

Licensing Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 26 November 2015 at 18:00

The Licensing Committee deals with policy issues relating to licensing matters and applications and appeals concerning hackney carriage and private hire vehicles and drivers and other appeals.

Information for Members of the Public

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COLCHESTER BOROUGH COUNCIL
Licensing Committee
Thursday, 26 November 2015 at 18:00

Member:

Councillor Mike Lilley
Councillor Nick Cope
Councillor Roger Buston
Councillor Margaret Fairley-Crowe
Councillor Ray Gamble
Councillor Dave Harris
Councillor Pauline Hazell
Councillor Mike Hogg
Councillor Darius Laws
Councillor Richard Martin
Councillor Philip Oxford

Chairman
Deputy Chairman

Substitutes:

All members of the Council who are not Cabinet members or members of this Panel.

AGENDA - Part A
(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
- action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;
 - location of toilets;
 - introduction of members of the meeting.

2 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

4 Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5 Have Your Say!

a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter relating to the terms of reference of the Committee/Panel not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter relating to the terms of reference of the Committee/Panel not on this agenda.

6 Minutes

To confirm as a correct record the minutes of the meeting held on 23 September and 7 October 2015.

23 September 2015

- This report is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).

7 October 2015

7 - 8

8 Colchester Street Trading Policy

9 - 48

9 Site Management Agreement

49 - 56

See report by the Head of Professional Services

10 Statement of Licensing Policy

57 - 122

See report by the Head of Professional Services

11 Gambling Policy

123 -
204

See report by the Head of Professional Services

12 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Part B

(not open to the public including the press)

e-mail: licensing.committee@colchester.gov.uk

website: www.colchester.gov.uk

LICENSING COMMITTEE

7 October 2015

Present: - Councillor Mike Lilley (Chairman)
Councillors Roger Buston, Nick Cope, Margaret Fairley-Crowe, Ray Gamble, Dave Harris, Mike Hogg, Darius Laws, Richard Martin

Substitute member: - Councillor Hardy for Councillor Hazell

15. Revised Statement of Gambling Policy

The Committee considered a report by the Head of Professional Services on the proposed draft statement of licensing policy for gambling which detailed out how the Council would promote the licensing objectives when making decisions on applications for licences made under the Act. The Council was required to have such a policy and to review and republish it every three years. The new policy needed to be in place by January 2016.

The Gambling Commission was currently consulting on its fifth edition of Guidance to Licensing Authorities and amendments were expected that would strengthen the narrative emphasising the role and power of licensing authorities and their mandate to manage local gambling provision. In the light of these imminent changes, the Council's draft statement of licensing policy for gambling contained only minimal changes and no changes had been made to the intent or the direction of the policy. Once the updated Guidance had been issued by a more fundamental review of the policy would be carried out.

RESOLVED that -

- i) The proposed draft Statement of Gambling Licensing Policy be approved for consultation purposes.
- ii) The proposed consultation process set out in the report by the Head of Professional Services be approved.

26th November 2015

Report of	Lucie Breadman	Author	Cassandra Clements TEL 282918
Title	Street Trading Policy		
Wards affected	Castle		

The Street Trading Review and Subsequent Policy and Regulations

1. Decision(s) Required

- 1.1 To agree the new Street Trading Policy and Regulations.

2. Reasons for Decision(s)

- 2.1 Following a review of Street Trading in Colchester a key recommendation agreed was for a new policy and operating guidance be produced. Using best practice from other Councils, feedback from a review and our existing operational guidance the Licencing Committee are now asked to ratify the new policy and guidance that has been developed.

3. Alternative Options

- 3.1 The alternative option would be to continue without the new policy and guidance agreed and in place. However, this is not the Officer recommendation as the new guidance provides clarity, is based on good practice and provides additional safeguards for both Street Traders and the Council.

4. Supporting Information

- 4.1 Street Traders are allocated with a pitch only and not a canopy or fitments (as with Charter Market Traders). Some of these pitches are used by small mobile vehicles or trailers. The Council do not offer any services such as stalls, electricity or waste management. The price differential between Market and Street Trading Pitches reflect the different services provided.
- 4.2 An informal decision was taken in March 2015 to cease street trading on Charter Market days (Fridays and Saturdays). The decision was taken based on the original Charter document that states that The Council can prevent other trading on market days.
- 4.3 Notice was given to Street Traders of either one month or three months depending on their contract status. They were encouraged to trade on the Charter Market on Fridays and Saturdays when street trading would not be available.
- 4.4 A formal complaint was made to Colchester Borough Council and a petition with over 10,000 signatures handed into the Town Hall by Will Quince MP who at the time was a Prettygate member. The complaint centred on the issue of trading days being decreased

and the lack of duty of care given to traders. Particularly around the fact that no consultation had taken place and the short notice periods.

