual requirement for 2015/16.
- Pavilion Refurbishments - £30,000 remains unallocated as there are currently no detailed plans for the works; scheme subject to review.
- Rayleigh and Rochford Office Accommodation works – Pending a decision on office accommodation for officers.
- Hall Road Cemetery – Plans for Hall Road cemetery are currently under review and no expenditure is anticipated within this financial year.

Capital Financing

- 4.3 The overall forecasted outturn can be contained within the funds earmarked for the 2015/16 Capital Programme (see appendix 2) and is largely funded by capital receipts of £1.61m, specific grants of £450,000 and residual £1.61m will be funded by the optimum balance of internal resources, to minimise the need for borrowing (internal or external).

Budget rebasing and future years

- 4.4 The capital programme was essentially established prior to the development of the Business Plan with themes which give a renewed focus on capital investment. Capital programmes can generally be categorised into 3 high level investment types:- Invest to Grow, Invest to Save and Invest to Maintain; and a programme with the optimum combination of projects should be the ambition.
- 4.5 In overall financial terms, 70% of the forecasted expenditure has been incurred as at quarter 2. Excluding the purchase of fleet vehicles and wheeled bins procured early in the year (in connection with the newly negotiated refuse contract), the residual programme indicates that only c.11% of the forecasted outturn has been expended. This is significantly below mid-year profiles for schemes anticipated to be delivered in 2015-16.
- 4.6 In view of the points above further work will be undertaken to more accurately profile residual project plans and determine what, if any, risk exists on the delivering of the programme on time and within latest budget. A schedule of all non-contractually committed funds will be presented to the newly established Investment Board to re-baseline the programme. This will assist in achieving the optimum programme that represents the key priorities of the Council whilst maximising the funding resources that are available.

5 ADDITIONAL FINANCIAL INFORMATIONMovements in Key Reserves

- 5.1 The Medium Term Financial Plan made a provision for the transfer of £957,000 into general reserves, subject to the overall revenue financial envelope being contained. Further increases in reserves could result from the redirection of the forecasted 2015/16 revenue underspend of £610,330; giving rise to a potential £1.567m movement in reserves. Whilst these are mid-year forecasts it is proposed that expenditure be contained within the revised forecasted envelope and that these residual funds be removed from the revenue account.
- 5.2 The statement and narrative below summarises the proposed application:-

	Current Balance	In Year Movement	Indicative Closing Balance
	£	£	£
Revenue Account Underspend	610,330	(610,330)	-
Revenue Account earmarked transfer to Reserves	957,000	(957,000)	-
General Fund	806,000	264,330	1,070,330
**Capital Financing reserve	-	1,303,000	1,303,000
*Capital Grants Unapplied	986,000	-	986,000
Total	3,359,330	-	3,359,330
<p>* Closing balance will be dependent on the level of capital expenditure incurred in year.</p> <p>** A new reserve for capital financing will be created.</p>			

5.3 The Councils General fund reserve as at Q2 is £806,000. This reserve is held for two main purposes:-

- a working balance to help cushion the impact of uneven cash flows and avoid unnecessary temporary borrowing; and
- a contingency to cushion the impact of unexpected events or emergencies

Approval is sought to transfer £264,330 to the General Fund reserve increasing the balance to £1,070,330, 11% (based on revised budget of £9.7m) of the overall budget.

The Capital grants unapplied reserve as at Q2 2015/16 is £986,000. This contains £467,000 of ring fenced funding not being applied to deliver the current capital programme. One example of ring fenced funding is Section 106 income received from developers; this is to be used on specific projects agreed as part of a planning agreement. It is proposed that, out of the balance of capital grants available, an amount of £450,000 is utilised to finance the capital programme. The residual £69,000 relating to Disabled Facility Grant income will be carried over into future years.

Approval is sought to transfer £1.303m from the revenue account surplus to the earmarked Capital Financing reserve, creating a new reserve of £1.303m.

- 5.4 The current capital programme forecast of £3.669m (Appendix 3) will be funded with: carried forward usable capital receipt reserves of £1.613m, a Capital financing reserve of £1.303m (if approved) and available capital grants of £0.450m; leaving a balance of £0.304m to be financed from General Fund balances or from the balance capital grants available where it can be demonstrated that the prevailing conditions have been met.

6 KEY FINANCIAL PERFORMANCE

- 6.1 The Council's target for paying invoices within terms is 98.6%. At the end of quarter 2 performance remains strong with 97.22% paid on time (98.35% Q2, 2014/15). The full year for 2014/15 was 98.92%.
- 6.2 The collection of Council Tax has improved from last year's 52.5% to 55.5% as at quarter 2; whilst Business Rates collection has dropped slightly from 56.3% last year to 55.02% as at quarter 2.
- 6.3 Further financial performance indicators are outlined in Appendix 3.

7 RISK IMPLICATIONS

- 7.1 Various projects within the Council's revenue budget and capital programme are supported by time-limited grants. Where there are delays to the implementation of these projects there is the risk that the associated grants will be lost. If this occurs either the projects will be aborted or a decision to divert resources from other Council priorities will be required.
- 7.2 Current economic conditions still have the potential to adversely affect some of our major income streams, such as Building Control and Development Control income. Decrease in activity may lead to reductions in income. In addition, delays in completing some items on the Capital Programme could prevent the Council from achieving its strategic objectives and lead to adverse publicity.
- 7.3 Regular monitoring of those budgets with the higher risk considerations will assist in providing early warnings to enable mitigation plans to be developed.

8 RESOURCE IMPLICATIONS

- 8.1 The financial implications are dealt with in the body of the report.

9 LEGAL IMPLICATIONS

- 9.1 It is a legal requirement under s25 of the Local Government Act 2003 to set a balanced budget and monitor the financial position throughout the year.

Appendix 1

FINANCIAL MANAGEMENT REPORT

FORECAST YEAR-END POSITION FOR 2015/16 AS AT END OF SEPTEMBER 2015PORTFOLIO HOLDER: LEADER, CLLR T G CUTMORE

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Chief Executive's Office	A Dave	179,200	71,200	141,700	(37,500)	Primarily due to salary for Personal Assistant, now shown under the heading Leadership Support Team.
Corporate Management	A Dave	106,500	59,244	83,700	(22,800)	Lower than originally anticipated external auditor fees - £22,800
Directors	A Dave	180,300	89,937	182,700	2,400	
Assistant Directors	A Dave	674,700	333,904	582,800	(91,900)	*Note
Leadership Support Team	A Mowbray	141,000	79,124	163,800	22,800	Additional cost from movement of PA from Chief Executives Office.
Registration of Electors	J Bostock	78,300	35,369	78,600	300	

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Conducting Elections	J Bostock	121,500	46,563	118,100	(3,400)	
Corporate Policy & Partnerships	A Law	201,400	77,619	195,200	(6,200)	*Note
Safeguarding	Vacant	-	15,609	33,900	33,900	Cost for this service area was amalgamated within Housing Strategy at Original budget; now separated for greater transparency.
	TOTAL	1,682,900	808,569	1,580,500	(102,400)	

***Note** As part of the budget setting process, a target salary savings was set based on expected staff turnover. These forecast underspends show the achievement of the salary savings by individual service areas.

