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Our reference:
Your reference:
Date: 5 December 2012

To all Members of the Council

Dear Councillor

A meeting of the RUSHCLIFFE BOROUGH COUNCIL will be held on Thursday 13 December 2012 at 7.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely

Head of Corporate Services

AGENDA

Opening Prayer

1. Apologies for absence.
2. Declarations of Interest.
3. Minutes

To receive as a correct record the minutes of the Meeting of the Council held on Thursday 27 September 2012 (pages 1 - 10).

4. Mayor's Announcements.
5. Leader's Announcements.
6. Chief Executive's Announcements.
7. Appointment to Statutory Officer Roles and Role of Executive Manager Operations

The report of the Chief Executive will follow.

8. Councillor Complaint Procedure

The report of the Head of Corporate Services is attached (pages 11 - 19).

9. Draft Statement of Licensing Principles Under The Gambling Act 2005

The report of the Head of Environment and Waste Management is attached (pages 20 - 45).

10. Notice of Motion

- a. The following Notice of Motion will be proposed by Councillor R M Jones and seconded by Councillor Davidson:

"This Council deplores tax avoidance and particularly as it disadvantages local businesses and asks the Leader to encourage the Chancellor to act to end the situation where multi-national businesses operating locally avoid paying UK tax."

- b. The following Notice of Motion will be proposed by Councillor J N Clarke and seconded by Councillor D G Bell:

This council;

- i. notes the Government's intention to extend permitted development rights for householder extension applications as announced by the Secretary of State on 6 September 2012.
- ii. believes that this change is unnecessary and dilutes the democratic control of sustainable and suitable development in our local area.
- iii. asserts that democratically elected and accountable councillors are best placed to make the right decisions on development locally, in line with spirit of the Localism Act, and evidence shows that councils across the country have a demonstrable record of achieving the correct balance between promoting sustainable and suitable development while having proper regard for residents' objections.
- iv. resolves to write to the Planning Minister and our local MPs to highlight our concerns on this issue and also to propose that the Government uses the Growth and Infrastructure Bill to give councils the powers to set out permitted development rights locally, thereby allowing local policies to boost small scale development or facilitate change of use to stimulate growth in a way that caters to local needs and is accountable to local people.

11. To answer questions under Standing Order 11(2).

12. Local Government Act 1972

It is RECOMMENDED that the public be excluded from the meeting for consideration of the following item of business pursuant to section 100A (4) of the above Act on the grounds that it is likely that exempt information may be disclosed as defined in paragraph 3 of Part 1 of Schedule 12A to the Act.

13. Investment Options

The report of the Chief Executive will follow.

Meeting Room Guidance

Fire Alarm Evacuation: in the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble in the Nottingham Forest car park adjacent to the main gates.

Toilets are located opposite Committee Room 2.

Mobile Phones: For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones: When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.



**MINUTES
OF THE MEETING OF THE
COUNCIL**

THURSDAY 27 SEPTEMBER 2012

Held at 7.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford

PRESENT:

I I Korn - Mayor

Councillors L J Abbey, R A Adair, Mrs S P Bailey, J R Bannister, D G Bell, Mrs D M Boote, S J Boote, N K Boughton-Smith, N A Brown, R L Butler, H A Chewings, J N Clarke, T Combella, L B Cooper, J E Cottee, J A Cranswick, B G Dale, G Davidson, A M Dickinson, J E Greenwood, M G Hemsley, R Hetherington, R M Jones, K A Khan, N C Lawrence, E J Lungley, A MacInnes, Mrs M M Males, G R Mallender, S E Mallender, Mrs J M Marshall, D J Mason, F J Mason, G S Moore, B A Nicholls, E A Plant, F A Purdue-Horan, S J Robinson, D V Smith, P Smith, J A Stockwood, Mrs M Stockwood, B Tansley, H Tipton, T Vennett-Smith, D G Wheeler

ALSO IN ATTENDANCE:

3 Member of the Public

OFFICERS PRESENT:

C Bullett	Deputy Chief Executive (CB)
A Graham	Chief Executive
J Hicks	Strategic Human Resources Manager
V Nightingale	Senior Member Support Officer
P Randle	Deputy Chief Executive (PR)
P Steed	Director of Finance
D Swaine	Head of Corporate Services

APOLOGIES FOR ABSENCE:

Councillors B Buschman, J E Fearon, Mrs J A Smith

OPENING PRAYER

The Meeting was led in prayer by the Mayor's Chaplain

19. Declarations of Interest

There were none declared.

20. Petition

Mr Quinton presented a petition to the Council regarding the creation of a parish council for Edwalton. He stated that 14% of the registered voters in the area concerned had signed the petition and that according to his consultation he believed that, given time, 95% would have signed, although some people believed they lived in West Bridgford. He informed the Members that there

was 3,145 electors in Edwalton, which was due to rise when the development at Sharphill came into fruition. Historically the needs of the people were addressed by the parish church but this had lost its dominant position in the community. People now needed help and a voice, and as many Members would be aware, there is apathy in the present democratic process.

The Mayor informed Mr Quinton that the petition would be handed to the Chief Executive who would contact him directly in due course.

21. Minutes

The minutes of the meeting held on Thursday 21 June 2012 were received as a correct record and signed by the Mayor subject to the following amendments to Minute 14 'New Standards Arrangements'.

Paragraph 9 replace the words "ethics in other industries including the pharmaceutical industry" with "ethics in other professions including the pharmacist". Amend the following sentence to read 'He stated that "it was wrong to assume that" sanctions "for unethical behaviour" could be enforced by the courts, and ultimately at the ballot box.'

22. Mayor's Announcements

The Mayor informed Members that he had attended 37 engagements since the last Council meeting. These included the Olympic Torch relay, the Hickling Scarecrow weekend and the West Bridgford Horticultural Show, where, he was pleased to announce, Councillor MacInnes won best of show.

With regard to his charity he was very pleased to announce that over £4,000 had been accumulated so far. He added that his wife was doing a sponsored slim and she had raised over £2,500 for the charity. Additionally Councillor Bannister was running a half marathon on behalf of charity and he was very grateful for this gesture of support. He concluded by stating that there were two events planned in the near future at Fellicini's and the Oriental Pearl, for which there were still tickets available and he encouraged Councillors to attend these events.

23. Leader's Announcements

The Leader had no announcements.

24. Chief Executive's Announcements

Referring to item seven on the agenda 'Approval of the Council's 2011/12 Accounts' The Chief Executive acknowledged that the papers had been despatched to Councillors later than they were in usual circumstances and apologised for this. He thanked Members for their flexibility and pragmatism in respect of this issue and reminded them of the need to ensure that the approval of accounts met with the statutory timescale.

Secondly he announced that he was pleased to present a certificate to the Mayor on behalf of the London Olympic Organising Committee for Rushcliffe's participation in the Olympic torch relay.

25. **Approval of the Council's 2011/12 Accounts**

Councillor Cranswick presented the accounts to the Council for approval. He stated that these had come with an unqualified statement and a positive value for money assessment. Furthermore they had been endorsed by the External Auditor for their accuracy and conformity. He added that he was confident that this would not have been issued if there were any significant issues.

Councillor Cranswick acknowledged that it had been a difficult year for the finance team and that he knew that they would continue to work to improve and resolve the issues. He assured Members that the Corporate Governance Group had agreed to closely monitor the progress of the 2012/13 accounts in order that the accounts can be produced in a timely fashion. He reminded Members that throughout the year they had been advised that the Council's activities and services were being delivered to the usual high standard but well within the approved budget. In fact the accounts had shown a saving against service expenditure of £1.1 million with a balance on the General Fund of £2.6 million; with £7.7 million in reserves which were earmarked for specific purposes. This indicated that, although there had been difficulties in preparing the accounts, the Council was in a very strong financial position and well placed to address the challenges facing local government.

