



## Public Document Pack

**Jeff Hughes**  
*Head of Democratic and Legal  
Support Services*

**MEETING** : LICENSING COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : THURSDAY 19 NOVEMBER 2015  
**TIME** : 7.00 PM

### **MEMBERS OF THE COMMITTEE:**

Councillor Mrs R Cheswright (Chairman).  
Councillors A Alder, P Ballam, R Brunton, K Crofton, G Cutting, B Deering,  
J Jones (Vice-Chairman), P Kenealy, M McMullen, T Page, P Ruffles,  
N Symonds, J Taylor and C Woodward.

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## DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
  - must not participate in any discussion of the matter at the meeting;
  - must not participate in any vote taken on the matter at the meeting;
  - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
  - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
  - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:
  - fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
  - fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
  - participate in any discussion or vote on a matter in which a Member has a DPI;
  - knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

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## AGENDA:

1. Advanced Data Protection Training – Protecting Sensitive Personal Information

2. Apologies

To receive apologies for absence.

3. Chairman's Announcements

4. Declarations of Interest

To receive any Member(s)' declaration(s) of interest.

5. Minutes – 9 July 2015

To confirm the Minutes of the meeting of the Committee held on Thursday 9 July 2015 (Previously circulated as part of the Council Minute book for 29 July 2015).

6. Licensing Sub-Committee – 2 September and 7 October 2015  
(Pages 7 – 14).

To receive the Minutes of meetings of the Licensing Sub-Committee held on:

2 September and 7 October 2015.

7. Consideration of Consultation Responses to the draft Gambling Policy 2016–19 (Pages 15 – 36).

8. Report on Licensing Activity Quarter 2 and 3 of 2015 – 'To Follow'

*'Report to Follow'*.

9. Attendance at Licensing Sub-Committee (Pages 37 – 42).

10. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

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MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON WEDNESDAY 2  
SEPTEMBER 2015, AT 2.00 PM

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PRESENT: Councillor Rose Cheswright (Chairman).  
Councillors A Alder and J Jones.

ALSO PRESENT:

Councillors G McAndrew, M McMullen,  
P Moore and N Symonds.

OFFICERS IN ATTENDANCE:

Peter Agbley	- Licensing Officer
Robin Clark	- Licensing Enforcement and Community Safety Manager
Peter Mannings	- Democratic Services Officer
Oliver Rawlings	- Senior Specialist Licensing Officer
George Robertson	- Legal Services Manager

1 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor J Jones and seconded by Councillor A Alder that Councillor Mrs R Cheswright be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor Mrs R Cheswright be appointed Chairman of the Licensing Sub-Committee for the meeting.

2 MINUTES – 23 JANUARY 2015 AND 20 MARCH 2015

RESOLVED – that the Minutes of the meetings held on 23 January and 20 March 2015, be confirmed as correct records and signed by the Chairman.

3 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100(A) (4) of the Local Government Act 1972 as amended, to exclude the press and public during consideration of the business referred to in Minute 4 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

4 APPLICATION FOR A TAXI DRIVERS LICENCE –  
APPLICANT WITH SPENT CONVICTIONS – APPLICATION  
NUMBER: 029040

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The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors G McAndrew, M McMullen, P Moore and N Symonds and a Licensing Officer in training could remain in the room as observers.

The Sub-Committee was reminded that applications for a taxi driver's licence should not be approved unless the applicant could prove that he was a fit a proper person and that case law meant that the impact on the applicant or his family of not granting a licence would not be a relevant consideration as it did not relate to the applicants 'fitness and propriety'. Members were advised that all the past offences were excluded from the Rehabilitation of Offenders Act and could be considered as relevant by the Sub-Committee.

The Senior Specialist Licensing Officer detailed the applicant's convictions and offences as detailed in the report. Members were advised that it was the applicant's



responsibility to declare all convictions and he had failed to do this in his application. The Sub-Committee was advised that they may wish to consider this in relation to the applicant's honesty.

The Senior Specialist Licensing Officer advised that Members should consider whether they would be happy for their family to get into a taxi alone with the applicant. The overriding consideration was the safety of the travelling public.

The applicant addressed the Sub-Committee in support of his application. He confirmed that he had received his convictions when he had been associated with the wrong crowd in his younger days. He stated that he was now married and needed work and there would be no further cause for concern regarding his conduct. He stated that the jobs he had were only short-term through agencies and he and his wife could not live off Job Seekers Allowance and that they had significant rent arrears.