PORTFOLIO HOLDER: FINANCE, CLLR S P SMITH

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit £	Comment
Financial Services	D Murray	361,700	171,395	348,800	(12,900)	*Note
Risk & Performance Management	D Murray	67,100	33,772	66,500	(600)	
Procurement	M Harwood – White	42,500	9,650	27,800	(14,700)	*Note
Audit	Angela Law	64,200	32,431	68,200	4,000	
Central & Other operating cost	D Murray	619,761	604,761	619,761	-	
	TOTAL	1,155,261	852,009	1,131,061	(24,200)	

***Note** As part of the budget setting process, a target salary savings was set based on expected staff turnover. These forecast underspends show the achievement of the salary savings by individual service areas.

PORTFOLIO HOLDER: ENTERPRISE, CLLR M J STEPTOE

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Estate Management Services	M Harwood – White	94,800	58,002	94,300	(500)	
Economic Development	M Harwood – White	85,000	30,203	71,100	(13,900)	*Note
Off St Parking	M Hotten	(870,300)	(415,081)	(876,600)	(6,300)	Income from Pay & Display charges is expected to exceed original budget
Office Accommodation Rochford	M Harwood – White	278,400	91,379	277,800	(600)	
Office Accommodation Rayleigh	M Harwood - White	69,100	41,692	68,900	(200)	
Computer Services	A Mowbray	1,170,100	458,540	1,021,000	(149,100)	*Note
Communications	A Mowbray	121,000	50,662	102,300	(18,700)	*Note

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
	TOTAL	948,100	315,397	758,800	(189,300)	

***Note** As part of the budget setting process, a target salary savings is set based on expected staff turnover. These forecast underspends show the achievement of the salary savings by individual cost centre.

PORTFOLIO HOLDER: PLANNING, CLLR I H WARD

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Building Control Client Account	S Scrutton	189,800	94,307	154,300	(35,500)	*Note
Building Control Fee Account	S Scrutton	(230,000)	(124,530)	(240,000)	(10,000)	Income from Building Control is expected to be about £10,000 more than original budget
Planning Policy	S Scrutton	186,900	85,230	145,100	(41,800)	*Note
Development Management	S Scrutton	130,400	5,248	86,000	(44,400)	Additional income from Planning Applications and pre application planning advice. A couple of major developments have utilised the pre-application advice service which has generated more income than originally expected.
	TOTAL	277,100	60,255	145,400	(131,700)	

***Note** As part of the budget setting process, a target salary savings is set based on expected staff turnover. These forecast underspends show the achievement of the salary savings by individual cost centre.

PORTFOLIO HOLDER: ENVIRONMENT, CLLR MRS J E MCPHERSON

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Parks & Open Spaces	M Hotten	984,100	213,213	873,600	(110,500)	*Note.
Environmental Health	Vacant	331,900	104,409	240,700	(91,200)	*Note. In addition, the take-up of the new pest control service has been very slow, with underspend against original budget expected to be c.£20,000.
Public Health	Vacant	28,600	7,354	28,600	-	
Public Conveniences	M Hotten	108,200	19,958	97,900	(10,300)	
Street Cleansing	M Hotten	879,800	163,360	726,700	(153,100)	*Note, plus re-alignment of some officers to Recycling Collection. In addition contract savings of £57,000 has been achieved through the purchasing of new vehicles by the authority.
Recycling Collection	M Hotten	2,040,800	416,864	2,091,800	51,000	Re-alignment of some officers from Street Cleansing to Recycling Collection

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Recycling Disposal	M Hotten	(1,107,800)	(300,308)	(774,300)	333,500	It is anticipated that the material recycling facility will cost the authority in the region of £340,000 (see paragraph 3.4). This was unknown at original budget setting.
Depot	M Hotten	51,900	30,729	51,900	-	
Highways/ Roads Routine	M Hotten	1,400	1,531	1,400	-	
Coast Protection	M Hotten	2,100	2,100	2,100	-	
Emergency Planning	M Hotten	46,000	19,747	48,800	2,800	
Cemeteries & Churchyards	M Hotten	(96,700)	(63,351)	(98,600)	(1,900)	
	TOTAL	3,270,300	615,606	3,290,600	20,300	

***Note** As part of the budget setting process, a target salary savings is set based on expected staff turnover. These forecast underspends show the achievement of the salary savings by individual cost centre.

PORTFOLIO HOLDER: GOVERNANCE, CLLR MRS C E ROE

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Legal Services	A Law	156,000	128,693	187,900	31,900	New Corporate Solicitor post agreed after original budget set.
Hackney Carriage	A Law	(76,600)	(36,706)	(93,100)	(16,500)	Income from Taxi licensing is expected to exceed original budget.
Licensing	A Law	10,100	(21,981)	17,200	7,100	
Local Land Charges	A Law	(183,800)	(95,744)	(188,700)	(4,900)	
Council Tax	D Tribe	(69,000)	(50,335)	(46,600)	22,400	*Note
Housing Benefit Administration	D Tribe	142,600	84,834	54,300	(88,300)	*Note
Business Rates	D Tribe	(67,500)	14,419	(63,900)	3,600	
Housing Benefits Payments	D Tribe	(152,870)	24,591	(205,800)	(52,930)	Actual YTD figure is based on a more favourable 15.27% recovery rate of overpaid housing benefit. Year end forecast is based on mid year subsidy claim form.

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Revenues Investigation Section	D Tribe	131,200	62,428	69,700	(61,500)	The Revenues and investigation function will be transferred to the Department for work and Pensions in October 2015. Majority of savings are on staffing.
Member & Committee Services	J Bostock	468,400	226,078	430,400	(38,000)	*Note
Overview	A Law	41,500	20,046	40,600	(900)	
Information	A Law	27,700	9,233	20,200	(7,500)	*Note
Health & Safety	A Law	27,600	15,448	29,300	1,700	
Support Services	J Bostock	450,800	170,153	310,400	(140,400)	*Note. In addition there are savings of £10,000 expected against original budget on printing costs.
Customer Services	D Tribe	261,600	113,685	250,800	(10,800)	*Note
Human Resources	A Mowbray	157,900	99,119	166,300	8,400	Additional salary cost due to extra staff employed on a temporary basis to undertake essential work e.g. Equal pay audit,
Reception	D Tribe	126,300	54,343	127,600	1,300	

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
	TOTAL	1,451,930	818,304	1,106,600	(345,330)	

***Note** part of the budget setting process, a target salary savings is set based on expected staff turnover. These forecast underspends show the achievement of the salary savings by individual cost centre.