Commenting further Councillor Cranswick proposed a slight amendment to the Statement of Accounts regarding the Annual Governance Statement. He proposed that page 84 be amended so that the Statement came from the Chief Executive and the Leader of the Council, not the Chairman of Corporate Governance Group, and it should read

"We have been advised on the outcomes of the review of the effectiveness of the governance framework by the Corporate Governance Group and a plan to address weaknesses and ensure continuous improvement of the system is in place.

We are committed to take steps over the coming year to address the issues, and the significant governance issues identified earlier in this report, to further enhance our governance arrangements."

Councillor Moore, as Chairman of Corporate Governance Group, expressed the Group's disappointment at the lateness of the reports. However, it had been agreed by the Group that the priority need was for the continued resolution of problems and implementation of improvements. Consequently, the group determined and specified the information that they would require to be presented to them at future meetings to enable them to monitor the action plan and to help ensure that all issues were resolved. He assured Members that as the Chairman of the Corporate Governance Group he would inform Members if there would be a delay next year. Despite their lateness he felt that the reports were very good and showed that the Council was in a very good financial position.

Councillor Davidson, having regard to the Chief Executive's apology regarding the circulation of the report and the assurances from the Corporate

Governance Group, stated that he would be encouraging Members to support the Statement of Accounts.

Councillor Plant welcomed the Statement. She felt that the savings of £1.1 million was a great achievement, especially due to the loss of income from interest on investments. She stated that Rushcliffe had no debts and as such it was well placed to weather the financial constraints on local government which were due to continue for longer than predicted. She urged the Council to ensure that the highest aim was not to cut costs but to continue to provide the high quality services Rushcliffe was known for. She added that she had concerns regarding the capacity of the financial services team particularly in light of the lateness of the reports. She felt that this delay had made a mockery of scrutiny as people could not prepare. She then asked the Leader if he felt that the actions put in place were sufficient to ensure this did not happen again next year.

In response Councillor Clarke stated that he was extremely confident that the accounts were robust and that they were a true record. Although he could not guarantee the situation would not occur again he was confident that the right measures had been put in place to rectify the issue. However, none of this had detracted from the provision of excellent services and maintaining the Council's strong and robust financial position.

Councillor S Mallender supported the accounts and recognised the hard work undertaken to produce them. However, she would like to see that Rushcliffe did not implement many cuts to services as this would have a detrimental effect.

Councillor S Boote thanked the Chief Executive for his apology regarding the circulation of the report and, thanked staff for their work to ensure Members had the papers before the meeting. He added that he understood the reasons for this, particularly the pressures on the finance team, however he welcomed the assurances of the Corporate Governance Group.

Councillor Vennett-Smith congratulated officers for ensuring that the accounts were produced within the timescale and how they demonstrated a thorough approach evidencing a strong financial position. He felt that many other local authorities would be envious of the Council's balances and he believed that the Council should make residents aware of how prudent the Council was.

In summing up Councillor Cranswick thanked Members for their support and he acknowledged that it had been a difficult year. He stated that he had never known this situation occur during his 13 years as a councillor and in view of the challenging circumstances he believed both officers and Members deserved recognition for the difficult work they had done.

RESOLVED that

the Statement of Accounts for 2011/12 be approved

26. **Independent Person and Standards Committee Appointments**

Councillor Clarke presented a report of the Head of Corporate Services regarding the new standards arrangements and the appointment of an Independent Person. He explained that following Council's agreement in June the Chief Executive and the Monitoring Officer had made the necessary arrangements to recruit a suitable person. Following preliminary interviews it was recommended to Council that Hazel Salisbury, a resident of the Borough with a wealth of experience in local government and ethical standards issues, had the best credentials.

Commenting further Councillor Clarke stated that Council, in June had also asked for two parish members and one independent member to be appointed as co-optees to the newly formed Standards Committee. As only two parish members and one independent member from the previous committee had asked to be considered it was felt sensible to nominate these candidates for approval by Council. Councillor Clarke supported these nominations and stated that although a new standards regime would now be in place it was hoped its use would not be required as Members should continue to display high standards of behaviour.

Councillors Davidson, MacInnes and S Mallender supported these comments. Councillor MacInnes, as a member of the Standards Committee felt that Ms Salisbury's experience and knowledge indicated she was highly qualified for the position of Independent Person. He also stated that he had worked with the two parish and one independent member to be appointed as co-optees to the Standards Committee and had always found them to be very professional.

RESOLVED that

- a) Hazel Salisbury be appointed as the Council's Independent Person pursuant to section 28(7) of the Localism Act 2012; and
- b) Kerry White, Graham Norbury and William Wood be appointed to the Standards Committee as non-voting co-opted members, such appointments to continue until the Annual Council meeting in May 2015.

27. **Police and Crime Panel Arrangements**

Councillor Clarke presented a report of the Head of Corporate Services which set out the Police and Crime Panel Arrangements. The report outlined that the Police Reform and Social Responsibility Act made provision for Police Authorities to be replaced by Police and Crime Commissioners, with the election for these taking place on 15 November 2012.

Councillor Clarke explained that the Act requires a Police and Crime Panel to be established to oversee and scrutinise the work of the Commissioner. In Nottinghamshire the Panel was to comprise of ten Members, one from each district council, one from the County Council and two places allocated to the City Council. He added that once the Panel had been in operation it could decide on co-opting further members if it viewed this as necessary. He explained that the Panel's establishment had been subject to the agreement of 'Panel arrangements' which set out its role and composition. By referring to

the report Councillor Clarke stated that the Rushcliffe place on the Panel should be allocated to the Portfolio Holder for Community Protection.

Councillor Davidson stated that, as he felt that policing should not be subject to party politics, he would abstain from the vote.

Councillor Bannister welcomed the fact that there would be some scrutiny of the Police and Crime Commissioners' decisions.

Councillor Mallender stated that as the Green Party were opposed to the politicising of the post and the police she would not be supporting the recommendations.

Councillor Boote said that the elections would be biased towards the independent candidate and that there was no place for party politics in policing.

The Chief Executive reminded Council that it was important to consider that the report related to Police and Crime Panel Arrangements and that this was the matter now before Council for consideration. He added that whilst the matter might be set against the backdrop of wider political issues Council should give due regard to the information within the report and its recommendations.

Councillor Boote continued by expressing his concerns about scrutiny especially if the Commissioner and the majority of the Panel were from the same party. He hoped that the Council's representative would report back to Members on a regular basis.

Councillor Jones queried if the requirement for the Police Commissioner to have no offences equally applied to the Panel members and if there was a requirement for them to declare any financial interests as Councillors did. He asked if these elements did not apply would the Council's representative raise these issues.

In response Councillor Clarke stated that the members of the Panel would be subject to the local government standards regime that was now in place and the requirements of Councillors in relation to interests and behaviours. In view of this he did not feel it appropriate for this Council to be proposing revised terms of references for the Panel as the matter now being considered was agreement of the panel arrangements and the appointment of the Council's representative.

RESOLVED that Council

- a) agreed the proposed Panel arrangements as set out in **Appendix A**; and
- b) appointed the portfolio holder for Community Protection as the Borough Council's representative on the Panel

28. Annual Review of Scrutiny 2011/12

In presenting the Annual Review of Scrutiny Councillor Clarke stated that scrutiny was very important and that all the Groups did a valuable job in contributing to its continued success. He welcomed the fact that the Council's partners were invited to attend scrutiny groups as necessary as it was essential that all services were scrutinised, even those that our partners deliver on our behalf or together.