In response to Members' questions, the applicant confirmed that he had only declared one conviction as he was under the impression that his other convictions were linked to a previous address so would not show up. He confirmed that he had completed the Driver and Vehicle Licensing Agency (DVLA) drink drive rehabilitation HAPAS course and explained the circumstances surrounding the police caution he had received in December 2012. He also explained the circumstances surrounding a number of his other convictions.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Services Manager and the Democratic Services Officer to consider the evidence.

Following this they returned, and the Chairman announced that the Sub-Committee had listened to the applicant and Officers and had decided to approve the application for a Taxi Driver's licence. The applicant was

advised that this had been a difficult decision that had been reached by a majority and was not unanimous.

The applicant was also advised that he now had an opportunity to prove himself and justify the trust being placed in him. Any breaches of any kind could result in his licence being withdrawn.

RESOLVED – that, for the reasons now detailed, the application for a Taxi Driver’s Licence be approved.

The meeting closed at 2.56 pm

Chairman .....
Date .....

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON WEDNESDAY 7 OCTOBER  
2015, AT 10.00 AM

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PRESENT: Councillor Michael McMullen (Chairman).  
Councillors R Brunton and N Symonds.

ALSO PRESENT:

Councillors A Alder, Mrs R Cheswright,  
G McAndrew and T Page.

OFFICERS IN ATTENDANCE:

Peter Agbley	- Licensing Officer
Lorraine Blackburn	- Democratic Services Officer
Robin Clark	- Licensing Enforcement and Community Safety Manager
George Robertson	- Legal Services Manager

5 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor R Brunton and seconded by Councillor N Symonds that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

6 MINUTES – 2 SEPTEMBER 2015

RESOLVED – that the Minutes of the meeting held on 2 September 2015 be confirmed as a correct

record and signed by the Chairman.

7 APPLICATION BY SIXTY ONE FORE STREET FOR A NEW PREMISES LICENCE – 61 FORE STREET, HERTFORD SG14 1AL

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The Chairman outlined the procedure to be followed. All those present were introduced. The Licensing Officer summarised the application, comments received from local residents and the conditions which had been requested by the Police. The objectors were in attendance and summarised their key concerns as detailed within the report.

The applicants were in attendance and outlined their joint experience within the licensing trade. The applicants explained that they aimed to attract a more mature clientele base with high end spirits and ales rather than as a young persons' bar. The facility would also comprise a 40-cover restaurant.

The applicant summarised how each of the objectors' concerns would be addressed. He referred to the fact that conditions requested by the Police in relation to displaying a notice aimed at persons arriving or departing the venue about noise; the installation of CCTV; and, no open containers allowed outside the front of the premises, had been accepted by them. He confirmed that they had no interest in the use of the office. The applicant advised that the licensable hours requested, including on Bank Holidays, were no different to those currently being used by other licensed premises locally. The applicant stated that Fore Street was a commercial area with an active night-time economy. As such, noise and disturbance would always be a factor in the area.

The objectors appreciated the efforts the applicants had made to address their concerns but felt that these had not been sufficient to make them happy. The objectors referred to the acoustics and the fact that their property was single glazed and noise would carry when bottles

were decanted and from general disturbance. The applicants stated that they would be happy to double glaze their property, locate a “no smoking” area at the rear of the premises and accept a condition on the decanting of bottles into paladin bins. They stated that a member of staff meeting and greeting at the door would go some way to minimising noise by those arriving and leaving the premises.

In response to a query from Councillor R Brunton regarding the gates, the objectors confirmed that residents above them would be happy to contribute to their restitution.

At the conclusion of the representations, the Sub-committee withdrew with the Legal Services Manager and the Democratic Service Officer to consider the evidence.

Following this they returned, and the Chairman announced that the Sub-Committee had listened to the objectors and the applicants’ representations and had agreed that the application for a new premises licence be granted, subject to the following conditions:

- (1) acceptance of the three Police conditions as set out on Page 19 of the report, as amended in paragraph 3 (with regard to the installation of CCTV);
- (2) acceptance of the condition set out on Page 29 of the report requiring no playing of amplified music on the ground floor;
- (3) addition of a condition requiring a no smoking area to the rear of the premises;
- (4) addition of a condition requiring that the timescales for the decanting of bottles in to paladin bin should be:
  - not after 8pm or before 9am weekdays and not after 8pm and before 12 midday Saturday and

Sunday; and

- (5) addition of a condition requiring that secondary glazing be installed to the bar area on the ground floor windows.