PORTFOLIO HOLDER: COMMUNITY, CLLR MRS J R LUMLEY

Service Area	Lead Officer	2015/16 Original Budget £	Quarter 2 Actual YTD £	Forecast Outturn / Latest Budget £	Variance (surplus) / Deficit) £	Comment
Culture & Heritage – Windmill	M Harwood – White	16,700	(9,532)	16,700	-	
Leisure Premises	M Harwood – White	816,100	110,605	810,700	(5,400)	
Sports Development & Promotion	M Harwood – White	3,000	16,503	26,300	23,300	Re-alignment of one officer from another service area
Leisure Client Account	M Harwood – White	11,200	24,220	7,900	(3,300)	
Housing Strategy	Vacant	53,200	8,219	11,900	(41,300)	*Note
Private Sector Housing Renewal	Vacant	411,200	41,941	382,500	(28,700)	*Note
Homelessness	Vacant	425,900	108,801	409,200	(16,700)	Recharged Bed and Breakfast costs higher than anticipated.to whom?
Community Safety	Vacant	109,100	26,644	43,600	(65,500)	*Note
	TOTAL	1,846,400	327,401	1,708,800	(137,600)	

***Note** As part of the budget setting process, a target salary savings is set based on expected staff turnover. These forecast underspends show the achievement of the salary savings by individual cost centre.

Appendix 2

QUARTER 2 CAPITAL MONITORING REPORT 2015/16

	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
Information & Communications					
ICT Strategy	Enterprise	385,600	81,866	370,000	<p>£85,000 was brought forward from 2014/15 to pay for:</p> <p>Back up and storage</p> <p>Upgrade to online mapping system.</p> <p>£300,000 is for a refresh of our server environment and the purchase of iPads for officers and Members.</p> <p>Works should be completed by the end of Q3 2015/16 except for purchase of iPads which are demand led.</p>
Vehicles and Equipment					

	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
Wheelie Bins	Environment	55,000	35,960	55,000	Demand Led Allocation is for the purchase of wheelie bins in connection with the renegotiated recycling contract. Allocation will only be used for bin broken or damaged bin replacement. A review of the storage arrangements is on hold pending the depot facility replacement works.
Vehicle Replacements	Environment	30,500	75,566	75,566	An Iveco Tipper waste vehicle has been purchased, using carried forward budget from the 2014/15 replacement programme.
Waste Vehicles	Environment	2,388,782	2,385,802	2,385,302	This budget was to purchase a fleet of waste vehicles for the main recycling collection contract to enable revenue savings.
Cemetery Equipment	Environment	10,000	-	1,000	To be used on the purchase of a storage container.

	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
					Planning permission required, plans will be drawn up this financial year, but most of the expenditure will slip into 2016/17
Replacement Telephony system	Governance	11,900	10,806	10,806	This budget was a carry forward unspent provision from 2014/15 for outstanding works.
Equipment Replacement Programme	Governance / Enterprise	18,900	16,083	16,083	This programme of works includes the replacement of document scanning devices and system works to develop customer payment options.
Operational Assets					
Cemeteries	Environment	71,100	300	5,000	The majority of this budget £66,600 remains unallocated. £4,500 is for Hall Rd cemetery resurfacing works, completion is still expected within the financial year.
Depot	Environment	400,000	57,377	315,000	Allocated for the permanent replacement of buildings.

	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
					<p>Initial works will begin in Q2 of 2015/16. Some orders have been raised and committed for the work to be undertaken.</p> <p>All work expected to be completed by end of Q4 2015/16.</p>
Rochford Offices	Enterprise	51,200	11,716	20,000	<p>Part (£6,000) of the original allocation was to cover works at No.19 South Street. Pending the future of this building, these works have been removed from the plan.</p> <p>All other works have been put on hold until all office moves have been completed and a decision on No 19 made.</p> <p>Should No 19 remain an asset in use, the planned budget will slip into 2016/17.</p>

	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
Rayleigh Offices	Enterprise	26,500	-	-	This budget was allocated for upgrades to lighting. This is currently under review by the Assistant Director.
Rayleigh Windmill	Community	8,900	8,167	8,900	£750 – For CCTV replacement not required now and will be adjusted in the next reporting period.
Car Parks	Enterprise	63,000	18,371	63,000	This budget has been allocated for lighting improvement works, and other specific car park alterations. Total budget expected to be spent by end of Q4 2015/16.
Pavilion Refurbishments	Environment	30,000	-	-	Budget remains unallocated.
Town & Village improvements					
Community Funding	Community	17,050	11,165	17,050	Allocations for 2015/16 agreed.
Signage Enhancements	Environment	9,500	11,151	11,151	To replace and upgrade street nameplates and highway directional signage

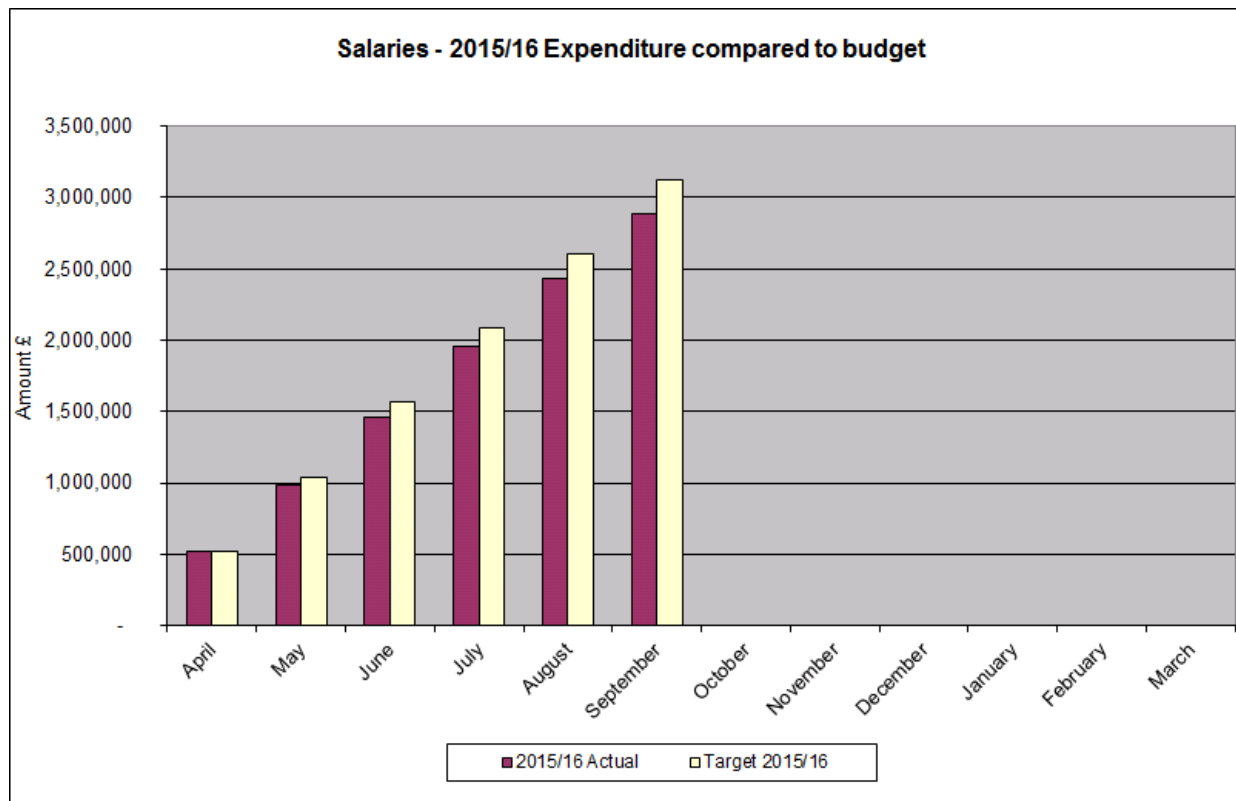
	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
					to our facilities.
Parks & Play Facilities					
Play Spaces	Environment	46,800	2,400	46,800	Report to be written to determine further budgeted expenditure.
Hockley Woods	Environment	22,500	2,470	22,500	£2,500 for the completion of staff facilities £20,000 to develop concession facilities
Parks and Open Spaces Programme	Environment	61,100	1,634	61,100	Allocation: £10,000 – Access improvements at Millview meadows, Rochford. This is still planned to be spent in this financial year. £5,000 – Land drainage at Grove Woods. Orders have been raised for this piece of work. £20,000 has been allocated for a skate park in Canewdon Village, this currently with the Parish