Councillor Boote believed that the document was a comprehensive account of what had occurred during 2011/12. He felt that this was a valuable document evidencing the value scrutiny added and demonstrating what had been achieved by ordinary councillors. He then made three comments regarding the Community Development Group. Firstly how he had raised the issue of community toilets, however, this had been deemed low priority and too expensive to investigate; secondly he believed that the Leisure Facilities Member Panel had met before it became a Cabinet Member Group; and thirdly he felt that the new rules for Call In had worked extremely well when the Group had considered the Call In regarding the New Homes Bonus. He believed that the issue should have been scrutinised before Cabinet had considered it rather than after. He pointed out that under the revised Constitution only key decisions could be Called In and that there had been no key decisions made within the last year. In view of this he queried if this was the time to abolish Cabinet and go back to the Committee system.

Councillor MacInnes welcomed the report. He stated that scrutiny was running successfully, that it was well embedded, organised and administered. He did however feel that there was room for improvement. Unlike other local authorities scrutiny was not featured on the Council's website, members of the community could not find any information on how it worked and what work it did. He felt that this document should be made more customer-friendly and put on the website with the other key Council documents. He thought that there should be more public involvement in scrutiny as there was with the budget workshops. He informed Members that the issue regarding the moving of several doctors surgeries would have been an ideal opportunity to involve the public in the decision making process. He asked that the Scrutiny Chairmen and Vice Chairmen's Group could consider the issue and maybe appoint a task and finish group.

Councillor G R Mallender welcomed the report and outlined some of the work undertaken in regard to broadband speeds. He agreed that the scrutiny process showed residents democracy, debate and policy development in action.

As Chairman of the Performance Management Board Councillor Wheeler stated that scrutiny was taken very seriously and that it involved Members of all parties. He thanked his Vice Chairman, Councillor Jones and the members of the Board for all their hard work. He specifically thanked the Performance and Reputation Manager for all her involvement.

Councillor Tansley supported the previous comments and remarked that through the work undertaken as part of the South Notts Crime and Safety Partnership the crime figures for the Trent Bridge and Cotgrave wards had

reduced. He highlighted the Postive Futures project, which was run in partnership with the Nottinghamshire County Cricket Club, that had made a tremendous difference to the young people of Cotgrave and reduced incidents of anti-social behaviour. He informed Members that the Make Cotgrave Smile campaign was in the final of a national award and he urged Members to vote.

As Chairman of the Corporate Governance Group Councillor Moore stated that he was very impressed with the work that the Group had undertaken. He thanked the previous Chairman, Councillor Nicholls, and his Vice Chairman Councillor Plant. He agreed that the work was very valuable and informative.

Councillor Lawrence, Chairman of the Community Development Group, stated that scrutiny had positively evolved over the years. He highlighted the scrutiny of the service level agreements between the Council and Rushcliffe Community & Voluntary Service and Rural Community Action Nottinghamshire. Following the first scrutiny it was clear that people were not aware which tasks were carried out by which organisation. After it had been scrutinised again the Group had recommended a comprehensive service level agreement which involved the two organisations working in partnership. He also stated that this issue would be scrutinised again to ensure that it was working well. He thanked Councillor Combellack, his Vice Chairman, and the rest of the Group for their support.

Councillor Hetherington informed Members that the Partnership Delivery Group had also had a successful year. There had been an issue regarding a dedicated officer for Councillors to contact at Metropolitan Housing, this had now been addressed this year. As part of the scrutiny of the Local Strategic Partnership Members had raised concerns about the Fire Brigade being unable to make contact with local schools, therefore this year the Fire Brigade would be attending a meeting.

RESOLVED that Council

endorsed the work undertaken by the four scrutiny groups.

29. To answer questions under Standing Order 11(2).

Question from Councillor MacInnes to the Leader

At its meeting on 12th July 2011 the Cabinet appointed Bruton Knowles, specialist independent valuers, as the Council's representatives in relation to the overage agreement with John Wells limited at Sharphill. Can the Leader inform Council on what progress and outcomes have been achieved on this matter since the appointment of Bruton Knowles in July 2011?

In response Councillor Clarke stated that Bruton Knowles had been appointed to act in the Council's interest in any land deals regarding developments at Sharphill.

Supplementary question

Councillor MacInnes stated that, due to the double dip recession, the Government was urging local authorities to intervene where housing developments had stalled. He then asked the Leader what actions he would be taking to resolve the deadlock at Sharphill.

Councillor Clarke assured Councillor MacInnes that the policies regarding housing development and the economic development of the Borough were being promoted. With regard to Bruton Knowles as there were no land deals at the moment they would still be retained by the Council to represent the Council in any future deals.

30. Local Government Act 1972

It was agreed that the public be excluded from the meeting for consideration of the following item of business in pursuant to section 100A (4) of the Local Government Act 1972 on the grounds that it was likely that exempt information may be disclosed as defined in paragraphs 1 and 2 of Part 1 of the Schedule 12A of the Act.

31. Management Restructure

Councillor Clarke presented the report of the Chief Executive detailing a management restructure. Members unanimously supported the recommendations, following a slight amendment, and thanked the Chief Executive for the level of detail, approach and manner in which the restructure had been handled over a twelve month period.

RESOLVED that

- (a) The three posts of Deputy Chief Executive be deleted with effect from 31 December 2012.
- (b) The Chief Executive be authorised to confirm the termination costs and leaving date with each individual and the Cabinet portfolio holder for finance
- (c) Full Council requests the Chief Executive to reduce management's costs by a minimum of £120,000 per annum and in so doing supports the implementation of Option 1 contained in the attached proposal document
- (d) In doing so, that Full Council supports the removal of the Heads of Service posts to be replaced with the required number of Executive Manager posts within the adopted option
- (e) The necessary consequential changes to reflect the removal of Deputy Chief Executives and creation of an Executive Manager Operations within the constitution be made in conjunction with all group leaders
- (f) It be noted that the Managing the Impact of Organisation Change Policy be used to apply support and termination arrangements if required

- (g) The interviewing committee be authorised to make the necessary appointments to the post of Executive Manager Operations
- (h) The Chief Executive takes forward the recruitment process in consultation with Members of the Appointment Panel.

The meeting closed at 8.50 pm.

MAYOR

REPORT OF THE HEAD OF CORPORATE SERVICES

Summary

This report sets out a proposed new Member Complaints Procedure under the Localism Act 2011.

Recommendation

It is RECOMMENDED that the Councillor Complaints Procedure in **Appendix A** be approved.

Details

1. At its meeting in June Council considered a report on the new standards arrangements that had been introduced by the Localism Act 2011. One of the recommendations was that the Monitoring Officer be requested to draw up a revised Councillor Complaints Procedure which reflected the new arrangements.
2. It has only been possible to commence this task recently as the composition of the Standards Committee, including the co-opted independent and parish representatives, was only finalised at the September Council meeting and it was always intended that the new Standards Committee should have a role in approving this Procedure.
3. A draft procedure was considered by the Standards Committee at a meeting on 28 November. The Committee recommended approval of the procedure subject to some minor changes which have been incorporated in the version attached as Appendix A. The new procedure is considerably shorter than the previous document that had to reflect the more complex procedures prescribed by the Local Government Act 2000. The Procedure is hopefully self-explanatory and is aimed at persons who may wish to make a formal complaint about the conduct of a Borough or parish councillor, but it should also be useful for any Member who might be the subject of a complaint.
4. The Procedure lists at paragraph 8 a range of sanctions that could be imposed by the Standards Committee in the event of misconduct by a councillor being found. It should be noted that whilst this is not necessarily an exhaustive list, there are no statutory sanctions provided for in the Localism Act in relation to general breaches of the Code. However, Members are reminded that a failure to declare a Disclosable Pecuniary Interest constitutes a criminal offence with the potential sanction of a fine and/or disqualification.

5. Following formal approval by Council, the Procedure and a complaint form will be published on the Council's website. Hard copies will also be available from the Monitoring Officer.

Financial Comments

There are no financial implications

Section 17 Crime and Disorder Act

Failure to declare a disclosable pecuniary interest is a criminal offence. A protocol has been established with Nottinghamshire Police for the referral of complaints.