The applicant was also advised that although not a condition, the Sub Committee suggested that the applicant continue their discussions with residents regarding the installation of secondary glazing in the flat and regarding the provision of gates to the rear of the property.

The Sub Committee also pointed out to residents that should they experience any problems regarding noise they should contact Environmental Health.

RESOLVED – that, for the reasons and subject to the conditions now detailed, the application for a new premises licence be granted.

The meeting closed at 11.35 am

Chairman .....
Date .....

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 19 NOVEMBER 2015

#### REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

#### CONSIDERATION OF CONSULTATION RESPONSES TO THE DRAFT GAMBLING POLICY 2016-2019

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WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report:**

- To present responses to the consultation on the Statement of Gambling Policy.

<b>RECOMMENDATION FOR COUNCIL:</b> That	
<b>(A)</b>	<b>The Committee consider the responses to the consultation; and</b>
<b>(B)</b>	<b>The revised Statement of Principles under the Gambling Act 2005 be recommended to Council for Approval.</b>

#### 1.0 Background

1.1 The Gambling Act 2005 requires East Herts Council to publish a Statement of Principles that it applies when exercising its functions under the Act. The statement must be published every three years and the Licensing Authority must keep the statement under constant review and consult statutory consultees as set out in the Act, and any other appropriate person, on any proposed new or revised Statement of Principles. The statement must then be re-published.

#### 2.0 Report

2.1 The Statement of Gambling Policy was last published in January 2013. It is for Council to approve the revised policy subject to Licensing Committee's consideration of responses to the consultation detailed in this report.

2.2 During the 2 month public consultation, between 1<sup>st</sup> September 2015 and 1<sup>st</sup> November 2015, four responses were received from:

- Ware Town Council's Planning Committee
- Councillor Michael Freeman (East Herts Council)
- Gosschalks solicitors on behalf of the Association of British Book Makers
- Coral Racing Limited

2.3 Ware Town Council proposed two changes to the Statement of Gambling Principle's (**see Essential Reference Paper 'B'**):

- That the opening hours of gambling establishments should be restricted.
- That there should be no further establishments in Ware.

2.4 The Licensing Authority requested a number of additional pieces of information so that the comments could be given full consideration. These points were:

- How hours should be restricted?
- To which types of gambling premises the restricted hours should apply?
- Which types of new gambling premises should not be allowed in Ware?
- The reasons for requesting the restrictions?
- Is there any supporting evidence that the restrictions are necessary to ensure the licensing objectives are not harmed?

2.5 The Town Council were unable to provide these additional details so Member's must attach the weight they see fit to the original comments. This must be done in light of section 153 of the Gambling Act 2005 which requires a licensing authority to aim to permit the use of premises for Gambling in so far as it is reasonably consistent with the licensing objectives and in accordance with the relevant codes of practice and relevant guidance.

2.6 Officers would suggest that to restrict hours or the number of premises without valid reasoning or evidence would leave the authority open to judicial review or appeal for failing to take the Guidance into account. Therefore the suggestions should not be included in this revision of the statement.

2.7 Councillor Michael Freeman commented that on page 23 of the document "self-barring" had been incorrectly referenced (**see Essential Reference Paper 'C'**). This has been corrected.



- 2.8 The third letter was received from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB) who represent over 80% of the high street betting market. The first four and a half pages are general comments regarding the recent changes to the Gambling Act 2005 and give the background to why the ABB have employed Gosschalks to respond to local authority's policy revisions (**see Essential Reference Paper 'D'**).
- 2.9 There are a number of specific comments regarding the revised document and these will be dealt with individually, with the legal position being explained and a clear question for Members to consider, where appropriate.
- 2.10 Gosschalks seek to have the word 'generally' removed from the sentence 'the council will generally aim to permit the use of premises for gambling...'. The letter quotes section 153 Gambling Act 2005 which states the licensing authority shall aim to permit the use of premises for gambling. The caveat is that certain criteria must be met so the authority does not have to do this in all circumstances.
- 2.11 Officers believe that the removal of the word 'generally' would not impact on the policy as a whole or weaken the position of the authority when considering applications.
- 2.12 The question for Members is: Do you agree that the word generally is removed from the sentence on page 4 of the revised policy?
- 2.13 The second point in the letter relates to the Local Area Profile (LAP). The argument put forward is that applications under the Gambling Act 2005 do not contain an operating plan as exists within the Licensing Act 2003. Officers would point out that section 20 of the application form for a premises licence under the Gambling Act 2005 is entitled 'Please set out any other matters which you consider to be relevant to your application'. This section could be used by applicants to explain how they would not exacerbate any existing problems that had been identified.
- 2.14 The mandatory and default conditions are referenced and officers agree that these would usually be sufficient. However, where they are not it is reasonable to ask an applicant to explain what else they propose at the time of application.