	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
					<p>Council for final approval. The proposal is for the Parish to invest £75,000 into this project RDC members have approved the Rochford element of the project.</p> <p>£25,000 is for the purchase of a zip wire at Rochford recreational ground, quotes have been received and the works are still planned for this financial year, weather permitting.</p>
<u>Externally Funded Projects</u>					
Home maintenance and Adaptation Grants	Community	50,000	15,623	35,000	Spend is demand led
Disabled Facilities Grants	Community	250,000	70,706	150,000	Spend is demand led
<u>Total Capital Programme</u>		4,008,332	2,817,163	3,669,758	
<u>Statement of Capital</u>					

	Portfolio	Approved 2015/16	Actual 2015/16	End of Year Forecast	Comments
<u>Financing</u>					
Capital Grant				300,000	DCLG grant for refuse vehicles
Housing Grant				150,000	Disabled Facility Grant
Capital Receipts used				1,613,274	B/Forward from 2014/15
Funded Internally				1,606,484	
Total Financing				3,669,758	

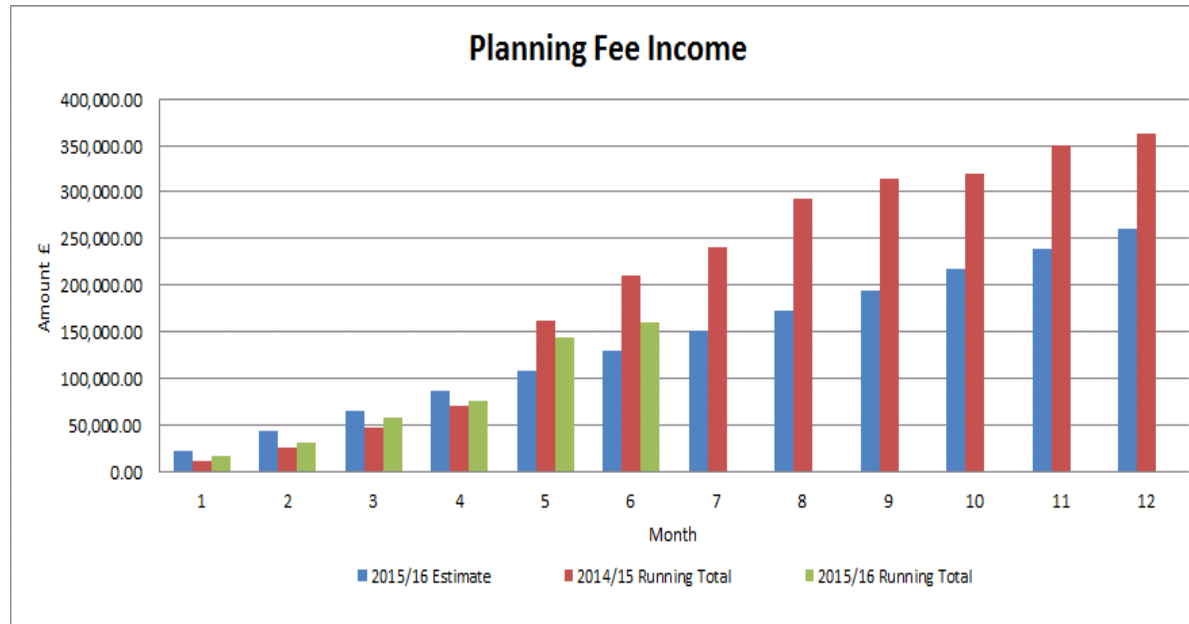
Appendix 3

FINANCIAL MANAGEMENT REPORT

KEY FINANCIAL INDICATORS AS AT END OF QUARTER 2SalariesCommentary

Total salaries are estimated at £5.57m (57% of total council budget) which includes an original salary strategy saving of £200,000.