Diversity

There are no implications.

Background Papers Available for Inspection: Nil

Councillor Complaints Procedure

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Introduction

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Rushcliffe Borough Council, or of a parish council within the Borough, has failed to comply with the authority’s Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority or of a parish council within its area has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by the member against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix 1 to these arrangements and available for inspection on the authority’s website or on request from the Head of Corporate Services.

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write or email to –

The Head of Corporate Service and Monitoring Officer
Rushcliffe Borough Council
Civic Centre
Pavilion Road
West Bridgford
Nottingham NG 2 5FE

Or –

dswaine@rushcliffe.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, or obtained from the Head of Corporate Services.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form together with the reason why you feel your identity should not be disclosed. However, only in exceptional cases will it be possible not to disclose your identity. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 10 working days of receiving it, and will keep you informed of the progress of your complaint. The Monitoring Officer will also normally inform the member who is subject of the complaint and invite their initial response at this stage.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his decision and the reasons for that decision.

Where he requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer will normally also inform the Parish Council or your complaint.

Wherever possible, the Monitoring Officer will seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, and if appropriate to the Parish Council where the complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report. The Monitoring Officer will consult the Independent Person before making any decision following the investigation.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel (a sub-committee of the Standards Committee) or, after consulting the Independent Person, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing to formally determine whether a breach had in fact been committed.. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee, and the Parish Council where applicable, for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate; the Monitoring Officer will refer the matter for a local hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearings Panel may explain and give guidance as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, concludes that the member did not fail to comply with the Code of Conduct, it will dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Hearings Panel will then consider what action, if any, it should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

Referral to Standards Committee

In certain more serious or sensitive cases, the Monitoring officer may refer the case to the full Standards Committee rather than the Hearings Panel. The criteria for determining whether to refer the case to the full Committee are set out in Appendix 2 and such a decision shall be at the sole discretion of the Monitoring Officer based on those criteria.

8 What actions can the Hearings Panel/the Standards Committee/Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Committee and the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee/Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council (or to the relevant Parish Council) for information;
- 8.3 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the member;
- 8.6 Recommend to full Council (or recommend to the Parish Council) that the member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
- 8.7 Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude (or recommend that the Parish Council exclude) the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

There is no power to suspend or disqualify the member or to withdraw a members' basic or special responsibility allowance.

Where the recommended action in respect of items 8.3, 8.7 or 8.8 above relates to a Group Leader the final decision shall be referred to full Council.

9 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Committee or Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Committee or Panel, and send a copy to you, to the member (and to the Parish Council where applicable), make that decision notice available for public inspection.

10 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Council has decided that it will comprise at least three members of the Borough Council. The Panel will contain members from more than one political party depending on the political balance of the Council as a whole.

The Independent Person is invited to attend all meetings of the Standards Committee or Hearings Panel when a decision is being taken on whether the member's conduct constitutes a failure to comply with the Code of conduct or on any action to be taken following a finding of failure to comply with the Code of Conduct. His/her views will be sought and taken into consideration before any decision is taken on these matters.

The Standards Committee may also contain non-councillor or parish council members who may attend and participate in discussions at meetings of either the full Committee or the Hearings Panel, but they are not entitled to *vote* on any matter under discussion.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council. There are a number of statutory restrictions on eligibility for this role to ensure that the post-holder has no close associations with the Council and is therefore truly independent. They are not a member of the Standards Committee but they must be consulted by the Monitoring Officer prior to any decisions or findings on alleged breaches of the Code and *may* be consulted at other stages of the complaints process.

The Independent Person may also be consulted by a member who is the subject of a complaint under this procedure. Any such consultation shall be arranged through the Monitoring Officer and the subject member will be advised by the Monitoring Officer as to the procedure for doing so at the relevant time.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Standards Committee and any Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Standards Committee or Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix One The authority's Code of Conduct

Appendix Two Criteria for referral of cases to the full Standards Committee

November 2012

REPORT OF THE HEAD OF ENVIRONMENT AND WASTE MANAGEMENT

Summary

This report presents the revised Statement of Licensing Principles ('the Statement') which a Licensing Authority must operate under in order to be able to legally administer and determine applications under the Gambling Act 2005 ('the Act'). Following a review of the existing Statement a small number of minor changes were made and a consultation exercise was undertaken which resulted in no further comments or changes. Following consideration by the Alcohol and Entertainment Licensing Committee the report recommends that the Statement is formally approved to be published on 3 January 2013.

Recommendation

It is **RECOMMENDED** that the revised Statement of Licensing Principles under the Gambling Act 2005 be approved with effect from 3 January 2013.

Background

1. In December 2006 the Council approved its initial Statement issued under Section 349 of the Act. The Act makes provision that every three years the Statement must be reviewed.
2. Under Section 154 of the Act almost all functions of the Licensing Authority in respect of gambling are referred to the statutory committee of the Council named the Alcohol and Entertainment Licensing Committee (A&ELC) however, the determination of the Statement must remain a function of the Council and cannot be delegated.

Summary of the Review Process

3. The review process was undertaken in conjunction with the Nottinghamshire Authorities Licensing Group (NALG) to ensure consistency and efficiency. The revised Statement was drafted taking into account a small number of changes made in the past three years.
4. The changes made to the Statement are very minor in nature and are a reflection of the comprehensive and effective nature of the original policy. The main changes of note are:
 - a) Clarification of applications to split existing premises
 - b) Removal of appendices which are a duplication of guidance documents.

Consultation

5. The revised draft Statement was put out to consultation on 28 May 2012, for a period of 12 weeks ending on 24 August 2012. In addition to the statutory consultees specified in the Act, the Council also included a wide range of other organisations including the general public. Only one comment was received from the consultation exercise. It was a positive comment from the Association of British Bookmakers who were satisfied with both the current Statement and the new draft Statement.
6. At the end of the consultation period the revised draft Statement was presented to the A&ELC for consideration at a meeting held on 25 October 2012.
7. The revised Statement was supported at the meeting of the A&ELC on 25 October 2012 and is attached as a separate document to this report for approval by Council.

Financial Comments

There are no direct financial implications to this report

Section 17 Crime and Disorder Act

The prevention of gambling being associated with crime and disorder is a key licensing objective and the details of how this will be achieved are contained within the Statement. The protection of children and the vulnerable from gambling is also a key objective and the details of how this will be achieved are also contained in the Statement.

Diversity

There are no diversity implications to this report.

Background Papers Available for Inspection: Nil



GAMBLING ACT 2005 DRAFT STATEMENT OF LICENSING PRINCIPLES 2013 to 2016



**Rushcliffe Borough Council
To be published 3rd January 2013**

RUSHCLIFFE - GREAT PLACE • GREAT LIFESTYLE • GREAT SPORT

CONTENTS

Section One – Introduction and scope (page 4)

- Introduction
- Consultation
- Description of the Authority’s area
- Authorised activities
- Relationship with other legislation
- “Demand” for gaming premises
- Rights of applicants and third parties
- Data sharing, data security and the principles of better regulation
- Equality

Section Two - Making representations (page 8)

- Who can make a representation?
- Interested Parties
 - Policy One
- Form and content of representation
 - Policy Two
- Irrelevant Considerations
- Reviews

Section Three – Licensing Objectives (page 12)

- Preventing gambling from being a source of crime and disorder
 - Policy Three
- Ensuring gambling is conducted in a fair and open way
- Protection of children and other vulnerable persons

Section Four – Premises licences (page 14)

- General principles
- Betting premises and tracks
- Adult gaming centres
- Club gaming permits and club machine permits
- Alcohol licensed premises
- Family entertainment centres
- Prize gaming permits
- Travelling fairs
- Small society lotteries
- Temporary use notices
- Occasional use notices
- Casinos

- Bingo
- Provisional Statements

Section Five – Inspection and enforcement (page 23)

- General statement
- Inspections
 - Policy Four
- Enforcement

Glossary of terms

Appendices

Appendix one - List of bodies and organisations consulted

1. INTRODUCTION AND SCOPE

Introduction

1.1 Section 349(1) of the Gambling Act 2005 [“the Act”] imposes a statutory requirement upon Rushcliffe Borough Council as the statutory Licensing Authority [“the Authority”] to prepare a Statement of Principles [“the Statement”], and to review it every three years. However, should the need arise, the Authority may review and alter the policy within that period

1.2 In exercising their functions under Section 153 of the Act the licensing Authority shall aim to permit the use of premises for gambling in so far as the Authority think it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the Authority’s statement of licensing principles

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

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

1.3 The aim of the Authority in this Statement is to address the impact of licensed premises in terms of crime and disorder arising from gambling and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons. The Authority is committed to partnership with all stakeholders with a view to the promotion of this aim.