- 2.15 The letter states that ‘only where there is clear evidence of a risk of harm to the licensing objectives that the committee can consider additional conditions’ and ‘the applicant is not required to propose licensed conditions’. If the LAP identified problems which undermined the Gambling Act licensing objectives then it is reasonable that an applicant should be asked to address these but this section does not state that it is ‘required’ or ‘mandatory’. Regardless of whether or not an applicant complies with the expectation to address gambling related problems in the area they want to locate, each application will be considered on its own merits.
- 2.16 The statement of principles should not simply be a regurgitation of the wording of the Gambling Act or a description of the application process; these have been laid down by central government. It is intended to set out the council’s approach to applications and will guide the administration of licensing under the Gambling Act 2005. It will assist in ensuring that an appropriate balance is drawn between the interests of those wishing to provide and take part in legal gambling, and those who might be affected by such activities.
- 2.17 Officers would suggest that an amendment to this section of the revised policy is not necessary. The question for Members is: Should the following sentence from page 13 of the revised statement of principles remain unchanged?

*‘We will expect applicants to fully explain in their applications how their proposal will not exacerbate any problems to individuals living in the vicinity.’*

- 2.18 The comment regarding the wording of the ‘General Principles’ section on page 14 of the revised statement of principles appears to be making a point rather than asking for a change. Officers and Members are aware that any decision to impose additional conditions would need to be evidence based and this is how the authority would justify the decision as ‘appropriate’.
- 2.19 For the sake of clarity, particularly for those who are not aware of the requirement for evidence based decisions, the wording of the sentence could be changed to:

*Licensing Authorities may exclude default conditions and attach others where the evidence makes it appropriate.*

- 2.20 The question for Members is: Should the sentence on page 14 of the revised statement of principles be replaced with the sentence in paragraph 2.19 of this report?
- 2.21 The next points relate to the paragraph relating to 'Location' on page 16 of the revised statement of principles. The first comment states that a policy which identified an area where gambling premises should not be located may be unlawful. Officers are aware of this and it's been identified in paragraph 2.6 of this report.
- 2.22 The next comment relates to the sentence which puts the onus back on the applicant, if such a policy were in place, to show how concerns would be overcome. The suggestion is that the sentence should be redrafted making it clear that each application will be considered on its own merits. However, officers would suggest that no change is required as the sentence already includes 'and each application will be decided on its own merits'.
- 2.23 The final comment from the Gosschalks letter suggests that the reference to 'crime and disorder' should be amended to read 'crime or disorder'. Officers agree with this suggestion as it reflects the wording of the Gambling Act 2005 and the correction has been made.
- 2.24 The response from Coral Racing Limited, who operate 1850 betting offices in Great Britain (about 20% of all licensed betting offices), states that they are supportive of the document and proposed no amendments (**see Essential Reference Paper 'E'**).

### 3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

Revised Statement of Principles under the Gambling Act 2005, Policy for 2016-2019.

[http://www.eastherts.gov.uk/media/pdf/e/2/\(DRAFT\)\\_Gambling\\_Principles\\_2016-19.pdf](http://www.eastherts.gov.uk/media/pdf/e/2/(DRAFT)_Gambling_Principles_2016-19.pdf)

Gambling Act 2005

<http://www.legislation.gov.uk/ukpga/2005/19/contents>

Contact Member: Graham McAndrew – Executive Member for

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## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	<b>Promoting prosperity and well-being; providing access and opportunities</b> <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	A two month public consultation was conducted.
Legal:	If the policy does not take into proper consideration the Gambling Act 2005 and the relevant guidance then the authority could be open to judicial review or appeals against decisions.
Financial:	There would be a cost implication if the authority was judicially reviewed or appeals were made based on the policy.
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer
Health and wellbeing – issues and impacts:	One of the licensing objectives under the Gambling Act 2005 is protecting children and other vulnerable persons from being harmed or exploited by gambling. The policy has been written so that the authority can promote the objective.