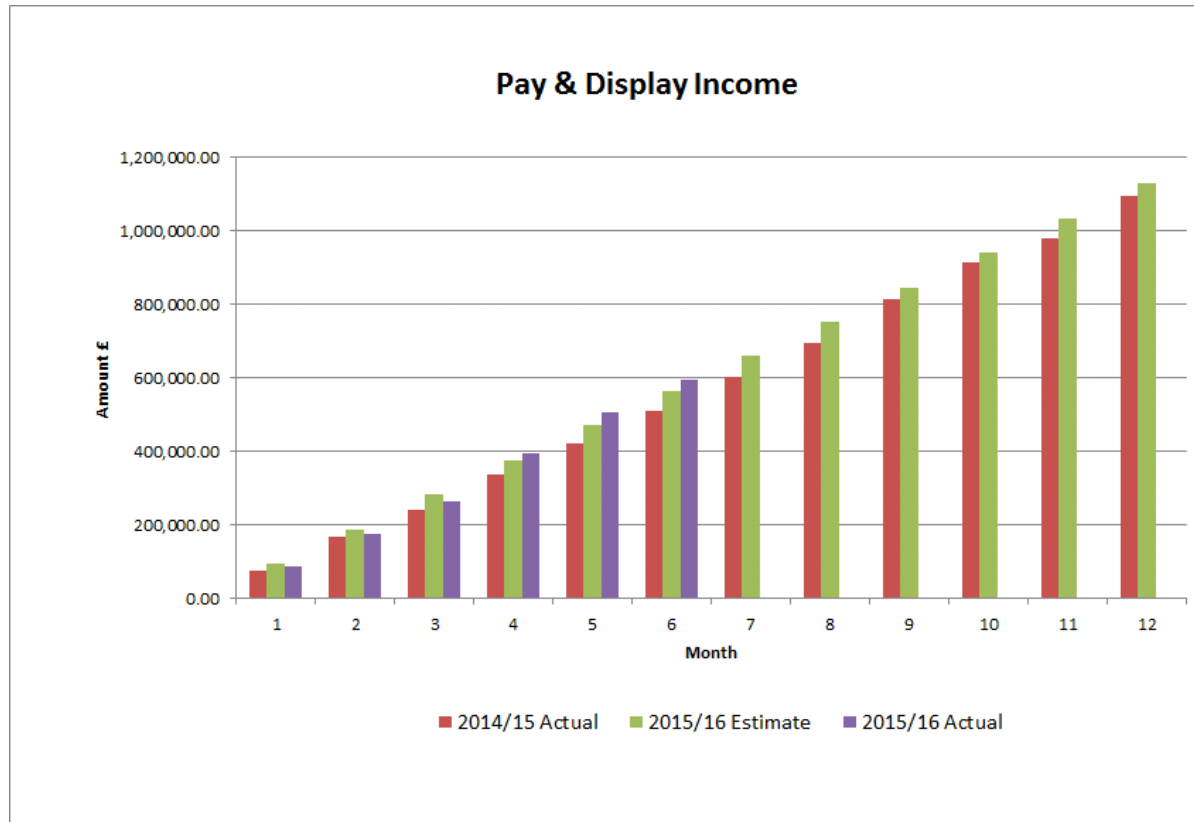
Expenditure on salaries is managed corporately to both reduce employment costs and improve services through better job design;. Total salary savings as at Quarter 2 is forecasted to be around £900,000 based on current recruitment plans (£700,000 after original savings)

Planning Fees**Commentary**

The original budget for planning fee income is £260,000. This was based on officer assumptions on Planning Applications for 2015/16.

At this stage, the year to date position is over budget by £30,337. With the current number of applications being processed, original budget is expected to be exceeded.

Compared to the same period in previous years, 2015/16 income at £160,337 is down by £49,063 against 2014/15.

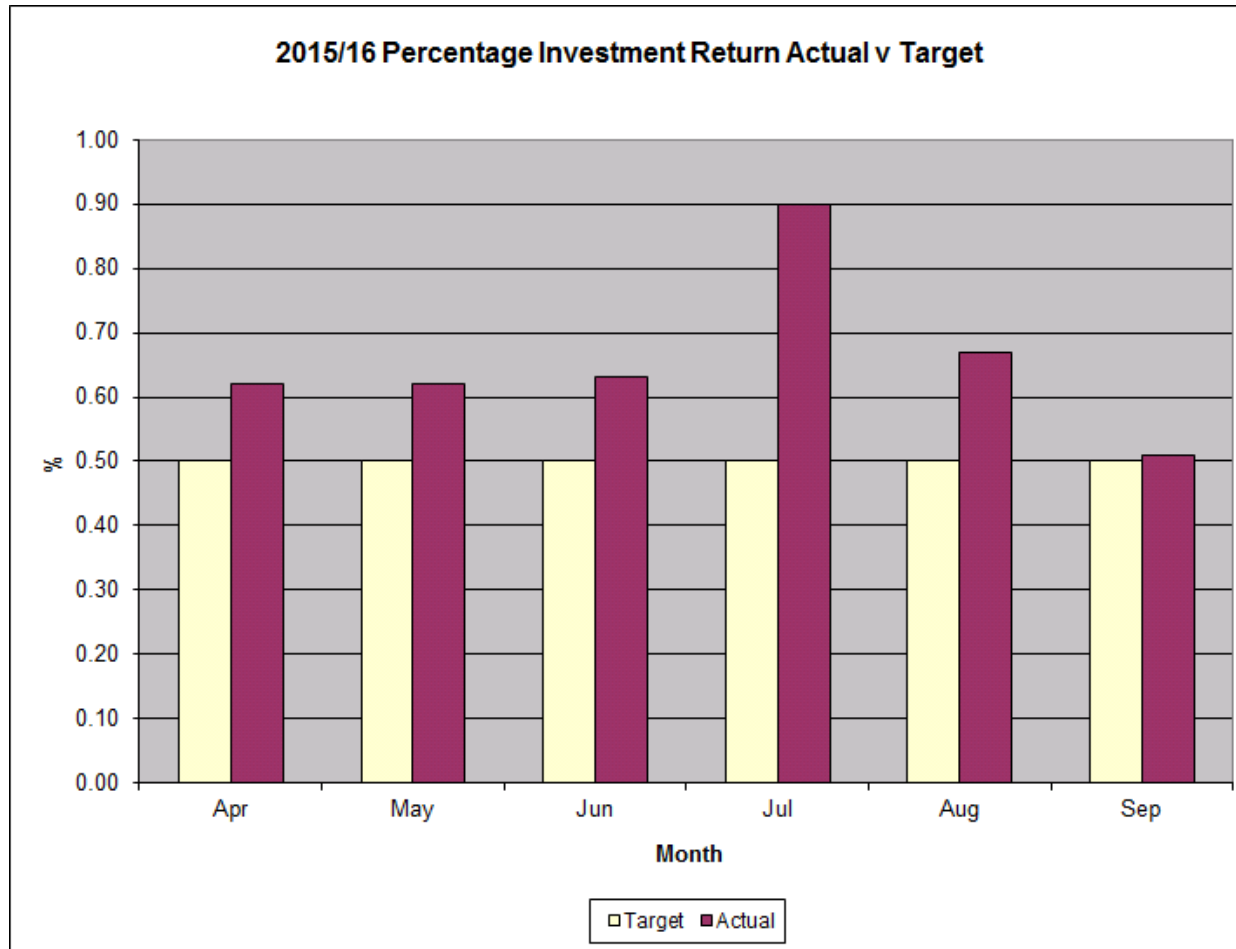
Parking Fees**Commentary**

The original budget for 2015/16 is £1,128,500.

This budget took into account a tariff increase that came in effect in July 2015.

Income is up £84,029 compared to last year. At £596,026 it is up against the year to date target of £564,250.

