

LICENSING COMMITTEE AGENDA

Wednesday, 12th September 2018 at 7:15 PM

Committee Room 1, Braintree District Council, Causeway House,
Bocking End, Braintree, CM7 9HB

THIS MEETING IS OPEN TO THE PUBLIC
(Please note this meeting will be audio recorded)

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Members of the Licensing Committee are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor Mrs J Allen	Councillor H Johnson
Councillor M Banthorpe (Chairman)	Councillor Mrs J Pell
Councillor P Barlow	Councillor B Rose
Councillor J Baugh (Vice Chairman)	Councillor Mrs L Walters
Councillor J Elliott	Councillor Mrs S Wilson
Councillor J Goodman	Vacany
Councillor A Hensman	

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest

Any member with a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a Disclosable Pecuniary Interest or other Pecuniary Interest or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Question Time

The Agenda allows for a period of up to 30 minutes when members of the public can speak. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk no later than 2 clear working days before the day of the meeting. The Council reserves the right to decline any requests to register to speak if they are received after this time. Members of the public can remain to observe the public session of the meeting.

Please note that there is public Wi-Fi in the Council Chamber, users are required to register in order to access this. There is limited availability of printed agendas.

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Documents

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PUBLIC SESSION

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- 1 Apologies for Absence**
- 2 Declarations of Interest**
To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meeting**
To approve as a correct record the minutes of the meeting of the Licensing Committee held on 18th July 2018 (copy previously circulated).
- 4 Public Question Time**
(See paragraph above)
- 5 Gambling Licensing Policy Statement - Revised 2019** **4 - 50**
- 6 Animal Welfare Licensing** **51 - 66**
- 7 Urgent Business - Public Session**
To consider any matter which, in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

BRAINTREE DISTRICT COUNCIL'S REVISED LICENSING POLICY STATEMENT IN RESPECT OF THE GAMBLING ACT 2005		Agenda No: 5
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play Residents live well in healthy and resilient communities where residents feel supported	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:	Public Report	
<ol style="list-style-type: none"> Braintree District Council Draft Gambling Licensing Policy Statement 2019 – Appendix 1 Gambling Commission – Guidance to Licensing Authorities (5th Edition) 	Key Decision: No	
Executive Summary:		
<p>Braintree District Council is legally required to formulate its own Gambling Licensing Policy Statement which must be reviewed and re-published every three years. The Policy must be based on the Licensing Objectives.</p> <p>The Policy will then set out the principles that the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications for licences made under the Act for the subsequent three years.</p>		
Recommended Decision:		
<ol style="list-style-type: none"> That the draft statement of Gambling Licensing Policy be approved in its current state for submission to Full Council at the earliest opportunity. That officers be given delegated authority to make minor amendments such as typographical issues or any errors identified before submission to Full Council. 		
Purpose of Decision:		
<p>The re-published Policy will update the Policy in line with current guidance and set out the principles that the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications for licences made under the Act for the subsequent three years.</p>		

Any Corporate implications in relation to the following should be explained in detail.	
Financial:	The principal behind modifying the Policy is to minimise any risk of a judicial review from an aggrieved applicant.
Legal:	Failure to adopt a policy in line with the Gambling Act 2005, will result in the council not able to administer the licensing functions under the Gambling Act 2005
Safeguarding:	The Policy document deals with protection of children and vulnerable adults
Equalities/Diversity:	The Policy document aims to treat all equally and is reflected in the Equalities Impact Assessment
Customer Impact:	The Policy document will guide applicants and licence holders on the principles which will be taken into account when the Authority formulates its decisions.
Environment and Climate Change:	None arising out of this report.
Consultation/Community Engagement:	<ul style="list-style-type: none"> • The period of consultation lasted for 12 weeks in order to give all of the identified stakeholders an opportunity to comment on the proposals. • The draft Policy has been placed on the Authority's website for comment for the duration of the consultation period.
Risks:	None arising out of this report. The responses to the consultation process will identify possible risks.
Officer Contact: John Meddings	
Designation: Principal Licensing Officer	
Ext. No: 2213	
E-mail: john.meddings@braintree.gov.uk	

1. Background

1.1 The Gambling Act 2005 places a statutory responsibility on all Local Authorities to be responsible of the issuing of various permissions, permits and notices relating to the use of premises for gambling activities:-

a) Consideration of applications for premises licenses for:

- Casinos
- Bingo premises
- Betting premises and Race tracks
- Adult gaming centres
- Family entertainment centres

b) Consideration of application for permits for:

- Gaming machines in alcohol-licensed premises, such as pubs

- Gaming machines for members clubs
 - Gaming in member clubs
 - Unlicensed family entertainments centres - (category D machines only – i.e. those that have the lowest level of stakes and prizes)
 - Prize gaming
- c) Temporary use notices
- d) Occasional use notices
- d) Provisional Statements
- e) Registration small society lotteries
- 1.2 Each Authority is legally required to formulate its own Gambling Licensing Policy Statement which must be reviewed and re-published every three years. The Policy must be based on the three licensing objectives, which are;
- a) Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime.
 - b) Ensuring that gambling is conducted in a fair and open way.
 - c) Protecting children and other vulnerable people from being harmed or exploited by gambling.
- 1.3 The re-published policy will then set out the principles that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications for licences made under the Act for the subsequent three years.

2. Consultation

- 2.1 The draft Gambling Licensing Policy Statement, which is based upon the Essex Authorities generic framework, has been made available for public consultation following the Committee meeting on the 9th May 2018 for a period of 12 weeks.
- 2.2 Letters advising of the consultation were sent to Responsible Authorities, Members and other persons who would have an interest in the Policy:
- Consultation with a range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, primary care trusts, and advocacy organisations (such as the Citizens Advice Bureau and trade unions); consultation with businesses that are, or will be, holders of a premises licence;
- 2.3 The Policy was made available for viewing via the Council's website.
- 2.4 During the consultation period no responses were received.

3. Equality Impact Assessment

- 3.1 In accordance with the Authorities obligations under the Equalities Act 2010, an Equality Impact Assessment has been completed in relation to this Policy to determine the possible implications on equality.
- 3.2 The draft assessment has determined that the Policy intends to treat everyone equally.

BRAINTREE DISTRICT COUNCIL



**GAMBLING LICENSING
POLICY STATEMENT
2019 -2022**

Gambling Policy Document – Adopted 1st January 2019

FOREWORD

This is the fourth Statement of Licensing Policy produced by Braintree District Council under the Act and it will be the basis for all gambling related licensing decisions taken by the Council as the Licensing Authority over the next three years commencing in 2016.

The new Act created a unified regulator for gambling in Great Britain called the Gambling Commission and also transferred all responsibilities for licensing gambling premises from the Licensing Justices to Licensing Authorities. These Authorities are responsible for issuing a number of different permits, as well as Temporary and Occasional Use Notices.

This Policy sets out how the Council, as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that children, vulnerable people and communities need and expect.

The Council recognises how important this sector of the entertainment industry is within the district and well-run businesses will get the support of the Council. New gambling related developments that are well planned and can demonstrate initiatives that prevent gambling from being a source of crime and disorder, ensure that gambling is conducted in a fair and open way and protect people from being harmed or exploited by gambling are welcomed. However, the Council will not hesitate in dealing firmly where problems of gambling related crime and disorder exist.

This Policy will be kept under review and it will be amended when issues arise that make change necessary. The Council will seek through the licensing process and the decisions it takes, to make Braintree a safe and welcoming place for both residents and visitors to enjoy.