1.4 The Authority will in the statutory discharge of its functions have particular regard to the principles to be applied in exercising its powers:

- under Section 157 of the Act to designate in writing a body competent to advise the Authority about the protection of children from harm;
- under Section 158 of the Act to determine whether 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 licence.

1.5 Subject to statutory provision, a review of this Statement will take place periodically and in any event every three years. Any revisions to the Statement will be made taking into account information collated over a period of time; the outcomes of related initiatives at central and local government level and following appropriate consultation.

- 1.6 Nothing in this Statement should be regarded or interpreted as any indication that any statutory requirement of gambling or other law is to be overridden.
- 1.7 The Authority in preparation of this Statement have had due regard to;
- the Gambling Act 2005
 - the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
 - Current guidance issued by the Gambling Commission and by the Secretary of State under Section 25 of the Act.
 - responses from those consulted on the Statement, and the reviews thereof.

Consultation

- 1.8 The Gambling Act requires the licensing authority to consult the following on the Licensing Authority Statement of Policy or any subsequent revision:
- in England and Wales, 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
 - 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 this Act.
- A full list of consultees is shown in appendix 1

1.9 Description of Rushcliffe Borough Council

Rushcliffe lies immediately south of the City of Nottingham and the River Trent and extends towards Newark in the North East and Loughborough in the South West.

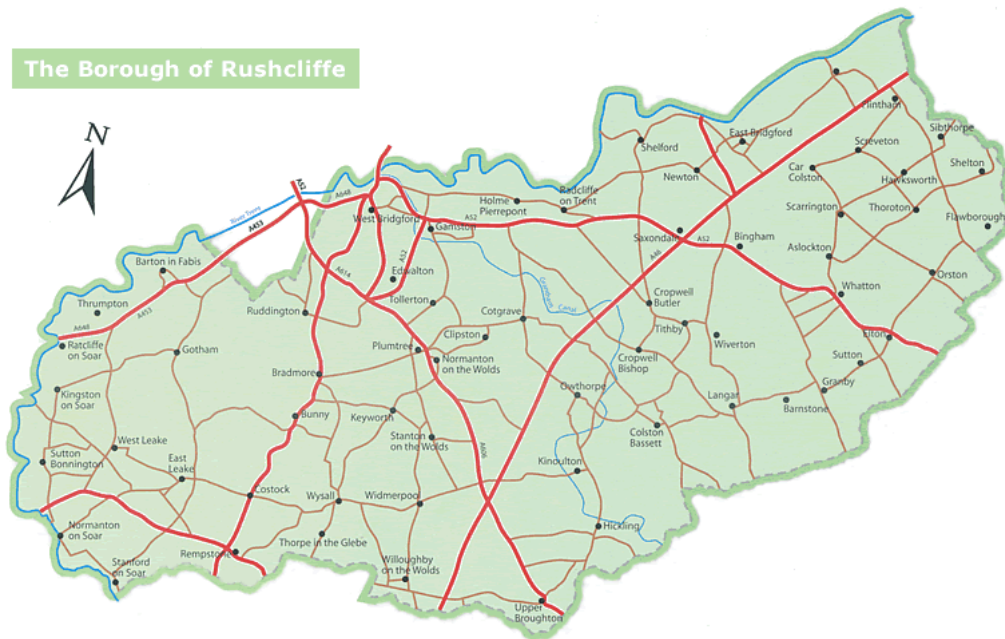
The Borough is a pleasant, prosperous district, characterised by attractive villages, tree-lined suburbs, rich farmland and rolling countryside. The prosperity of Rushcliffe is closely linked to the wider economy of the Greater Nottingham area. This is recognised through good working relationships with all Nottinghamshire Councils, the County, City and Districts, partnerships with the Greater Nottingham Partnership, and at regional level, through representation on the Regional Local Government Association and Regional Assembly.

Although parts of Rushcliffe lie close to Nottingham, the Borough has a strong identity of its own. The main centre of population is West Bridgford, where 37,655¹ of the Borough's population live. The rest of the district is largely rural, with the centres of population split between small towns and villages. Rushcliffe is a popular residential area, and its location adds to its attraction as a place to live. The Borough population is 105,599 it has an area of 40,924 hectares and a population density of 2.58 people per hectare. 78.9% of homes are owner occupied. 4.1% of residents are from diverse ethnic backgrounds. Rushcliffe is relatively affluent and ranks 283 out of 354 on the national index of deprivation scale, however there are small pockets of deprivation. Unemployment levels at 1.9% are lower than both the county and national averages and there are significantly more people who are self-employed than the national and county averages. The area is designated as having 'Moderate to Low' crime.²

¹ 2001 census

² Home Office, Letter 20 May 2003

1.10 A map showing the administrative boundaries of the borough.



Authorised activities

1.11 The Act gives licensing authorities a number of important regulatory functions in relation to gambling. Their main functions are to:

- license premises for gambling activities;
- issue provisional statements for premises
- consider notices given for the temporary use of premises for gambling;
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to Family Entertainment Centre's for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider occasional use notices for betting at tracks; and
- register small societies' lotteries.

NB

Spread betting is regulated by The Financial Services Authority.

Remote Gambling, Operator Licences and Personal Licences are dealt with by the Gambling Commission.

The National Lottery is regulated by The National Lottery Commission.

In carrying out its licensing functions within the framework established by this Statement, the Authority will have particular regard to:

- maintaining a close working relationship with the responsible authorities;
- taking necessary and appropriate steps for the protection of children and other vulnerable persons;

- the need to treat each application on its own merits taking into account the individual circumstances at each premise.

Relationship with other legislation

- 1.12 In complying with the provisions of the Gambling Act 2005, whilst the Authority recognises the requirements of legislation, this Statement is not intended to duplicate the existing legislation and regulatory orders which incur statutory obligations.
- 1.13 In particular, in making a determination in respect of any application, the Authority will not take into account irrelevant matters, such as the likelihood of the application receiving planning permission, or building regulation approval. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

“Demand” for gaming premises

- 1.14 The Authority will not consider the demand for gaming premises when making decisions about applications for a premises licence under the Act.

Rights of applicants and third parties

- 1.15 This Statement does not override the right of any person to make an application under the Act and have that application considered on its individual merits.
- 1.16 Similarly this Statement does not undermine the right of any third party to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

Data sharing, data security and the principles of better regulation

1.17 The Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Equality

1.18 Rushcliffe Borough Council is committed to promoting equality and diversity. The Equality Act 2010 imposes statutory duties on the Council and our Corporate Equality Scheme demonstrates how we are meeting them and our commitment to ensuring that diversity issues are at the heart of our policy making and our service delivery.

2. MAKING REPRESENTATIONS

Who can make a representation?