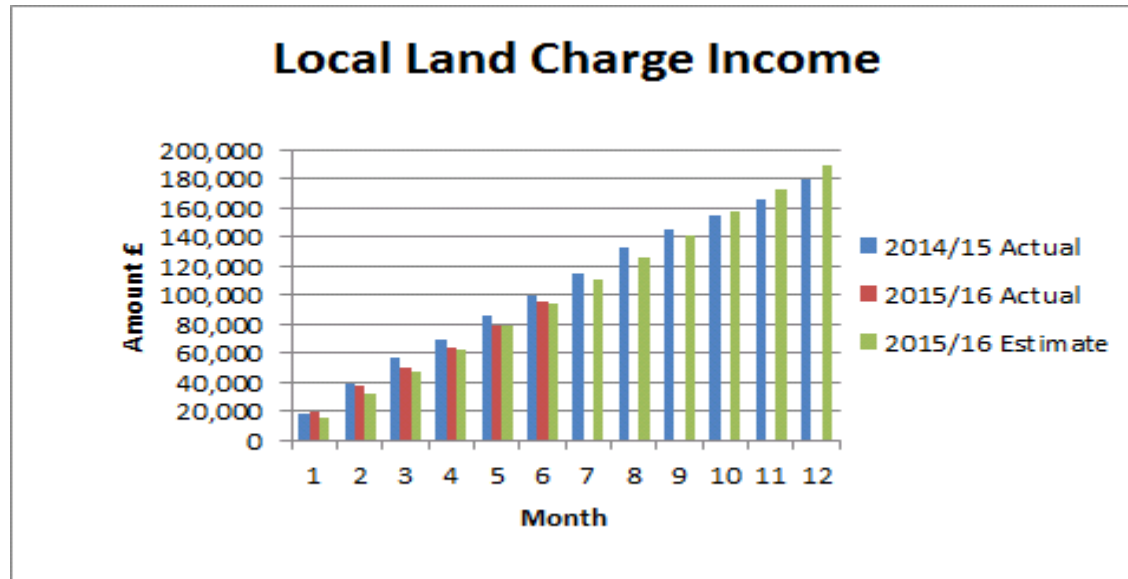
At this stage, income is expected to exceed original budget for the year by around £11,500

Investment Income**Commentary**

The original estimate for investment income for 2015/16 is £47,000. Current indications are that income from investments will be in down against his budget and are expected to be nearer £40,000.

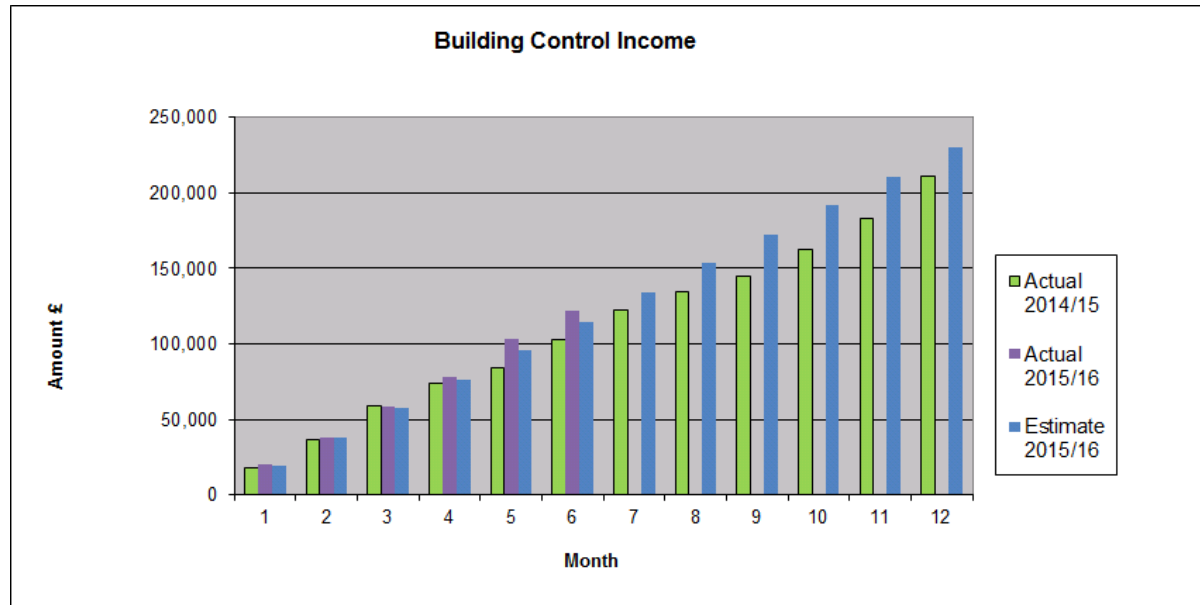
Current interest rates are between 0.35% and 0.51% for short term deposits. For 12 months deposit we are currently able to get between 0.70% and 1.00%.

The Bank of England base rate is expected to stay at 0.50% for the foreseeable future; indications are that a rise will not occur until Q2 2016/17 at the earliest.

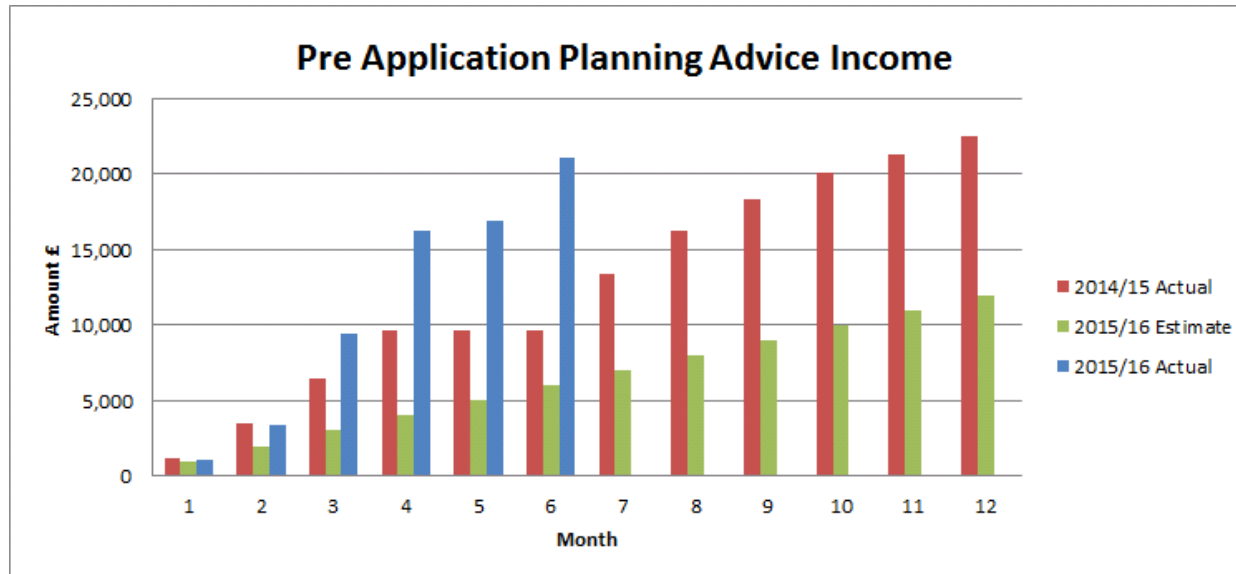
Local Land Charges**Commentary**

The original budget for 2015/16 is £188,700. Income to date is £95,744 against a year to date target of £94,350.