Councillor Michael Banthorpe
Chairman, Licensing Committee

Version History

Version No:	Period to which policy applies:	Review date:
1	2007-09	2009
2	2010-12	2012
3	2013-15	2015
4	2016-19	2019

BRAINTREE DISTRICT COUNCIL
GAMBLING LICENSING POLICY STATEMENT

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PART A

1 INTRODUCTION

1.1 This Statement of Licensing Policy sets out the principles the Braintree District Council, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act') proposes to apply in discharging its functions to license premises for gambling under the Act as well as:-

- 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 under the Act.

2. THE LICENSING OBJECTIVES

2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:-

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

3. DESCRIPTION OF THE DISTRICT

3.1 The Braintree District Council is situated in the County of Essex, which comprises twelve District and Borough Councils and two Unitary Authorities. Braintree District has a population of 149,108 (2013 Mid-Year Population Estimate from Office of National Statistics) and covers an area of 236 square miles. The main centres of population are in the towns of Witham, Halstead and Braintree. A map of the area is attached to this Policy document at Annex 'D'.

4. RESPONSIBILITIES UNDER THE ACT

4.1 The Act has introduced a new licensing regime for commercial gambling, to be conducted by the Gambling Commission and by Licensing Authorities, depending on the matter to be licensed.

- 4.2 The Act establishes each District or Borough Council as the Licensing Authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Braintree District Council is the Licensing Authority for the Braintree District.
- 4.3 The Gambling Commission is responsible for issuing Operating 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 machine software; or
 - promote a lottery.
- 4.4 The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are covered, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt Small Society Lotteries.
- 4.5 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 they think it is:-
- in accordance with any relevant codes of practice;
 - in accordance with any relevant Guidance issued by the Gambling Commission;
 - reasonably consistent with the Licensing Objectives, and
 - in accordance with the Licensing Authority's Statement of Licensing Policy.

Before the Licensing Authority can consider an application for a Premises Licence, an Operating and Personal Licence, or both, must have been obtained from the Gambling Commission.

5. STATEMENT OF LICENSING POLICY

- 5.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising their functions under the Act.

- 5.2 In this document this is referred to as the 'Policy'. This Policy must be published every three years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.
- 5.3 This Policy takes effect on 1st January 2019, and replaces the policy previously in force.

6 CONSULTATION

- 6.1 In producing this Policy, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A list of these other groups and persons consulted is also provided below.
- 6.2 The Act requires that the following parties are consulted by the Licensing Authority:-
- the Chief Officer of Police for the Authority's area;
 - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
 - 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 Act.
- 6.3 The other groups and people consulted were:-
- organisations, including faith groups, voluntary and community organisations working with children and young people and organisations working with people who are problem gamblers, medical practices or primary care trusts and the Citizen's Advice Bureau;
 - other tiers of local government;
 - businesses who are, or will be, holders of Premises Licences;
 - responsible Authorities under the Act.
- 6.4 The Licensing Authority's consultation took place between 11 May 2018 and 19 August 2018.
- 6.5 A full list of comments made and details of the Council's consideration of those comments is available by request to the Licensing Department in writing, or by email licensing@braintree.gov.uk

7 APPROVAL OF POLICY

- 7.1 This Policy was approved at a meeting of the full Council on 12th September 2018 and was published via its website 1st January 2019. Copies are available on request.

- 7.2 It should be noted that this Policy does 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 case will be considered on its own merit and according to the requirements of the Act.

8 DECLARATION

- 8.1 In this Policy the Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process and will adopt the Principals of Better Regulation.
- 8.2 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 the Council's Policy. Readers of this document are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or the guidance or regulations under the Act.
- 8.3 The Council recognises its responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate schemes as Equality Impact Assessment.

9 RESPONSIBLE AUTHORITIES

- 9.1 A full list of the Responsible Authorities designated under the Act and their contact details are given in Appendix B. It should be noted that under the Act, the Licensing Authority is designated as a Responsible Authority.
- 9.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-
- 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; and
 - the need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.
- 9.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates the Essex County Council Children's Safeguarding Service for this purpose.

10 INTERESTED PARTIES

- 10.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-

a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,

b) has business interests that might be affected by the authorised activities,

or

c) represents persons who satisfy paragraphs (a) or (b).'

10.2 Interested parties can be persons who are democratically elected, such as District, Parish Councillors and Members of Parliament(MP). 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.

10.3 District Councillors who are members of the Licensing Committee will not qualify to act in this way.

10.4 Other than persons mentioned in 10.2 and 10.3, the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party.

10.5 The Licensing Authority considers that the Trade Associations, Trade Unions and Residents' and Tenants' Associations qualify as "Interested Parties" where they can demonstrate that they represent persons in (a) or (b) above.

10.6 In determining if a person lives or has business interests sufficiently close to the premises that they 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 circumstances 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); and
- whether the person making the representation has business interests in that catchment area that might be affected.

10.7 The Licensing Authority will decide if a representation made in respect of an application is valid based on the following

- It is not frivolous or vexatious
- It raises issues that relate to Guidance issued by the Gambling Commission.
- It raises issues that relate to this policy
- It relates to the Licensing Objectives.

11 EXCHANGE OF INFORMATION

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

11.2 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail. (Note: Written confirmation may include information in electronic form.) An audit trail should include:-

- record of data disclosed;
- project chronology; and
- notes of meetings with other partners and recent correspondence including phone calls.

11.3 In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

11.4 The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection

of crime, but we will only share any personal details for this purpose if required to do so by law.

12 PUBLIC REGISTER

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

13 COMPLIANCE AND ENFORCEMENT

- 13.1 Braintree District Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services.
- 13.2 The Authority has had regard to the Regulators Code in the development of this policy and any operational procedures relevant to this specific licensing regime. The Authority has regard when setting standards or providing guidance which will guide the regulatory activities of other regulators.
- 13.3 The Authority in following these principles if in a particular instance concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable, or is outweighed by another relevant consideration, will not follow that provision but will aim to record the decision and the reasons for it.
- 13.4 The Code specifies the following guiding principles that the Council support and adopt:
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
 - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
 - Regulators should base their regulatory activities on risk.
 - Regulators should share information about compliance and risk.
 - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
 - Regulators should ensure that their approach to their regulatory activities is transparent.
- 13.5 Braintree District Council 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 offences or fail to comply with licence conditions. Braintree District Council has set clear standards of service and performance that the public and businesses can expect. In particular, the Environmental Services statement of Enforcement Policy that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement are achieved. This Policy is advertised and is freely available as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website: www.braintree.gov.uk

- 13.6 Braintree District Council 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.
- 13.7 The Licensing Authority may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Operators will always be advised of the outcome of the test. Where operators carry out their own test purchasing, the Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator
- 13.8 Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host authorities.
- Coral – London Borough of Newham
 - Ladbroks – Milton Keynes
 - Paddy Power – Reading
 - William Hill – City of Westminster

14 DELEGATION OF POWERS

- 14.1 The Council has agreed a scheme of delegation for discharging its functions under the Act and this can be found in Appendix .

PART B PREMISES LICENCES

15. GENERAL PRINCIPLES

15.1 Premises Licences will be subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions, which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is thought appropriate.

15.2 Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objectives concerns can be overcome.

15.3 Licensing Authorities are required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks fit:-

- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
- b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
- c) reasonably consistent with the Licensing Objectives (Subject to paragraphs a) and b))and
- d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

15.4 Definition of Premises:

Premises are defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises although this will always be considered in the light of the guidance issued by the Gambling Commission. It will always be a question of fact in each circumstance. The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

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).