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**Received 16<sup>th</sup> October 2015:**

Ware Town Council's Planning Committee has considered the consultation and responds as follows:-

Ware Town Council considers that the opening hours of gambling establishments should be restricted and that there should be no further establishments in Ware.

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**Received 21<sup>st</sup> October 2015:**

Dear Oliver,

Thank you for your email and its subsequent reminder.

I have quickly read through the draft Statement and have only one comment to make apart from the fact that I found the document to be clear, thorough and extremely well written. Well done.

My only comment was on Page 23 where we refer to "self baring" rather than "self barring." I'll leave you to consider the ramifications!

Best wishes,

Michael Freeman

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East Herts Council Licensing  
Wallfields  
Pegs Lane  
Hertford  
Hertfordshire  
SG13 8EQ

**Please ask for:** Richard Taylor  
**Direct Tel:** xxxxxxxxxxxx  
**Email:** xxxxxxxxxxxx  
**Our ref:** RJT / ET / 097505.00004  
#GS437590  
**Your ref:**  
**Date:** 22 October 2015

Dear Sir/Madam,

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

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

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

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

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

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

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

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

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

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

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

*"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

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

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

With effect from 6<sup>th</sup> April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this

should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

### **Local Area Profiles – Need for an evidence based approach**

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

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

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

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

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

### **Employing additional licence conditions**

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

### **Specific Policy Comments**

Within the introduction to the Statement of Principles there is a statement that “the council will generally aim to permit the use of premises for gambling...”. The requirement within section 153 Gambling Act 2005 is that the licensing authority shall aim to permit the use of premises for gambling. The word “generally” should be removed.

### **Local Area Profile (LAP)**

This section of the Statement of Principles introduces a map of East Herts showing the location of all schools, hostels and homes for vulnerable people or any centres for people with gambling addictions, and indicates that the authority will give special consideration to applications in the proximity of such premises. This needs to be placed into context. There has been regulation of betting offices for over fifty years, throughout which period, betting offices have been an adult only environment. Betting premises are usually situated in areas of high footfall/densely populated residential areas and operators have developed policies and procedures to ensure that those who are not able to bet do not do so. Mere proximity to a school should not require a higher evidential burden upon an applicant.

There is also a statement that the authority will expect applicants to fully explain in their applications how the proposed premises would not exacerbate any problems to individuals living in the vicinity. This statement should be redrafted for two reasons. First, applications under Gambling Act 2005 do not contain an operating plan as exists within Licensing Act 2003 where applicants demonstrate how they will promote the licensing objectives. Under Gambling Act 2005, applications must be reasonably consistent with the licensing objectives. Premises licences issued under the Gambling Act 2005 are subject to robust mandatory and default conditions which the Gambling Commission have indicated are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. Therefore, the starting point for consideration of the

application is that it will be granted. It is only where there is clear evidence of a risk of harm to the licensing objectives that the committee should consider additional conditions. Once again, there is no higher burden of proof and the applicant is not required to propose licensed conditions. Secondly, the requirement is for an applicant to demonstrate that the application is “reasonably consistent” with the licensing objectives and not that it would not exacerbate any problems in the vicinity. We respectfully submit that their section should be redrafted so that it accurately reflects the application process and the requirements of Gambling Act 2005.

### Premises Licence - General Principles

Under this heading, there is a statement that “licensing authorities may exclude default conditions and attach others where they find it appropriate”. As stated above, the ability to impose conditions arises only where there is clear evidence in the circumstances of a particular case that the mandatory and default conditions need to be supplemented due to a specific risk to the licensing objectives. Conditions are imposed where there is evidence and are not simply where the committee “find it appropriate”.

### Location

This paragraph indicates that there are no areas in East Herts that have been identified as areas where gambling premises should not be located but if the situation changes, the statement would be updated. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This would implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003 and be wholly contrary to the overriding principles of “aim to permit” contained within s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicants to demonstrate why an application should be granted is contrary to that principle. This paragraph should be redrafted to indicate that each application will be considered on its own merit and the reference to “crime and disorder” should be amended to a reference to “crime or disorder”.