Based on income to date, total Income for the year is forecast to be in line with original budget.

Building Control Income**Commentary**

The original budget for 2015/16 is £230,000. Income to date is £121,853 against a year to date target of £115,000 this compares to £102,892 for the same period last year. Income is expected to exceed original budget by about £10,000 for the whole year.

Pre Planning Application AdviceCommentary

The original budget for 2015/16 was set at £12,000. This was based on officer assumptions on the take up of this service. Current indications are that Income for the whole year will exceed original budget by about £23,000.

Appendix 3

The following table compares income received in the District's car parks for 2015/16 against 2014/15.

Car Park	Financial Year	Income received Q1 £	Income Received Q2 £	Income Received Q3 £	Income Received Q4 £
Webster's Way	2014/15	104,297	119,491	127,937	119,624
	2015/16	113,355	146,554		
Castle Road	2014/15	34,159	37,792	43,915	42,214
	2015/16	32,740	44,770		
Back Lane	2014/15	27,459	31,254	35,881	34,120
	2015/16	31,876	38,111		
Market Car Park	2014/15	16,113	18,484	19,764	19,311
	2015/16	16,844	22,296		
Bellingham Lane	2014/15	32,919	36,450	39,315	36,961
	2015/16	34,721	43,336		
Southend Road	2014/15	10,599	11,025	13,141	12,624
	2015/16	12,413	14,857		
The Approach	2014/15	5,642	6,495	8,063	7,184
	2015/16	12,277	8,062		
Hockley Woods	2014/15	2,657	4,132	4,686	4,310
	2015/16	4,763	6,101		
Freight House	2014/15	3,690	2,952	4,647	3,621
	2015/16	4,303	3,513		
Old Ship Lane	2014/15	1,559	2,401	2,405	2,119
	2015/16	1,962	2,408		
Total	2014/15	239,094	270,476	299,754	282,088
	2015/16	265,254	330,008		

REPORT TO THE MEETING OF THE EXECUTIVE 2 DECEMBER 2015

PORTFOLIO: GOVERNANCE

**REPORT FROM: ASSISTANT DIRECTOR – CUSTOMER, REVENUE
AND BENEFIT SERVICES AND SECTION 151 OFFICER**

**SUBJECT: LOCAL COUNCIL TAX SUPPORT (LCTS) SCHEME –
2016/17**

1 DECISION BEING RECOMMENDED

- 1.1 That the outcome of the public consultation on the LCTS scheme for 2016/17 be noted.
- 1.2 That the reduction in the maximum award available to working age people receiving support to 72% (Option 2) from 1 April 2016 be agreed.
- 1.3 That the Council earmarks £20,000 in reserves for a Discretionary Hardship Fund, to offer additional help and support to those suffering the greatest financial hardship as defined in the Council's Discretionary Reduction in Council Tax Liability Policy.
- 1.4 That it be recommended to Council that the setting of a minimum Income Floor for Self Employed Persons be part of the LCTS with effect from April 2016 in line with other Welfare Reforms.
- 1.5 That the remaining scheme provisions for 2016/17 continue as currently published on the Council's website, subject to an inflationary increase in the personal allowances used to calculate LCTS in line with those carried out in 2014/15 and 2015/16.

2 REASON/S FOR RECOMMENDATION

- 2.1 The current scheme commenced on 1st April 2013 and is designed to be self-funding (meaning that it should cost approximately the same as the funding the Council receives from government). A number of broad assumptions have been made about the projected grant and the overall cost which indicate that the scheme is no longer cost neutral.
- 2.2 To ensure spending on the scheme in 2016/17 is broadly in line with the forecasted scheme cost, it is essential that the required changes outlined in this report are implemented into the scheme from 2016/17.

3 SALIENT INFORMATION

- 3.1 The Government replaced the nationally set Council Tax benefit scheme with a locally determined Council Tax support scheme, with effect from 1 April 2013.

Under the new arrangements, the 100% subsidy was replaced by a direct grant based on 90% of the forecast subsidised expenditure.

- 3.2 The Council worked with the other Essex authorities and major preceptors in the design and implementation of a cost neutral Local Council Tax Support Scheme in 2014/15; to reflect the reduced funding available.
- 3.3 Individual District schemes were then designed and approved based on individual demographics and the current scheme has the following award criteria:-
- Claimants living in properties whose Council Tax band is E, F, G or H have their LCTS restricted to the maximum amount payable for a Band D property.
 - The maximum level of support available to claimants of working age is currently 80% of their eligible Council Tax liability.
 - Only working-age claimants with capital/savings less than £6,000 are entitled to LCTS.
 - Child maintenance is taken into account as income when entitlement to LCTS is calculated.
 - Non-dependant deductions are not made when entitlement to LCTS is calculated.
 - The Second Adult Rebate scheme for working-age claims has ceased.
- 3.4 For 2014/15 and 2015/16 it was agreed to make no significant changes to the LCTS scheme.
- 3.5 Based on the current LCTS scheme, the claimants and collection rates for previous years and for 2015/16 and 2016/17 are given below:-

Financial Year	Number of working age claimants	Number of pensioner claimants	LCTS collection rate	Council Tax collection rate
2013/14	1906	2860	81.1% achieved	98.2% achieved
2014/15	1879	2738	82.7% achieved	98.2% achieved
2015/16	1789 Estimate	2612 Estimate	82.7% Estimate	98.2% Estimate
2016/17	1703 Estimate	2491 Estimate	82.7% Estimate	98.2% Estimate

- 3.6 Based on the current LCTS scheme continuing, Rochford District Council's share of costs for 2013/14 and 2014/15 was £676,000 and £649,000 respectively. Funding received by Rochford District Council towards this cost was £693,000, and £600,000 respectively. This included £109,000 and £97,000 for Parish Councils which were passed on in full.
- 3.7 The assumptions used for the consultation were revised to reflect the latest intelligence on the potential scale of funding reductions, a realistic estimate of the scheme's trajectory and proposals required to mitigate the deficit. The overall cost of the scheme for each financial year is shown in the table below:-

Financial Year	Government Grant £'000	LCTS Expenditure £'000	Funding Gap £'000
2013/14	693	676	(17)
2014/15	600	649	49
2015/16	514	623 Estimate	109
2016/17	Estimate 474 - 449 Average - 462	610 Estimate	Estimate 136 - 161 Average - 148