15.5 Demand:

Demand is a commercial consideration and is not an issue for the Licensing Authority.

15.6 Location:

Location will only be a material consideration in the context of the Licensing Objectives

15.7 The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of the premises but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of protection of children and

vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

15.8 In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6th April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

15.9 The LCCP also states that licensees must review (and update as necessary) their local risk assessments:

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

15.10 The Licensing Authority expects the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area, and how game rules, self-exclusion leaflets etc. are communicated to those groups
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

15.11 In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

15.12 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel,

leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.

- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.

15.13 The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

15.14 Such information may be used to inform the decision the council makes about whether to grant a licence, to grant a licence with special conditions or to refuse an application.

15.15 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

15.16 Local Area Profile

Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Licensing Authority has published a local area profile (LAP). The LAP is published as a separate document to this policy and does not form part of it. The LAP may be reviewed by the Licensing Authority at any time. Such a review would not constitute a review of this policy.

15.17 The LAP should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the LAP and assessment, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations. The LAP should not be taken as the definitive overview of a particular area and applicants are encouraged to use their own local knowledge in addition to the content of the LAP to inform their local risk assessments.

15.18 The Licensing Authority recognises that it cannot insist on applicants using the local area profiles when completing their risk assessments. However, an applicant who decides to disregard the LAP should be alert to the risk that they may face additional representations and the expense of a hearing as a result. A template of a suggested local risk assessment form for is included at **Annex E**. Applicants and licence holders may use this template or create their own.

15.19 **Duplication with other Regulatory Regimes:**

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 Permission or Building Control consent.

15.20 **Licensing Objectives:**

Premises Licences granted must be reasonably consistent with the Licensing Objectives. With regard to these Objectives, the following will be considered:-

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

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.

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 Act.

- **Ensuring that gambling is conducted in a fair and open way –**
The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. The Licensing Authority notes that in relation to the licensing of tracks, its 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 –**
In practice, the objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

The Council will pay attention to the proposed location of gambling premises in terms of the proximity of gambling premises to schools and vulnerable adult centres, or residential areas where there may be a high concentration of families with children.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not have the mental capacity to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

The Licensing Authority will consider very carefully whether applications for Premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted, and will fully scrutinise the control measures outlined in an operator's local area risk assessment in this regard.

The Licensing Authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

15.20 Conditions

The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing Objectives.

Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises 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.

In addition, the Licensing Authority will examine how applicants propose to address the licensing objectives. In considering applications the Licensing Authority will particularly take into account the following:

- proof of age schemes;
- CCTV;
- door Supervisors;
- supervision of entrances/machine areas;
- physical separation of areas;
- location of entry;
- notices and signage;
- specific opening hours; and
- with particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare;

15.21 Decisions upon individual conditions will be made on a case by case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. Applicants will also be expected to offer their own suggestions as to the way in which the Licensing Objectives can be effectively met.

15.22 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

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

15.23 **Door Supervisors:**

The Licensing Authority may consider whether there is a need for door supervisors in terms of the Licensing Objectives of protecting of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. As the Act has amended the Security Industry Act 2001, door supervisors at Casinos or Bingo premises need not be licensed by the Security Industry Authority.

The Authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

15.24 **Credit:**

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATMs) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

15.25 **Betting Machines: (See Annex A for definition)**

In relation to Casinos, Betting Premises and Tracks, 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 or to a Casino Premises Licence (*where betting is permitted in the Casino*). This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the Licence, the ability to staff to monitor the use of such machines from the counter.

15.26 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

15.27 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or guidance issued under the Act.

16 PROVISIONAL STATEMENTS

16.1 It is noted that the guidance from the Gambling Commission states that 'It is a question of fact and degree whether the premises are finished to an extent that they can be considered for a Premises Licence rather than a Provisional Statement'. The Licensing Authority will consider such applications on this basis but will not take into account other permissions that may be required such as Planning Consent.

The applicant should refer to the Act and the detailed information provided in the Guidance

17 REPRESENTATIONS AND REVIEWS

17.1 Representations and Applications for Review of Premises Licence may be made by Responsible Authorities and interested parties.

17.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is appropriate. For the purpose of exercising its discretion in these matters, the Authority has designated the Head of Environment and Leisure as being the proper person to act on its behalf.

17.3 The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:

- Whether the grounds for the request raises issues relevant to the principles to be applied by the Licensing Authority and set out within the Licensing Authority Statement of Policy;
- Frivolous or vexatious.
- Based on grounds that will certainly not cause the Authority to wish to revoke/suspend a Licence or remove, amend or attach conditions on the Licence.
- Substantially the same as previous representations or requests for a review.
- In accordance with any relevant codes of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the licensing objectives.

- 17.4 There is no appeal against the Authority's determination of the relevance of an application for review.

18 ADULT GAMING CENTRES

- 18.1 An Adult Gaming Centre is defined in Annex A. Entry to these premises is age restricted.
- 18.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

19 (LICENSED) FAMILY ENTERTAINMENT CENTRES

- 19.1 A Licensed Family Entertainment Centre is defined in Appendix 1. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

20 CASINOS

- 20.1 The Licensing Authority has made no decision about Casinos, therefore, each application will be considered on its own merits.

20.2 Casinos and Competitive Bidding:

The Licensing Authority is aware that where a Licensing Authority's 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. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State.

20.3 Betting Machines:

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 or to a Casino Premises Licence (*where betting is permitted in the Casino*). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things should take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

20.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

20.5 **Credit:**

Credit facilities are prohibited in Casinos. However, this does not prevent the installation of cash dispensers (ATMs) on the premises (although the Licensing Authority may attach conditions as to the siting of such machines).

21 BINGO PREMISES

21.1 A Bingo premises is defined in Annex A. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

21.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

21.3 **Credit:**

Credit facilities are prohibited in premises licensed for Bingo, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

22 BETTING PREMISES

22.1 Betting Premises are defined in Annex A.

22.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

22.3 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

23 TRACKS

23.1 A Track is defined in Annex A. Entry to these premises is generally age restricted. On race days, specific areas within the Track may be age restricted dependent on the licensable activities taking place.

23.2 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act

24 TRAVELLING FAIRS

24.1 The Licensing Authority will determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling

fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use.

PART C
PERMITS/TEMPORARY OR OCCASIONAL USE
NOTICES/REGISTRATIONS

25 GENERAL

- 25.1 The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.
- 25.2 Forms and Method of Application and any additional information or documents required for Permits covered by this section will be available either direct from our website (www.braintree.gov.uk) or in hard copy from our Licensing Department, Tel 01376 557790.

26 UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

- 26.1 Where a premises does not hold a Premises Licence but wishes to provide Gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 26.2 The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority.
- 26.3 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic Criminal Record Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises.
 - Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises;
 - children causing perceived problems on/around the premises;
 - safeguarding awareness training, and
 - suspected truant children.

27 (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

- 27.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of Categories C and/or D. The Premises Licence holder needs to notify the Licensing Authority at least two months prior to the date of expiry of the current Permit.
- 27.2 Gaming machines can only be located on licensed premises that have a bar for serving customers.
- 27.3 Premises restricted to selling alcohol only with food, will not be able to apply for a Permit.
- 27.4 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:-
- adult machines being in sight of the bar;
 - adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
 - appropriate notices and signage; and
 - as regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as GameCare.
 - Relevant codes of practice issued by the Gambling Commission

The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

28 PRIZE GAMING PERMITS

- 28.1 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic Criminal Record Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
 -
 - Proof of age schemes
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises.

- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises;
 - children causing perceived problems on/around the premises;
 - safeguarding awareness training, and
 - suspected truant children.