- 2.1 The Gambling Act allows “responsible authorities” (identified in section 157 of the Act) and “interested parties” to make representations to applications relating to **premises licences and provisional statements**. In the case of reviews that right is also given to the licensee. With regard to other forms of notification and permit, the right to object is restricted to specified bodies. The following section therefore only relates to representations in respect of **premises licences and provisional statements**.
- 2.2 Premises licences are only necessary for the types of gambling listed below and interested parties may therefore only make representations in respect of:
- Casino premises
 - Bingo premises
 - Betting premises (including tracks)
 - Adult gaming centres
 - Licensed family entertainment centres

Interested parties

- 2.3 Interested parties are defined as persons who **in the licensing Authority’s opinion**
- Live sufficiently close to the premises to be likely to be affected by the authorised activities
 - Have business interests that might be affected by the authorised activities, or
 - Represent either of the above, this could include, e.g. democratically elected persons such as Councillors or members of parliament.

Policy One

- 2.4 In determining if someone lives sufficiently close to the premises to be likely to be affected by the authorised activities or have business interests that are likely to be affected, the Authority may take any or all of the following into account:
- The proximity of their home or business to the application premises
 - The nature of their residency (e.g. private resident, resident in home for the vulnerable etc)
 - The nature of the business making the representation
 - The nature of the authorised activities to be conducted on the application premises
 - The size and capacity of the application premises
 - The likely catchment area for the application premises
 - The routes likely to be taken to and from the application premises
 - The character of the area
 - The density of the built up area
 - The topography of the area

REASON: To ensure that those who are likely to be directly affected by the proposed activities can exercise their right to be heard.

- 2.5 The Authority will interpret the phrase “business interest” widely and not merely confine the phrase to meaning those engaged in trade and commerce. It may therefore include charities, churches, medical practices, schools and other establishments and institutions.
- 2.6 Similarly a wide interpretation will be given to those categories of persons and organisations that represent residents and businesses. These may include residents and tenants associations, trade unions and other associations, as well as individuals whose role is to represent the interests of one or more residents or businesses such as a councillor, MP or legal representative.
- 2.7 It is for the Licensing Authority to determine on a case by case basis whether or not a person making a representation is an “interested party”. The Authority may ask for evidence to identify who is being represented and show that they have given Authority for representations to be made on their behalf. In cases which are not clear-cut the benefit of the doubt will usually be exercised in favour of the person making the representation.

Form and content of representation

- 2.8 The Act places a duty on the Authority to aim to permit the use of premises for gambling in so far as the Authority thinks the application is in accordance with:
- this Policy Statement,
 - the Commission’s Guidance,
 - the Codes of Practice, and;
 - where the application is reasonably in accordance with the licensing objectives.
- 2.9 As these are the criteria against which an application is to be assessed representations which address these issues are more likely to be accepted and given weight.
- 2.10 All representations must be made in writing and must be received by the Licensing Authority within the time limits set by the relevant regulations. For a representation to be relevant it should:
- be positively tied or linked by a causal connection to particular premises, and;
 - relate to the licensing objectives, or;
 - raise issues under this policy, the Commission’s Guidance or Codes of Practice.
- 2.11 Representations received outside the statutory period for making such representations or which otherwise do not comply with the Regulations will be invalid and will not be taken into consideration when the application is determined. In addition the Authority expects representations to be made in accordance with policy two.

Policy Two

2.12 A representation should indicate the following:

- (i) The name, address and a contact number for the person making the representation.
- (ii) The capacity in which the representation is made (e.g. interested party, responsible Authority, licensee) and if made as a representative should indicate who is being represented.
- (iii) The name and address of the premises in respect of which the representation is being made.
- (iv) The licensing objective(s) relevant to the representation.
- (v) Why it is felt that the application;
 - is not reasonably consistent with the licensing objectives or;
 - is not in accordance with this Policy, the Commission's Guidance or the relevant Code's of Practice or;
 - otherwise should not be granted or;
 - should only be granted subject to certain specified conditions
- (vi) Details of the evidence supporting the opinion in (v).

REASON: To ensure the representation is made by a responsible Authority or interested party and that it is relevant and directly related to the application premises.

2.13 A preferred form of representation is available. A copy of the form can be downloaded at www.rushcliffe.gov.uk or requested directly from the service. Whilst representations which are not in the preferred form or which do not fully comply with Policy Two will not automatically be rejected, they may be less likely to comply with the law relating to representations resulting in them ultimately being rejected or given little or no weight.

2.14 Ordinarily where representations are received the Authority will hold a hearing, however, a hearing does not have to be held where the Authority thinks that a representation is frivolous, vexatious, or will certainly not influence the Authority's determination of the matter. It is for the licensing Authority to determine whether a representation falls within these categories, however, representations which comply with Policy Two are unlikely to do so.

2.15 It is in the interest of those making representations that they include as much detail and evidence as possible at the time the representation is made. The Authority will determine whether a representation should be excluded as frivolous or vexatious based on the normal interpretation of the words. A representation may therefore be excluded if it obviously lacks seriousness or merit, or is designed to be antagonistic. An example may be a representation received from a rival operator which is based solely on the fact that the new premises would compete with their own.

Irrelevant considerations

- 2.16 Whilst not intended to provide an exhaustive list the following matters cannot be taken into account and representations relating to them are likely to be discounted:
- Need and demand for the relevant premises
 - Issues relating to nuisance
 - Traffic congestion and parking
 - Likelihood of the premises receiving planning permission, or building regulation approval
- 2.17 Any person seeking to operate gambling premises must first have applied for or obtained an operating licence from the Gambling Commission. The Commission will therefore have made a judgement as to the applicant's suitability to operate the proposed form of gambling and therefore this issue is not relevant to the subsequent assessment of the premises licence application. The only exception is in relation to track premises licences. In this case an operator's licence is not required and the suitability of the applicant may, in appropriate cases, be taken into consideration.

Reviews

- 2.18 A premises licence may be reviewed by the licensing Authority of its own volition or following the receipt of an application for a review from a responsible Authority or interested party. Reviews cannot be delegated to an officer of the licensing Authority – the lowest level of delegation permitted is to a licensing subcommittee (licensing panel).
- 2.19 The Act provides that licensing Authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers of the Council or of a responsible authority may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full scale review being conducted.
- 2.20 If at any time the Authority considers it necessary in their scheme of delegation they will establish a system that determines who initiates reviews, and that may include a 'filter' system to prevent unwarranted reviews from being conducted.
- 2.21 In relation to a class of premises, the Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, the Authority would most likely be acting as a result of specific concerns or complaints about particular types of premises, which would cause it to want, for example, to look at the default conditions that apply to that category of licence. In relation to particular premises, the Authority may review any matter connected to the use made of the premises if it has reason to suspect that licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives it cause to believe that a review may be appropriate.
- 2.22 Representations and review applications will be considered by the Authority in accordance with the relevant legislation, guidance issued by the Commission, this Statement and Codes of Practice.

3. LICENSING OBJECTIVES

Preventing gambling from being a source of Crime and Disorder

- 3.1 The Authority places considerable importance on the prevention of crime and disorder, and will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area. A high standard of control is therefore expected to be exercised over licensed premises.
- 3.2 The Authority will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder. In considering licence applications, the Authority will particularly take into account the following:
 - The design and layout of the premises;
 - The training given to staff in crime prevention measures appropriate to those premises;
 - Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
 - Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
 - The likelihood of any violence, public order or policing problem if the licence is granted.
- 3.3 Where an application is received in relation to premises in an area noted for particular problems with organised crime, part of this determination will include consultation with the police and other relevant authorities. The Authority may then consider whether specific controls, such as a requirement for the provision of door supervisors, need to be applied in order to prevent those premises being a source of crime.
- 3.4 As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers. The Authority has no jurisdiction under the Act to deal with general nuisance issues.
- 3.5 In accordance with the Guidance, the Authority will only seek to address issues of disorder under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance were required to deal with it. Another factor the Authority is likely to take into account is how threatening the behaviour was to those who could see or hear it, whether those people live sufficiently close to be affected or have business interests that might be affected.
- 3.6 The Authority will consult with the police and other relevant authorities when making decisions in this regard and will give due weight to any comments made by the police or other relevant authorities.