- 3.7 Based on the current LCTS scheme continuing, the analysis undertaken indicates an average forecasted shortfall of £148,000 for the financial year 2016/17.
- 3.8 It is proposed that a tapered approach back to cost neutrality be adopted and, in view of this, the maximum level of support available to working age recipients reduced to 72% from 1 April 2016.
- 3.9 A 28% contribution to council tax liability will increase an individual's minimum Council Tax contribution by £1.79 to £6.26 per week (40%), based on the charge for a band D property in the parish of Rochford. Applying a band D principle (on the basis that collection rates remain in line with that achieved in 2014/15); this change could reduce the overall residual scheme deficit to a range of £5,000 - £30,000 and further options to address this will be considered.
- 3.10 The scheme is highly likely to experience additional expenditure pressures in 2016/17 arising from further Welfare Reform/Tax changes announced in the Government's summer 2015 budget. The combination of freezing the levels of some benefits and reducing the income threshold tax credits will result in an overall reduction in the income levels of working age residents. This in turn is likely to:-
- (a) increase the number of cases the Council will support through LCTS;
and

- (b) increase the value of LCTS awards and the overall cost of the scheme.
- 3.11 It is recommended that the Council earmarks £20,000 in reserves for a Discretionary Hardship Fund, to offer additional help and support to those suffering the greatest financial hardship as defined in the Council's Discretionary Reduction in Council Tax Liability Policy.
- 3.12 It is anticipated that the changes recommended in Option 2 of the consultation exercise will help mitigate some of the loss of income to the Council whilst providing maximum support to claimants.
- 3.13 Based on information and analysis provided, Members are asked to recommend Option 2 proposal of making a maximum award available to working age claimants receiving support to 72% from 1 April 2016.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 It is important that the Council considers the options available in designing the LCTS scheme and the sources of funding. Three options were considered in relation to the minimum payment all working age claimants would be expected to make for 2016/17. The alternative two options are outlined below.
- 4.2 Option 1 - The Council could continue with the current year LCTS scheme in which support is restricted to 80% (minimum payment retained at 20%, the same rate as for 2013/14, 2014/15 and 2015/16) but this would need to be funded. To do this there would be various options including:-
 - (a) Increase Council Tax in 2016/17. However, this would almost certainly (based on past funding settlements) require a referendum.
 - (b) Resource the reduction in Government funding by cuts to Council services. However, the current Medium Term Financial Strategy through to 2020/21 is modelled based on closing a budget gap of an average £590,000 per annum and further significant budget reductions are anticipated.
 - (c) Using reserves to support the scheme. However, this would be a short-term solution and would not address the on-going financial requirement. The use of reserves is an approach that the Council has established for dealing with hardship that arises from the scheme.
- 4.3 Option 3 - The minimum payment be increased to 35%.

There is a possibility that this would almost double the Council Tax payments from 20% to 35% for circa 1,700 residents with low incomes and could have an impact on the overall collection rate.

A significant number of working age people in receipt of LCTS also receive Housing Benefit. From April 2016 the current housing benefit cap levels will be reduced increasing the number of people affected, and reducing their overall income. The general consensus amongst Essex Authorities is that this coupled with an increase in the amount of council tax they are required to pay will have a significant impact on the amount the Council collects from this category of charge payers.

The Council Tax collection rate dropping below 98.2% could have implications on achieving 'sharing agreement' with major preceptors. The current sharing agreement for 2015/16 is worth £354,000 to the Council.

5 ADDITIONAL PROPOSED CHANGE

- 5.1 An additional change to the calculation of income for some self employed claimants is also proposed.
- 5.2 Under the current scheme the earned income of someone who is self employed is based entirely on their declared income and expenses. This can result in someone declaring that they have traded at a loss, year after year, and so receive a higher rate of council tax support.
- 5.3 It is proposed that, after an initial start up period, someone who is self employed be treated as earning the higher of either their declared income or the minimum wage for a 35 hour week. This would ensure that council tax support mirrors the approach taken in the calculation of Universal Credit and is not claimed in order to subsidise a business that is not viable.

6 Consultation

- 6.1 The Council is required to carry out a consultation annually on its proposed LCTS scheme. This was carried out for the five weeks between 28 September 2015 to 2 November 2015 and views were sought on various options about changing the current scheme. Whilst only 35 responses were received 121 people considered the document, representing 0.14% of the population of the District.
- 6.2 A full summary of the responses to the consultation has been previously circulated.

7 RISK IMPLICATIONS

- 7.1 Whilst it is not possible to fully forecast the exact impact any change will have it is important to note that approximately 1,700 people who are likely to be affected by an increase could also be affected by other welfare reforms.
- 7.2 There is, therefore, a risk that the additional council tax charge is not collected and any impact on Council Tax Base and collection rates will, in turn, have an

impact on the sharing agreement with preceptors. The earmarking of a discretionary hardship fund, if endorsed, should contribute towards the mitigation of this.

8 RESOURCE IMPLICATIONS

- 8.1 The Council is facing significant financial challenges over the medium term due to public sector funding reforms. The implicit reduction of LCTS funding from the Government through reductions to the Revenue Support Grant (RSG) has led to the consideration of options whereby the cost of the local LCTS scheme does not exceed the level of funding available.
- 8.2 One of the key design principles in the original policy was to ensure that council tax payers were not disadvantaged by the transfer of risk associated from the funding of this scheme from the DWP to Local authorities.
- 8.3 The number of claimants for Council Tax Support has steadily reduced since its introduction and the future funding gap assumes this trend will continue over the life of the proposed scheme. However, the potential changes to Tax Credits announced in the summer budget as part of the Welfare Reform measures could place a real financial risk on the Council as any reductions in tax credit income would result in increased LCTS awards and could create additional pressure for the Medium Term Financial Strategy.
- 8.4 The consequences are that RSG is being scaled back each year and the funding for this scheme is, therefore, at risk of further reductions. The proposed scheme position for 2016/17 has been modelled based on a series of financial assumptions expected to materialise in reduced funding for the scheme.

9 LEGAL IMPLICATIONS

- 9.1 The Council is required under a statutory duty to review its LCTS annually and consult with various groups and interested parties. The Council must decide the scheme by 31 January in the financial year preceding that for which the revision or replacement scheme is to take effect.

10 EQUALITY AND DIVERSITY IMPLICATIONS

- 10.1 The Local Council Tax Support scheme reflects most of the characteristics of the former Council Tax Benefit scheme prior to April 2013, though it is simpler and, therefore, does not have an adverse effect on people that are particularly vulnerable or have protected characteristics.
- 10.2 A full Equality Impact Assessment on Local Council Tax Support was written when the scheme was created and this will continue to be reviewed and refreshed in light of scheme outcomes.