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect)

In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

29 CLUB GAMING AND CLUB MACHINE PERMITS

29.1 Member's Clubs and Miner's Welfare Institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.

29.2 Commercial clubs may apply for a club machine permit, subject to restrictions

29.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions:

(a) in respect of gaming machines:

no child or young person may use a category B or C machine on the premises

that the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.

(b) the public, children and young persons must be excluded from any area of the premises where the gaming is taking place.

29.4 Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

30 TEMPORARY USE NOTICES (TUN)

30.1 The persons designated to receive TUNs and to issue objections are specified in Appendix 2.

30.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State prescribing the activities to be covered. At present a Temporary Use Notice can only be issued for equal chance gaming.

- 30.3 For the purpose of a TUN, 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 premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 30.4 The definition of “a set of premises” will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of “a set of premises” the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 30.5 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.

31 OCCASIONAL USE NOTICES

- 31.1 Occasional Use Notices, apply only to tracks, which are described as being premises on any part of which a race or other sporting events take place, or is intended to take place. Tracks need not be a permanent fixture.
- 31.2 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.
- 31.3 The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 31.4 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.
- 31.5 The person designated to receive the OUN’s and assess validity is specified in the scheme of delegation as shown at Annex E

32 SMALL SOCIETY LOTTERIES

- 32.1 The definition of a Small Society Lottery is contained in Appendix 1 and require registration with the Licensing Authority.

33 DEFINITIONS

In this Policy the definitions contained in Appendix 1 are included to provide an explanation of certain terms included in the Act and this Policy. In some cases they are an abbreviation of what is stated in the Act or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Act.

34 HOW TO APPLY FOR A PREMISES LICENCE/TEMPORARY USE NOTICE

Information and guidance on how to apply for a Premises Licence and other Permits or permissions under the Act will be available either direct from our website or in hard copy from our Licensing Department.

35 HOW TO MAKE A REPRESENTATION

Information and guidance on how to make representations in relation to an application or to apply for a review of a Licence will be available either direct from our website (www.braintree.gov.uk) or in hard copy from our Licensing Department (Tel 01376 557790).

36 FEES

The Fees that are applicable to any Licences, Permits or any other permissions will be set by the Secretary of State by Regulations and will appear in Appendix 8. The Licensing Authority will determine their fees when Regulations are published.

37 USEFUL CONTACTS

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk Some of these organisations provide Codes of Practice on their particular interest area.

Contact details of the Licensing Authority and the Responsible Authorities are contained in Appendix 3.

Definitions

Appendix 1

Adult	An individual who is not a child or young person.
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect (Premises limited to entry by adults making Category B, C and D gaming machines available to their customers).
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting Machines	A machine designed or adapted for use to bet on future real events (not a gaming machine).
Bingo	A game of equal chance.
Braintree District Council	The area of Essex administered by the Braintree District Council (see map – Appendix 9)
Casino	An arrangement whereby people are given an opportunity to participate in one or more Casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs).
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines (3 machines of Categories B,C or D).
Code of Practice	Any relevant code of practice under Section 24 of the Act.
Conditions	<p>Conditions to be attached to licences by way of:-</p> <ul style="list-style-type: none"> <input type="checkbox"/> Automatic provision <input type="checkbox"/> Regulations provided by Secretary of State <input type="checkbox"/> Conditions provided by Gambling Commission <input type="checkbox"/> Conditions provided by Licensing Authority <p>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.</p>
Default Conditions	Conditions that will apply unless the Licensing Authority decides 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 either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank

	and where the chances are equally favourable to all participants.
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"> <input type="checkbox"/> Small Society Lottery (required to register with Licensing Authorities). <input type="checkbox"/> Incidental Non Commercial Lotteries. <input type="checkbox"/> Private Lottery (Private Society, Work or Residents lottery). <input type="checkbox"/> 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.
Gaming	Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission 3 rd edition dated May 2009.
Human Rights Act 1998 Articles: 1,6,8 and 10	<p>Article 1: Protocol 1 The right to peaceful enjoyment of possessions.</p> <p>Article 6: The right to a fair hearing.</p> <p>Article 8: The right of respect for private and family life.</p> <p>Article 10: The right to freedom of expression.</p>
Incidental Non Commercial Lottery	A Lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events (commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance).
Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	<p>A person who:-</p> <ul style="list-style-type: none"> <input type="checkbox"/> lives sufficiently close to the premises to be likely affected by the authorised activities; <input type="checkbox"/> have business interests that might be affected by the authorised activities, or <input type="checkbox"/> represents persons in either of these two groups. <p>See paragraph 10.6 for the criteria the Licensing Authority will apply in determining who lives or has business</p>

	interests sufficiently close to the premises that they are likely to be affected by any authorised activities.
Licensing Authority	Braintree District Council acting under Section 2 of the Act.
Licensed Family Entertainment Centre	Premises offering Category C gaming machines that are restricted to adults and offering Category D machines to children and young persons in segregated areas.
Licensed Lottery	A Large Society Lottery or a Local Authority Lottery. They require registration with the Gambling Commission.
Licensing Objectives	<ol style="list-style-type: none"> 1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. 2. Ensuring that gambling is conducted in a fair and Open way. 3. Protecting children and other vulnerable persons From being harmed or exploited by gambling.
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
Lottery Tickets	<p>Tickets that must:-</p> <ul style="list-style-type: none"> <input type="checkbox"/> identify the promoting society; <input type="checkbox"/> state the price of the ticket, which must be the same for all tickets; <input type="checkbox"/> state the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and <input type="checkbox"/> State the date of the draw, or enable the date of the draw to be determined.
Mandatory Conditions	Specified conditions provided by Regulations under Section 176 of the Act to be attached to Premises Licences.
Members' Club	<p>A Club that must:-</p> <ul style="list-style-type: none"> <input type="checkbox"/> have at least 25 members; <input type="checkbox"/> be established and conducted 'wholly or mainly' for purposes other than gaming; <input type="checkbox"/> be permanent in nature; <input type="checkbox"/> not be established to make commercial profit; and <input type="checkbox"/> be controlled by its members equally.
Occasional Use Notice	Betting may be permitted on a 'track' for eight days or less in a calendar year without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.

On Course Betting - Tracks	Betting that takes place on a track while races are taking place.
Operating Licence	<p>Issued by the Gambling Commission. Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling</p> <ul style="list-style-type: none"> - Casino Operating Licence - Bingo Operating Licence - General Betting Operating Licence - Pool Betting Operating Licence - Betting Intermediary Operating Licence - Gaming Machine General Operating Licence (for an Adult – Gaming Centre Operator or a Family Entertainment Centre) - Gaming Machine Technical Operating Licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine) - Gambling Software Operating Licence (to manufacture, supply, install or adapt gambling software) - Lottery Operating Licence
Permits	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. Issued by the Licensing Authority (for Unlicensed Family Entertainment Centres, Prize Gaming, Gaming Machines, on alcohol related premises, Club Gaming and Club Gaming Machines).
Personal Licence	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.
Pool Betting - Tracks	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.
Premises	Defined as 'any place', including a vehicle, vessel or moveable structure. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.
Premises Licence	Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.
Private Lotteries	<p>There are three types of Private Lotteries:</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	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. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	Where an applicant can make an application to the Licensing Authority in respect of premises that he:- <ul style="list-style-type: none"> <input type="checkbox"/> Expects to be constructed. <input type="checkbox"/> Expects to be altered. <input type="checkbox"/> Expects to acquire a right to occupy.
Regulations	Regulations made by the Secretary of State under the Gambling Act 2005.
Relevant Representations	Representations that relate to the Gambling Licensing Objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.
Responsible Authorities	Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:- <ul style="list-style-type: none"> <input type="checkbox"/> Braintree District Council acting as the Licensing Authority <input type="checkbox"/> The Gambling Commission <input type="checkbox"/> The Chief Officer of Police (Essex Police) <input type="checkbox"/> Essex County Fire and Rescue Service <input type="checkbox"/> Local Planning Authority, ie Braintree District Council Planning Department <input type="checkbox"/> The authority having functions in relation to the environment or harm to human health, i.e. Braintree District Council Environmental Health <input type="checkbox"/> Essex Local Safeguarding Children's Board <input type="checkbox"/> HM Revenue and Customs <input type="checkbox"/> Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency <input type="checkbox"/> Other persons prescribed by the Secretary of State <p>Full details of Responsible Authorities for the Braintree District are contained in Appendix '2' to this Policy.</p>
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice	To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
The Act	The Gambling Act 2005.