Policy Three

- 3.7 The Authority will have particular regard to the likely impact of licensing on related crime and disorder in the district particularly when considering the location, impact, operation and management of all proposed licence applications.**

REASON: Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area.

Ensuring gambling is conducted in a Fair and Open Way

- 3.8 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence).

- 3.9 Both issues will be addressed by the Commission through the operating and personal licensing regime. This is achieved by:

- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
- easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted;
- the rules are fair;
- advertising is not misleading;
- the results of events and competitions on which commercial gambling takes place are made public; and
- machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.

- 3.10 Because betting track operators do not need an operating licence from the Commission, the Authority may, in certain circumstances attach conditions to a licence to ensure that the betting is conducted in a fair and open way. The authority may in these circumstances also consider the suitability of the applicant to hold a track premises licence. Such factors which the authority may take into consideration are set out below:

- References to adduce good character
- Criminal record of the applicant
- Previous experience of operating a track betting licence
- Any other relevant information

Protection of children and other vulnerable persons

Access to licensed premises

- 3.11 The access of children and young persons to those gambling premises which are adult only environments will not be permitted.
- 3.12 The Authority will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 3.13 The Authority will consult with the Nottinghamshire Safeguarding Children Board and the Nottinghamshire Committee for the Protection of Vulnerable Adults on any application that indicates there may be concerns over access for children or vulnerable persons.
- 3.14 The Authority will judge the merits of each separate application before deciding whether to impose conditions to protect children or vulnerable persons on particular categories of premises. This may include such requirements as:
- Supervision of entrances;
 - Segregation of gambling areas from areas frequented by children;
 - Supervision of gaming machines in non-adult gambling specific premises.
- 3.15 The Act provides for a Code of Practice on access to casino premises by children and young persons and the Authority will work closely with the Police to ensure the appropriate enforcement of the law in these types of premises.

Vulnerable persons

- 3.16 The Authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that “vulnerable persons” include:
- People who gamble more than they want to;
 - People who gamble beyond their means;
 - People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.
- 3.17 The Authority will consider in relation to a particular application whether any special considerations apply in relation to vulnerable persons but any such considerations will be balanced against the Authorities objective to aim to permit the use of the premises for gambling (see.2.8)

4. PREMISES LICENCES

General Principles

- 4.1 In the Act, “premises” is defined as including “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and different parts of the building can be reasonably regarded as

being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licence, where safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and ensure that mandatory conditions relating to access between premises are observed.

In relation to an application to split existing licensed premises thereby creating multiple premises, the Authority will expect the primary use of each premise to be the main business in accordance with the type of licence held. Any activities other than the primary use will be considered ancillary to the main business.

- 4.2 The procedure for obtaining Premises Licences is set by regulations. Should a licence be granted it will be made subject to mandatory and/or default conditions set by the Secretary of State. The Authority may choose to exclude default conditions if it thinks it appropriate and may also impose other specific conditions which are appropriate to the application.
- 4.3 The Gambling Commission plays a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling. With the exception of applicants for track premises anyone applying to the Authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. The Authority will not generally therefore be concerned with the suitability of an applicant. Where concerns arise about a person's suitability, the Authority will bring those concerns to the attention of the Commission.
- 4.4 The Authority will however be concerned with issues such as the impact of the licensed premises in terms of crime and disorder and matters such as the location of the premises and their internal layout in terms of protecting children and vulnerable persons. Such issues are discussed in more detail in the paragraphs below relating to the specific types of gambling premises.

Betting Premises and Tracks

- 4.5 Betting premises relates to those premises operating off-course betting. That is other than at a track.
- 4.6 Tracks are sites where races or other sporting events take place. Betting operators may operate self contained betting premises within track premises although they would normally only open on event days. There may be several licensed premises at any track.
- 4.7 Permitted activities include:
- off-course betting;
 - on-course betting for tracks;
 - betting by way of betting machines, and;
 - gaming machines as stipulated by regulations

4.8 Factors for consideration when determining the application will be:

- location, particularly in relation to vulnerable persons;
- suitability of the premises;
- size of premises in relation to the number of betting machines;
- the ability of staff to monitor the use or abuse of such machines and;
- the provision for licence holders to ensure appropriate age limits are adhered to.

4.9 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.

4.10 In addition to the mandatory and default conditions attached by the Secretary of State by regulations from time to time, conditions may also be applied in support of the licensing objectives.

4.11 The Authority shall require an appropriately defined plan of the premises to accompany each application.

4.12 In relation to the licensing of tracks the Authority may require certain conditions to be imposed in support of the licensing objections and in particular, to ensure that the environment in which the betting takes place is suitable, especially in circumstances where the track operator does not have an operating licence. Mandatory or default conditions may be attached by regulations issued by the Secretary of State.

Adult Gaming Centres (AGCs)

4.13 These premises must be operated by the holder of a gaming machine general operating licence from the Gambling Commission as well as a premises licence from the Authority.

4.14 Permitted activities include:

- the provision of gaming machines as stipulated by regulations

4.15 Factors for consideration when determining the application for an AGC will include:

- the location;
- the ability of operators to minimise illegal access by under 18's to the premises.

4.16 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.

4.17 Conditions may be applied by the Authority in support of the licensing objectives if it is felt necessary. Mandatory or default conditions may be attached by regulations issued by the Secretary of State. No one under the age of 18 is permitted to enter an AGC.

Club Gaming Permits and Club Machine Permits

4.18 Club gaming permits authorise qualifying clubs to provide gaming machines as well as equal chance gaming and games of chance as prescribed in regulations.

- 4.19 Club machine permits allow the provision of higher category gaming machines.
- 4.20 Commercial clubs may in some circumstances operate with club machine permits but not club gaming permits.
- 4.21 The Authority may only refuse an application on the following grounds:
- (a) the applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police; and in the case of (a) or (b) must refuse the permit.
- 4.22 The Authority may grant or refuse a permit, but it may not attach conditions to a permit.

Alcohol Licensed Premises

- 4.23 The Act provides an automatic entitlement to provide two gaming machines of category C or D. The premises licence holder must notify the Authority of his or her intention and pay the prescribed fee. Although the Authority has no discretion to refuse the notification, the authorisation may be removed if gaming has taken place on the premises that breaches a condition of section 282 of the Act.
- 4.24 The Authority may also issue "licensed premises gaming machine permits" to premises in this category on application for any additional number of category C and/or D machines. This would replace any automatic entitlement under section 282 of the Act.
- 4.25 The Authority must have regard to the licensing objectives and the Gambling Commission Guidance when granting these permits. Factors for consideration will include:
- location, particularly in relation to vulnerable persons;
 - suitability of the premises, size of premises in relation to the number of betting machines;
 - the ability of staff to monitor the use or abuse of such machines, and;
 - the provision for licence holders to ensure appropriate age limits are adhered to.
- 4.26 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.

4.27 It is a condition of the automatic entitlement to make available two gaming machines (of category C or D), that any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine is complied with. The Authority will take account of these provisions; the relevant codes of practice are available on the Gambling Commissions website: www.gamblingcommission.gov.uk

Family Entertainment Centres

4.28 There are two classes of Family Entertainment Centres (FECs) dependent upon the type of gaming machines provided on the premises:

- FECs with category C and D machines require a Premises Licence.
- Unlicensed FECs provide only category D machines and are regulated through FEC gaming machine permits.

4.29 In determining the suitability of the location, consideration will be given to the following factors:

- Proximity of premises to schools and vulnerable adult centres (e.g. a centre for gambling addicts);
- Proximity to residential areas where there may be a high concentration of families with children;
- Town Centre or edge of Town Centre locations.
- hours of operation
- proposed operational management to regulate entry by children and vulnerable persons.