### **Conclusion**

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

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

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members,



and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



**GOSSCHALKS**

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# CORAL

Mr O Rawlings  
Licensing  
East Herts Council  
Wallfields  
Pegs Lane  
Hertford  
SG13 SEQ

5<sup>th</sup> October 2015

Dear Mr Rawlings,

## Consultation on East Herts Council's Statement of Principles - Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives', additionally noting that it should not take into account "of any moral objections to gambling.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 5<sup>th</sup> April 2016) following the consultation completion and are pleased to see the requirements detailed within your statement.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications from April 2016, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. In our opinion, your policy statement is correct in not listing multiple locations whose proximity to a betting office must be risk assessed, leaving it to the operator to judge which venues are included.

If we can provide any further information, we would be pleased to do so.

Yours sincerely,

John Liddle  
Director of Development - Coral Retail

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Coral Racing limited  
One Stratford Place, Montfichet Road, London E20 1EJ  
Registered Office: New Castle House, Castle Boulevard, Nottingham NG1 1FT  
Registered in England No. 541600  
Tel: 020 3288 7000 Fax: 020 3288 7050



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a-company

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## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 19 NOVEMBER 2015

#### EXECUTIVE MEMBER FOR ENVIRONMENT AND THE PUBLIC SPACE

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#### ATTENDANCE AT LICENSING SUB-COMMITTEE

WARD(S) AFFECTED: All.

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#### **Purpose/Summary of Report:**

- Members have asked for details of attendances at Licensing Sub-Committees including Members attending as observers. This was in order to show work was being shared equally. These are detailed in **Essential Reference Paper 'B'**.

<b><u>RECOMMENDATION FOR LICENSING COMMITTEE:</u> that</b>	
<b>(A)</b>	<b>The report be received.</b>

#### 1.0 Background

1.1 Members of Licensing Sub-Committees are drawn from the Council's Licensing Committee. These Members are required to complete appropriate training and attend meetings before serving on Licensing Sub-Committees.

#### 2.0 Report

2.1 The tables in **Essential Reference Paper 'B'** give details of attendances at Licensing Sub-Committee during the current civic year.

#### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

Licensing Sub-Committee minutes.

Contact Member: Councillor G McAndrew, Executive Member for Environment and the Public Space.  
[graham.mcandrew@eastherts.gov.uk](mailto:graham.mcandrew@eastherts.gov.uk)

Contact Officer: Jeff Hughes, Head of Democratic and Legal Support Services, Extn: 2170. [jeff.hughes@eastherts.gov.uk](mailto:jeff.hughes@eastherts.gov.uk)

Report Author: Peter Mannings, Democratic Services Officer, Extn: 2174. [peter.mannings@eastherts.gov.uk](mailto:peter.mannings@eastherts.gov.uk)

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	<p><b>People</b> This priority focuses on enhancing the quality of life, health and wellbeing, particularly for those who are vulnerable, and delivering strong services</p> <p><b>Place</b> This priority focuses on sustainability, the built environment and ensuring our towns and villages are safe and clean.</p> <p><b>Prosperity</b> This priority focuses on safeguarding and enhancing our unique mix of rural and urban communities, promoting sustainable, economic opportunities and delivering cost effective services.</p>
Consultation:	None.
Legal:	The Council is required to ensure that licensing matters are dealt with by suitably qualified Members in an impartial manner.
Financial:	None.
Human Resource:	None.
Risk Management:	The Council's reputation could be at risk if licensing matters are not dealt with in a correct manner.
Health and Wellbeing Issues	None.

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## ESSENTIAL REFERENCE PAPER 'B'

\*\*Training and attendance needed (training is consider to be essential before Members are selected for a Licensing Sub–Committee hearing).

\* Attendance needed at Licensing Sub–Committee to gain experience as an observer (this is considered to be a preferred prerequisite before Members are selected for a Licensing Sub–Committee hearing).

<b>Licensing Committee Members attending as Members of Sub–Committee</b>									
<b>Members</b>	<b>Total</b>	<b>From 20 May 2015</b>							
Alder A	1	02/09/15							
Ballam P									
Brunton R	1	07/10/15							
Cheswright R	1	02/09/15							
Crofton K**									
Cutting G									
Deering B									
Jones J	1	02/09/15							
Kenealy P									
McMullen M	1	07/10/15							
Page T									
Ruffles P									
Symonds N	1	07/10/15							
Taylor J**									
Woodward C									

**Licensing Committee Members attending as Observer**

<b>Members</b>	<b>Total</b>	<b>From 20 May 2015</b>							
Alder A	1	07/10/15							
Ballam P									
Brunton K									
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Deering B									
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McMullen M	1	02/09/15							
Page T	1	07/10/15							
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Taylor J**									
Woodward C									