The Council	Braintree District Council
The Commission	The Gambling Commission.
The Policy	The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act.
Tote [or Totalisator]	Pool betting on tracks.
Track	Sites 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.
Unlicensed Family Entertainment Centre	Premises offering Category D machines only with unrestricted entry.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- <ul style="list-style-type: none"> <input type="checkbox"/> gamble more than they want to <input type="checkbox"/> gamble beyond their means <input type="checkbox"/> 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 not a child but who is less than 18 years old.

Contact Details for the Licensing Authority and Responsible Authorities

ORGANISATION	CONTACT AND ADDRESS	TELEPHONE / FAX / EMAIL
Licensing Authority	Licensing Officer Environmental Services Braintree District Council Causeway House Braintree Essex CM7 9HB	Telephone: 01376 557790 Email: licensing@braintree.gov.uk Website: www.braintree.gov.uk
Essex Police	Licensing Officer Braintree Police Station Blyth's Meadow Braintree Essex CM7 3DJ	Telephone: 0300 333 4444 Fax: 01376 551412
Essex County Fire and Rescue Service	Essex County Fire and Rescue Service Braintree and Uttlesford Headquarters Kelvedon Park Rivenhall Witham Essex CM8 3HB	Telephone: 01376 576000
Essex County Council Children's Safeguarding Service	Head of Children's Safeguarding Service [Licensing Applications] Essex County Council DG06, D Block Schools Children's and Families Service PO Box 11 County Hall Chelmsford CM1 1LX	Telephone: 01245 492211
Trading Standards [Essex]	Information and Business Support Team Essex Trading Standards New Dukes Way Office 2 Beaufort Road Dukes Park Industrial Estate Chelmsford Essex CM2 6PS	Telephone: 01245 341800

ORGANISATION	CONTACT AND ADDRESS	TELEPHONE / FAX / EMAIL
The Local Planning Authority	Development Services Manager Development Services Braintree District Council Causeway House Braintree Essex CM7 9HB	Telephone: 01376 552525 Fax: 01376 557781
The Local Authority with functions related to prevention of risk of pollution of the environment. (Environmental Health) -	Environmental Protection Team Braintree District Council Causeway House Bocking End Braintree Essex CM7 9HB	Telephone:01376 552525 Fax 01376 557767
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	Telephone: 0121 230 6500 Fax 0121 2372236 E-mail: info@gamblingcommission.gov.uk Website: www.gamblingcommission.gov.uk
HM Revenue & Customs	The Proper Officer HM Revenue & Customs HMRC Banking St Mungos Road Cumbernauld Glasgow G70 5WY	

Useful Contacts

Trade Associations:

Association of British Bookmakers	www.abb.uk.com
British Amusement Catering Trade Association	www.bacta.org.uk
British Casino Association	www.britishcasinoassociation.org.uk
Remote Gambling Association	www.rga.eu.com
Bingo Association	www.bingo-association.co.uk
British Horseracing Board	www.britishhorseracing.com
British Greyhound Racing Board	www.thedogs.co.uk

Gambling Support Organisations:

Gamcare	www.gamcare.org.uk
Responsibility in Gambling Trust	www.rigt.org.uk
Gamblers Anonymous	www.gamblersanonymous.org.uk

Other Links

Department for Culture, Media & Sport Casino Advisory Panel	www.culture.gov.uk
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Table of Delegations of Licensing Functions
Gambling Act 2005

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE	OFFICERS	HEAD OF SERVICE
Three year Licensing Policy review	All cases			
Fee Setting – when appropriate	All cases			
Authority to make minor amendments to the Gambling Act policy statement in conjunction with the Chairman of the Licensing Committee				All cases
Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn	
Application for a Variation to a Licence		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
Application for a Transfer of a Licence		Where representations have been received from the commission	Where no representations have been received from the commission	
Application for a Provisional Statement		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
Authority to make representations to all applications on behalf of the Licensing Authority		All cases		All cases
Authority to attach conditions, where relevant, to Premises Licences			All cases	

Authority to refuse applications for Premises Licences			All cases	
Authority to process applications for Temporary Use Notices		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
Authority to process applications for Club Gaming and Club Machine Permits		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
Authority to issue permits for more than 2 machines in Licensed Premises			All cases	
Authority to process application for other Permits			All cases	
Cancellation of Club Gaming/ Club Machine Permits		All cases		
Cancellation of Licensed Premises Gaming Machine Permits			All cases	
Review a Premises Licence		All cases		
Determination as to whether a person is an Interested Party			All cases	
Determination as to whether representations are relevant			All cases	
Determination as to whether a representation is frivolous, vexatious or repetitive			All cases	
Consideration of Temporary Use Notice			All cases	
Decision to give a counter notice to a Temporary Use Notice		All cases		
Consideration of an Occasional Use Notice			All cases	

MAP OF BRAINTREE DISTRICT



Local Area Risk Assessment Example Template

1: Local Area			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
1.1			Systems
			Design
			Physical
1.2			Systems
			Design
			Physical
1.3			Systems
			Design
			Physical

2: Gambling Operation			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
2.1			Systems
			Design
2.2			Systems
			Design
3.3			Systems
			Design
3.3			Physical

3: Internal and External Premises Design			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
3.1			Systems
			Design
			Physical
3.2			Systems
			Design
			Physical
3.3			Systems
			Design
			Physical

Actions following assessment:			
1: Local Area			
Action	Person/Dept tasked	Date tasked	Date completed
2: Gambling Operation			
Action	Person/Dept tasked	Date tasked	Date completed
3: Internal and External Premises Design			
Action	Person/Dept tasked	Date tasked	Date completed

Signed:		Date:	
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Print Name:	
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Notes: In addition to the requirement for existing licence holders to have a local area risk assessment, this risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises. (see section 14 of this policy)

Risks: Area of consideration that may impact on one or more of the licensing objectives

Local Risks: These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises

Licensing Objectives: these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting. For ease of reference within this assessment the objectives have been given codes that should be used to replace the full objective. These codes are CD for the Crime and Disorder objective, FO for the Fair and Open objective and CV for the protection of children and the vulnerable.

Control Measures: These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

The fact that there are three subsections in each section of the template should not be taken to suggest that you should limit your assessment to three risks for each section. The above template is an example only. You are at liberty to use your own design.