4.30 It should be noted that a permit cannot be issued in respect of a vessel or a vehicle.

4.31 An application for an FEC permit shall be made on the standard form obtainable from the Authority. All applicants must be 18 years of age. The Authority will require an applicant to supply the following, appropriate premises and indemnity insurance details. Relevant convictions will be taken into account especially with respect to child protection issues.

Prize Gaming Permits

4.32 These permits cover 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 prize is determined by the operator before play commences.

4.33 Consideration will be given to the following factors:

- Proximity of premises to schools and vulnerable adult centres (e.g. a centre for gambling addicts);
- Proximity to residential areas where there may be a high concentration of families with children;
- Town Centre or edge of Town Centre locations.

4.34 It should be noted that a permit cannot be issued in respect of a vessel or a vehicle.

- 4.35 The applicant must be 18 years of age or over. Relevant convictions will be taken into account especially with respect to child protection issues

Travelling Fairs

- 4.36 Provided a travelling fair allows only category D gaming machines to be made available, and the facilities for gambling (whether by way of gaming machine or otherwise) amount together to no more than an ancillary amusement at the fair, then no application for a licence is required under the Act. The Authority will want to satisfy itself from time to time that gambling at a travelling fair is within the definition of section 286 of the Act. A guide for those wishing to operate gambling machines at travelling fairs is available on the Commission website.

Small Society Lotteries

- 4.37 Small Society lotteries are distinguished from large society lotteries by the amount of the proceeds that they generate. A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less. Other lotteries are dealt with by the Gambling Commission.
- 4.38 Small society lotteries are required to be registered with the local Authority in the area where their principal office is located.

Temporary Use Notices

- 4.39 There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the Authority to decide what constitutes a “set of premises” where Temporary Use Notices are received relating to the same building/site (see Gambling Commission’s Guidance to Licensing Authorities).

Occasional Use Notices

- 4.40 The Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Authority will need to consider whether a Notice in respect of premises can be dealt with under the definition of a “Track”. It will also need to consider whether the Applicant is permitted to avail him/herself of the notice.

No Casino Resolution

- 4.41 The Authority has not passed a “no Casino resolution” under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Authority decide in the future to pass such a resolution, it will update this Policy Statement with details of that resolution.

Bingo

- 4.42 The holder of a bingo operating licence will be able to apply for a bingo premises licence to provide any type of bingo game including cash and prize bingo. Commercial bingo halls will also require a bingo premises licence from the Authority.

If the only type of bingo to be provided is prize bingo then this may be authorised by way of a permit.

4.43 If children are allowed to enter premises licensed for bingo, then controls must be in place to prevent them from participating in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Authority will expect to see that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults (over 18s) are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such an area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

4.44 The Gambling Commission has issued guidance about the need for licensing authorities take into account the suitability and layout of bingo premises. Therefore plans should make clear what is being sought for authorisation under the bingo premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

4.45 A limited number of gaming machines may also be made available at bingo licensed premises.

4.46 Bingo is a class of equal chance gaming and is permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold as directed by the law, otherwise it will be require a bingo operating licence which will have to be obtained from the Gambling Commission.

Provisional Statements

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

5. INSPECTION AND ENFORCEMENT

General Statement

5.1 The Authority will have regard to its General / Corporate Enforcement Policy, the relevant provisions of the Act, any relevant guidance and / or codes of practice when considering taking enforcement action.

5.2 It is the intention of the Authority to establish and maintain enforcement protocols with other enforcement agencies.

Inspections

5.3 The Authority will inspect gambling premises and facilities for compliance with the Act and any licence conditions through the application of a risk based inspection programme.

5.4 The inspection programme will in principle operate a light touch in respect of low-risk premises whilst applying greater attention to those premises which are considered to present a higher risk.

5.5 In addition to programmed inspections the licensing Authority will also investigate any evidence based complaints that it receives.

Policy Four

5.6 The Authority will adopt a risk based assessment approach for determining the frequency of compliance inspections. The risk rating will be based broadly on the following factors:

- **location of the premises and their impact on the surrounding area,**
- **enforcement history of the premises,**
- **nature of the licensed or permitted operation,**
- **potential to have an adverse affect on the licensing objectives, and;**
- **management record.**

REASON: To provide a targeted and cost efficient enforcement service which will encourage and improve operating practice, promote the licensing objectives, and drive out poor practices; whilst at the same time meet accepted best practice principles of compliance inspection.

Enforcement

5.7 In general the Gambling Commission will take the lead on the investigation and where appropriate, the prosecution of illegal gambling. There may be occasions on which the licensing Authority is better placed to take the lead, particularly where there is illegal activity on a smaller scale confined to the Authority's area.

5.8 Where a licensed premise is situated in more than one administrative area then this Authority will liaise with the other Authority to determine the most appropriate course of action and who will lead any investigation or prosecution.

5.9 Part 15 of the Act gives "authorised persons" power of investigation and section 346 enables licensing authorities to institute criminal proceedings in respect of offences described in that section. In exercising these functions the licensing Authority will endeavour to follow the Better Regulation and Hampton principles. The principles require that enforcement should be:

- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
- **Consistent:** rules and standards must be joined up and implemented fairly;
- **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
- **Targeted:** regulation should be focused on the problem, and minimise side effects

5.10 The licensing Authority will work closely with the Gambling Commission and exchange information on suspected illegal gambling and any proposed action that the Authority considers necessary.

5.11 The main enforcement and compliance role for the licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing Authority but will be notified to the Gambling Commission.

5.12 The Authority may institute proceedings in respect of a number of offences as identified in section 346 of the Act.

5.13 The Authority will avoid duplication with other regulatory regimes.

Glossary of terms

Many of the terms used in this statement of licensing policy are defined in the appropriate section of the Act. Section 353 identifies various terminologies and directs the reader to the relevant section of the Act, where appropriate, for a full and complete meaning of the term.

In the interests of clarity the following terms, which are used in this statement of licensing policy, are defined below.

Terminology	Definition
“the Act”	The Gambling Act 2005 (c19)
“Authority”	This refers to the “licensing Authority” as defined by section 2 of the Act
“authorised person”	An officer of a licensing Authority, and an officer of an Authority other than a licensing Authority, both of whom have been authorised for a purpose relating to premises in that Authority’s area
“authorised local Authority officer”	An officer of a licensing Authority who is an authorised person for a purpose relating to premises in that Authority’s area
“gambling commission”	An organisation established under section 20 of the Act that is responsible for regulating gambling in Great Britain
“guidance”	“Guidance to licensing authorities”, , issued by the gambling commission under section 25 of the Gambling Act 2005
“interested parties”	Defined at paragraph 2.3 of this statement of licensing principles
“mandatory condition”	A condition that must be placed on a licence by virtue of regulations
“regulations”	Refers to regulations made under the Gambling Act 2005
“responsible authorities”	Public bodies that must be notified of applications for premises licences and they also have the right to make representations in relation to those applications. They are listed in full in section 157 of the Act.

Appendix One – List of bodies and organisations consulted

Association of British Bookmakers
Licensing Solicitors
British Holiday and Home Parks Association
British Amusement Catering Trade Association
British Casino Association
Business in Sport & Leisure
British Beer and Pub Association
Gambling Commission
HM Revenue and Customs
Nottinghamshire Police
Nottinghamshire Fire and Rescue
Nottinghamshire Safeguarding Children Board
Nottinghamshire Safeguarding Adults Board
Parish and Town Councils
Rushcliffe Borough Councillors
Rushcliffe Borough Council Environmental Health Service
Rushcliffe Borough Council Development Control
Representatives of the various licences and permits for premises within the area who will be affected by this policy including premises licensed under the Gambling Act 2005 and Licensing Act 2003.
Persons and businesses likely to be affected by authorised gambling within the borough
Casino Operators Association of the UK
Nottingham Magistrates Court
Bingo Association