Animal Welfare Licensing		Agenda No: 6
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A high performing organisation that delivers excellent and value for money services	
Report presented by:	John Meddings (Principal Licensing Officer)	
Report prepared by:	Daniel Mellini (Environmental Health Manager)	
Background Papers:	Public Report	
<ol style="list-style-type: none"> 1. The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 2. Explanatory Memorandum to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 3. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Procedural guidance notes for local authorities 	Key Decision: No	
Executive Summary:		
<p>The Council is currently the Licencing Authority for dog breeding establishments, animal boarding establishments, riding establishments and pet shops. Each of these areas of licensing are subject to separate Legislation.</p> <p>The Animal Welfare Act 2006 provides the Secretary of State, by The Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 the power to repeal the existing licensing laws and introduces an updated licensing system in England for five activities involving animals, namely:</p> <ul style="list-style-type: none"> • Selling animals as pets; • Providing for or arranging for the provision of boarding for cats or dogs; • Hiring out horses; • Dog Breeding; and • Keeping or training animals for exhibition. <p>The Animal Welfare (Licensing of Activities Involving Animals) Regulations come into force on 1st October 2018 and requires the Council to have in place procedures (together with fees and charges) for the new licensing system.</p>		

Licensing Committee are requested to consider a report and make recommendations to Full Council with respect to the forthcoming changes to animal licensing. In particular Members are requested to consider the fees and charges associated with the new regime, the scheme of delegation and the determination of the appeals procedures with respect to a risk rating.

Recommended Decision:

That the Licensing Committee recommends to Full Council:

1. To set the fees and charges with respect to The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 as set out in Table 1 of Appendix 1 for the period from 1st October 2018 to 31st March 2019.
2. To approve Scheme of Officer delegation as set out in Table 2 of Appendix 2.
3. To approve the procedure for determining an appeal against a risk rating following the inspection/renewal of an operator as set out in Appendix 3.
4. To amend Article 9 of Chapter 1 of the Constitution (Licensing Committee) to enable the Licensing Committee to discharge the licensing function on behalf of the Council under the Animal Welfare Act 2006 and The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and any subsequent Regulations made under the Act for the purpose of animal licensing.
5. To authorise the Head of Governance to amend the Constitution to reflect these provisions.

Purpose of Decision:

To ensure that the Council has the appropriate arrangements in place to discharge the licensing function.

Any Corporate implications in relation to the following should be explained in detail.	
Financial:	The costs of operating the licensing system must be cost neutral to the Council.
Legal:	<p>By virtue of Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the licensing of Animals, including the setting of fees is a Council function.</p> <p><u>Fees</u> Regulation 13 of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 provides that an application for a licence must be accompanied by a fee set by the Council.</p> <p>In setting a fee, the Council must have regard to any guidance issued by the Secretary of State. Specific guidance to the Regulations on setting the fees was published in July 2018.</p> <p>The Council must also be mindful of the principles of the EU Services Directive (Directive 2006/123/EC of The European Parliament and of the Council of 12th December 2006 on services in the internal market) which states “a Licence fee can only be used to pay for the cost associated with the licensing process”.</p>
Safeguarding:	No matters arising out of this report.
Equalities/Diversity:	No negative equality impacts have been identified should the recommendations of this report be agreed by Licensing Committee.
Customer Impact:	<p>The Regulations and the DEFRA Procedural Guidance introduce a risk based system and each licence will attract a star rating with the exception of ‘keeping or training animals for exhibition’. Licences will be issued for a period of 1, 2, or 3 years depending on the risk rating (1 star being the highest risk and 5 stars being the lowest risk). 1 and 2 star licence holders will require an annual licence. 3 and 4 star licence holders will require a bi-annual licence and 5 star licence holders will be able to obtain a licence every 3 years.</p> <p>The cost of licensing will be linked to a Licence Holder’s star rating. 1 to 4 star Licence Holders paying more for licensing, whereas 5 star licence holders achieving the</p>

	highest animal welfare standards will attract the lowest licensing costs.
Environment and Climate Change:	No matters arising out of this report.
Consultation/Community Engagement:	No matters arising out of this report.
Risks:	<p><u>General</u> The Council must be prepared to receive applications by 1st October 2018 although the majority of existing licences expire at the end of the calendar year.</p> <p>It is envisaged the number of licensed operators will increase especially with respect to the breeding of dogs, online sales of animals and animal boarding. In the event that this assumption is not founded, the Council will continue to pursue unlicensed operators.</p> <p><u>Fees</u> If the fees do not reflect the true cost of managing the licence process then the Council could be open to legal challenge.</p> <p>The Council should be aware that some licences may be granted for a longer period which is an incentive of the Regulations. This may initially impact upon the levels of fee revenue generated. The Council will review the licence fees and charges on an annual basis as part of the Corporate fees and charges process to ensure the fees reflect the true cost of administering and managing the licensing process.</p>
Officer Contact:	Daniel Mellini
Designation:	Environmental Health Manager (Food, Health & Safety and Licensing)
Ext. No:	2228
E-mail:	daniel.mellini@braintree.gov.uk

1. Scope of report

- 1.1 The following report explains the forthcoming changes to animal welfare licensing in accordance with the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 1.2 In particular, Members are requested to consider and make recommendations to Council with respect to the following procedural matters.
- Fee setting
 - Risk rating appeals
 - Scheme of delegation

2. Background

- 2.1 The Council is currently the Licencing Authority for some animal licensing and is subject to separate legislation. The types of Licence currently issued by the Council are:
- **Animal boarding establishment licences** (dogs and cats in purpose built kennels, catteries, home boarders, dog day care)
 - **Dog breeding establishment licences** (premises used for or in connection with, the commercial breeding of dogs)
 - **Pet shop licences** (any business which keeps animals with a view to selling them as pets)
 - **Riding establishment licences** (premises which keep horses and ponies for hire for riding, or for riding tuition). Livery stables are excluded.
 - **Zoo licences** (displaying wild animals to the public for at least 7 days a year, in any place that's not a circus or pet shop)
 - **Dangerous wild animal licences** (any person keeping any dangerous wild animal)
- 2.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 introduces a single licensing system for the selling animals as pets; providing for or arranging for the provision of boarding for cats or dogs, hiring out horses, dog Breeding; and the keeping or training animals for exhibition. Zoo and Dangerous Wild Animal licences are not affected by the changes to Legislation and will continue to be covered by their own specific Legislation.
- 2.3 The fundamental aim of animal licensing is to maintain good standards of animal welfare. It is estimated that nationally animal welfare licensing comprises the fourth largest group of business licences issued by Local Authorities, after Premises, Taxi, and Gambling licences.
- 2.4 To understand the significance of animal welfare licensing within the Braintree District, to date in 2018/19, the Council has issued 79 licences detailed as follows:
- 68 animal boarding establishment licences
 - 1 dog breeding establishment licence
 - 6 pet shop licences

- 4 Riding establishment licences
- 2.5 The current licensing system has developed on a piecemeal basis over many decades and is now considered to be out of date, having difficulties in keeping up with the changing types of animal-related businesses and to new standards of good practice in animal welfare.
 - 2.6 The current system is also considered to be complex and burdensome for both Local Authorities and businesses. As an example the majority of animal welfare licences are arbitrarily required to be issued on a calendar basis, which means there is seasonal pressure applied to Local Authorities in administering and issuing the bulk of licences at the least productive time of the year.
 - 2.7 Businesses applying for animal welfare licences (excluding dog breeding establishment licences) part-way through the year are currently disadvantaged by the length of the initial licence which will expire at the end of the calendar year, additionally businesses with multiple functions (i.e. dog breeding and animal boarding) are currently required to hold more than 1 licence.
 - 2.8 There are also specific concerns about certain types of activity that are not currently robustly enforced. As an example with the explosion of the use of the internet, the online sale of pets has increased dramatically. As these types of business do not fall clearly within the definition of a pet shop, the current licensing system is not being consistently enforced for such businesses by Local Authorities. There are also concerns around “underground” dog breeders who breed dogs in poor welfare conditions for profit and the interpretation of exemption afforded in current legislation.
 - 2.9 There is currently significant differences in the interpretation of Legislation between Local Authorities and the standards applied through conditions attached to a licence and the methodology of inspection. As an example there is inconsistency between Authorities licensing dog boarders with some Local Authorities choosing to licence home boarding overnight but not during the day. Another example includes some local authorities adopting standard model conditions whereas as other local authorities will adopt locally agreed standards.
 - 2.10 Many business under the existing legislative regime consistently achieve high welfare standards and good performance and invest in meeting these standards which are sometimes accredited through the UK Accreditation Service’s (UKAS). This earned recognition is not currently recognised within the current licensing system which means it could be argued there is currently no incentive in meeting higher animal welfare standards.
 - 2.11 These differences in interpretation lead to an inconsistent approach which is both confusing to Local Authorities, business, and the wider public and more concerning could raise questions regards the inconsistent levels of animal welfare standards applied.

2.12 The Government, in response to these concerns, undertook a review of animal welfare licensing in England, which resulted in The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

3. Changes to legislation

3.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 will come into force from 1st October 2018 and defines the activities that will require a Licence as follows:

- Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being sold or resold.
- Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business.
- Hiring out horses in the course of a business for either riding, instruction in riding, or both.
- Breeding three or more litters of puppies in any 12-month period: or breeding dogs and advertising a business of selling dogs.
- Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology, or both.

3.2 Essex County Council Trading Standards are currently responsible for the registration of performing animals. The registration process will cease once the Regulations come into force and the Council will undertake the function of licensing for the keeping or training animals for exhibition. The County Council and District Councils are working together to ensure a smooth transition with respect to this activity from 1st October 2018.

3.3 The key changes introduced will require that all businesses undertaking the activities set out in paragraph 3.1 above to meet the same up-to-date, minimum welfare standards. Businesses will have to be licensed by the relevant Local Authority and will have to meet these minimum standards to hold and retain a licence.

3.4 Procedural Guidance has been issued by the Department of Environment Food and Rural Affairs (DEFRA) which local authorities are required to have regard to when licensing an animal activity. The Procedural Guidance is also recommended to existing and prospective licence holders.

3.5 Earned recognition will now be incorporated into the licensing system and the Council will be able to issue a licence between 1 to 3 years with longer licences going to high performing low risk businesses. Risk rating is discussed in further detail in paragraph 3.9. Businesses that apply will have less of a regulatory burden including reduced fees associated with applying for a licence. This change should also incentivise businesses to perform at a higher level which in turn will drive up animal welfare standards.

- 3.6 The Council will now be in a position to issue a licence at any point in the year which will help spread out the work load.
- 3.7 Any licences issued under the existing licensing regimes not expired from the 1st October 2018 will continue to be in force for the duration of the terms of the licence under the relevant Act.
- 3.8 Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months from 1st October 2018.

3.9 Risk rating

- 3.9.1 The concept of risk and the assessment thereof is applied to the issue of an animal welfare licence for the first time. With the exception of 'keeping or training animals for exhibition' the Council must undertake a risk assessment which will then be used to determine the length of licence, either 1 - 3 years issued and the star rating either 1 - 5 stars to award.
- 3.9.2 Businesses will be rated following an inspection that takes place prior to grant/renewal of the licence or a requested re-inspection. Businesses may also be rated following an unannounced or additional inspection.
- 3.9.3 The risk rating will be derived in accordance with the risk scoring model as provided in the Procedural guidance notes for local authorities issued under the Regulations.
- 3.9.4 In the case where a business is assessed for multiple activities, the risk rating will be based on the entire operation and not by each individual activity. The overall risk rating will reflect the lower standard achieved from all the activities assessed.
- 3.9.5 Businesses will be advised in writing of the rating received and the reasons for the issue of that rating and the measures the business can take to achieve the higher standard or a list of the minimum standards the business is failing to meet.
- 3.9.6 The business will also receive a copy of the risk management table showing the scores under each point and details of the appeals process including the deadline for submission of an appeal. In the event that a business disagrees with the risk rating awarded, they can appeal to the Council.

4. Risk rating appeals

- 4.1 The procedure for accepting an appeal is set out in Appendix 3 to the report and works on the principal that a business has the right to question a star rating awarded to a business following an inspection, whatever that inspection may be.
- 4.2 The system is designed to be fair, open, and transparent and follows the broad principles of the regulators code in accordance with Section 23 of the Legislative and Regulatory Reform Act 2006.

- 4.3 The process is relevant where a business wishes to dispute the star rating awarded as not reflecting the animal welfare standards and risk level of their business at the time of inspection.
- 4.4 Licences which must be displayed to the public as part of the Licensing process will indicate the businesses risk rating.
- 4.5 The Procedural Guidance issued by DEFRA encourages the Council to publish a business' risk rating on the Council's website.

5. Fees

- 5.1 This section of the report explains the process of setting fees with respect to licences issued under the terms of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. The setting of Fees is a Council Function and it is proposed not to seek delegation of this function.
- 5.2 Regulation 13 of the Regulations sets out what the Council may charge such fees as it considers necessary for:
- The consideration of an application for the grant, renewal, or variation of a licence including any inspection relating to that consideration.
 - The reasonable anticipated costs of consideration of a licence holder's compliance.
 - The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator.
 - The reasonable anticipated costs of compliance of providing information to the Secretary of State through the Department of the Environment, Food, and Rural Affairs (DEFRA) on an annual basis.
- 5.3 Any fees charged must not exceed the reasonable costs of that consideration and related inspection.
- 5.4 When setting the fees, the Council must have regard to the EU Services Directive, incorporated into UK law as the Provision of Services Regulations 2009.
- 5.5 The Council also had regard to a number of sources of guidance. This included "Open for business: Local Government Association (LGA) guidance on locally set licence fees which sets out the steps that must be taken to set fair and reasonable fees. The Council also had regard to Department for Business, Energy & Industrial Strategy (BEIS) guidance for Business on the Provision of Services Regulations. The Regulators code applicable to all regulatory functions applies when setting fees and refers to 'reasonable anticipated costs. The Council finally had regard to guidance to the Regulations with respect to the fees through the 'Procedural guidance notes for local authorities'.
- 5.6 Table 1 to Appendix 1 of the report sets out the proposed fee schedule which will be in force from 1st October 2018 to 31st March 2019. Licences will be issued for a period of 1, 2, or 3 years.

- 5.7 The fees will be split into 2 distinct parts;
- Application fee
 - Grant fee
- 5.8 The application fee will be charged at the point an application is made and reflects all the costs of processing. This includes the cost of administration, inspection, and determination.
- 5.9 The grant fee will be requested separately once the application process is complete but must be paid before a licence can be issued. The grant fee reflects the costs of managing compliance with a licence, the general enforcement costs of pursuing unlicensed activity during the term of the licence and submission of annual returns to the Secretary of State.
- 5.10 Applications with respect to Dog Breeding and Riding Schools require the Council to appoint a suitable veterinarian to assist with the determination. The costs of inspection will be forwarded on to the applicant and must be settled before a Licence can be issued.
- 5.11 The cost of varying a licence or revaluating a business's star rating with respect to a licence or transfer of a Licence are set within the fee schedule. The cost reflects the additional work required to make a change to an issued licence.

6. Scheme of delegation

- 6.1 A Scheme of Officer Delegation is required to enable the Council to undertake technical and administrative functions under the licensing regime and to discharge functions whose timescales are not practical within the Council's requirements for setting down formal meetings of Council Committees. The Scheme of Officer Delegations is set out in Table 2 of Appendix 2.
- 6.2 To fulfil some of the functions under the licensing regime the Council is required to appoint Inspectors who are appropriately qualified to undertake the relevant tasks. The appointment of Inspectors is a matter to be delegated to the Corporate Director.
- 6.3 It is proposed that it is delegated to the Corporate Director (with the responsibility for Licensing) the following functions:
- The Grant or renewal of a licence to carry on a licensable activity.
 - The transfer of a licence in the event of the death of a licence holder
 - The power of the suspension, variation or revocation of a licence
 - To receive and consider representations against the suspension, variation or revocation of a licence.
 - The service of a Notice under the Regulations
 - The appointment of Inspectors under S.51 of the Animal Welfare Act 2006 and Regulation 4 of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 6.4 The Corporate Director will make the necessary arrangements for Officers of the Licensing Team to be duly authorised.
- 6.5 For the function of determining an Appeal of a risk rating score, it is proposed that this is directly delegated to the Head of Service (Environment & Leisure) or Environmental Health Manager (Food, Health & Safety and Licensing in the absence of the Head of Service).

Fees

Table 1: Proposed fees for the period 1st October 2018 to 31st March 2019

Licence Activity	Application Fee	Grant Fee	Additional costs to applicant	Total Fee
Animal Boarding	£198.00	£101.00	N/A	£299.00
Selling animals as pets	£198.00	£101.00	N/A	£299.00
Dog Breeding	£184.00	£101.00	Vets fees for inspection on application	£285.00 (plus vets fees)
Hiring out horses	£184.00	£101.00	Vets fees for inspection on application and throughout licence period	£285.00 (plus vets fees)
Keeping Animals for Exhibition	£166.00	£101.00	N/A	£267.00
Combination of activities	Equal to highest activity fee	Equal to highest activity fee	Vets fees where required (as above)	Equal to highest activity fee
Variation to licence/re-evaluation of rating <ul style="list-style-type: none"> • Animal Boarding • Selling animals as pets • Keeping Animals for exhibition 	£85.00	N/A	£137.00 for inspection	£222.00
Variation to licence/re-evaluation of rating <ul style="list-style-type: none"> • Dog breeding • Hiring out horses 	£85.00	N/A	£137.00 for inspection plus any Vets fees	£222.00 (plus vets fees)
Appeal (all licences)	£137.00 for inspection	N/A	Inspection fee refunded if appeal upheld	£137.00
Variations to reduce the licensable activities or numbers of animals	£85.00	N/A	N/A	£85.00
Transfer of licence	£85.00	N/A	N/A	£85.00

Scheme of Officer Delegation

Table 2: Scheme of delegation Animal Welfare Licensing

Matter to be dealt with	Council	Licensing Committee	Officers
Setting of fees and charges	In all cases		
Adoption of policy		In all cases	
Grant or renewal of a licence to carry on a licensable activity			Corporate Director
Transfer of a Licence in the event of the death of a licence holder			Corporate Director
Suspension, variation or revocation of a licence			Corporate Director
Receipt of representations against the suspension, variation or revocation of a licence			Corporate Director
Service of a Notice			Corporate Director
Appointment of suitably qualified inspectors			Corporate Director
Appeal of a risk rating score			Head of Service (Environment & Leisure) or Environmental Health Manager (Food, Health & Safety and Licensing in the absence of the above Head of Service

Procedure for the appeal of a risk rating score

- The process is relevant where a business wishes to dispute the star rating awarded as not reflecting the animal welfare standards and risk level of their business at the time of inspection.
- This process will not be relevant in the case where a business has made improvements following a risk rating awarded at an inspection. In this case the business should request a re-inspection. (See re-inspection section below)
- Before submission of an appeal, businesses will be encouraged to discuss their intention to make an appeal with the inspecting Officer before a formal written appeal submission is made. The 'Inspecting Officer will explain how the rating was awarded which may help resolve the need for a formal appeal.
- In the event a business is still not satisfied with the risk rating score following an informal discussion with the Inspecting Officer the business can submit a formal appeal in writing to the authority.
- Appeals will not be accepted after 21 days (including weekends and bank holidays) from the date the licence is issued. In this case businesses should be mindful to submit an appeal at the earliest possible opportunity with a view that should informal discussions with the inspecting Officer be productive, the appeal can be withdrawn.
- An appeal will be determined by the Head of Environment, Leisure being the Head of the department responsible for the Licensing function. In the event the Head of Environment is unavailable, an appeal will be determined by the Environmental Health Manager responsible for the food, Health & Safety and Licensing function. The Inspecting Officer involved in the production of the rating, or in the inspection on which the rating is based will not be involved in the determination of the appeal.
- The Council will consider an appeal within 21 days (including weekends and bank holidays) on the receipt and provide a response to the business in writing within that time.
- The appeal assessment will be based on the paperwork completed by the Inspecting Officer (inspected to include the relevant activity specific inspection proforma and risk rating) any premises history including compliance history, any documentation that supports the business and other useful material. A further visit to the business may be required but will not be a requirement of the process.
- There is no cost of submitting an appeal. In the case where the appeal is upheld and the original rating remains the same or lowered, should the need for an inspection be required, the cost of that inspection will be borne by the applicant.

- In the event that a business disagrees with the outcome of an appeal, there is a further right of challenge by means of a judicial review. In the event that a business feels that the service provided by the Council has not been delivered properly, a complaint can be made in the first instance through the Council's complaint procedure and finally through the Local Government and Social Care Ombudsman. The Council's complaints procedure should not be used as another means of disputing a rating unless there is a clear link between the rating issued and a failure of the Council decision making when setting the rating.

Re-evaluation of rating

- Businesses will be able to request a re-inspection for the purposes of re-evaluating an issued star rating. A request can be made using the dedicated Animal Welfare Rating Scheme: Request for a re-inspection visit form.
- The business, should outline the case for re-inspection and should indicate the actions that have been taken by the business to improve the level of compliance or welfare since the inspection. If appropriate supporting evidence can be provided, however the case should relate to the actions the Council advises the business should be made in order to receive a higher rating.
- A re-inspection can be refused in the event the Council feels the request made has not been substantiated or there is insufficient evidence. In this case the Council will explain the reasons for a refusal and will reiterate the steps the business needs to take before a re-inspection will take place. In the event the business is not satisfied with this approach a complaint can be made via the Council's complaint procedure.
- The Council will never issue a new rating based solely on documentary evidence. A re-inspection visit will always be made.
- The Council will make a judgement as to whether a re-inspection visit will be announced or unannounced. It will be usual practice to undertake an announced visit unless the purpose of a re-inspection is to ensure that standards which are not procedural are being maintained.
- A re-inspection visit will not just focus on the grounds for the requested re-inspection and will always include an assessment of the ongoing standards seen at the time.
- A request for re-inspection will apply in the case where a business has been awarded a rating between 1-4 stars, where the rating has been accepted, and where the business has made the necessary improvements to address non-compliance raised at the previous inspection.
- A cost for a re-inspection will be required and paid by the applicant.
- It must be noted that a re-inspection could lead to a lower rating.

- A re-inspection request visit will be made within 3 months of receipt of a request. Where this does not occur, the business holder has the right to make a complaint in accordance with the Council's complaint procedure.
- A business is not limited to the number of re-inspection visits it can request, however a re-inspection fee will apply in each case.