- 4.5 The Portfolio Holder at that time agreed that the Council would not proceed with the changes to Street Trading but agreement to withdraw the petition was only met with the commitment to hold a review of Street Trading, including a consultation. This was agreed and the petition and complaint were withdrawn
- 4.6 Lucie Breadman, Cassandra Clements and Emma Powell the market manager, met with Street Traders to discuss the review.

Key outputs from the review were agreed as:

- Creation of a new Street Trading Policy and guidance
- A consultation to capture views

5.0 Street trading review Findings

- 5.1 Quarterbridge were asked to conduct a review and produce a report with recommendations. The full report can be found on the Councils Website. The Executive Summary from the Consultation stated the following:

- Street Trading adds to the varied retail mix within Colchester in the same way that the Charter Market does. It offers a low cost and low risk approach to operating a retail business within the town centre. From the engagement exercises we have undertaken it is clear that the shoppers appreciate and use the Street Traders. The retailers within the surrounding areas appreciate the added attraction that the Street Traders bring to the areas. From our work, the key issue that needs resolving is a lack of ability to enforce Street Trading regulations, primarily with space of stalls and using more space than they are licensed for.

- 5.2 The main observations were reported as:

- Very difficult to enforce pitch sizes as no clear ground markings and each trader uses a different style stall
- We believe the pedestrian access issues at the end of Pelham's Lane may be due to the traders and CBC being unsure of exact pitch size and location
- Traders are placing A-boards and product displays outside of their pitches including against or in front of retail premises
- Shoppers within Colchester appreciate the Street Traders and believe that Colchester should have Street Traders even if they do not use them to shop from regularly
- Retailers within the area enjoy the variety and footfall the Street Traders bring to the area
- Waste generated and stored on the pavements at the end of Pelham's Lane is a situation that is unacceptable and CBC should work with the Trader to improve the situation
- Generators (even 'silent' models) are noisy and smelly and the area would be improved if traders did not need to use them i.e. if in the future electricity could be supplied to them

- 5.3 A key recommendations from the consultation included the creation and enforcement of a modern Street Trading Policy along the lines of the Cambridge Policy introduced in 2012.

6. Proposals

6.1 Implementation of a Colchester Street Trading Policy 2015 - 2020.

See Appendix 1 draft policy to be agreed through Licencing Committee. This has been compiled based on best practice, legal guidance and the consultation results. It further addresses Street Trader issues brought up in the original complaints.

6.2 It is further proposed that this policy is reviewed every 5 years.

7. Strategic Plan References

- 7.1 Vibrant - Enhance the diverse retail and leisure mix supporting independent businesses valued by residents and visitors
- Thriving - Promote Colchester's heritage and wide ranging tourism attractions to enhance our reputation as a destination
- Welcoming - Create a business friendly environment, encouraging business start-ups, support to small and medium sized enterprise and offer development in the right locations

8. Consultation

8.1 While there is no legal duty for the Council to consult on its Street Trading function, for transparency and good practice it has done so. Consultees for this review were:

- Essex Police – Face to Face
- Essex Fire & Rescue Service - Face to Face
- East of England Ambulance Service - Face to Face
- Colchester Borough Council Waste Services - Face to Face
- Street Traders - Face to Face and Letter
- 137 Local Businesses – Letter / Phone Calls
- Consumers of the Street Traders and on the High Street - Face to Face

8.2 In addition to wide engagement and consultation in the review itself the Council has also shared the draft Policy and Guidance with existing Street Traders. On the whole feedback has been positive and some amendments (although not all) were agreed during the final stages and as a result of this consultation.

9. Publicity Considerations

9.1 There is significant interest in this issue both politically and publically and so any publicity should be sensitive to this.

10. Financial Implications

10.1 Financial implications are minimal. The proposal does not see the reduction of Street Trading pitches and so should not anticipate a fall in revenue. Some cost is associated with implementing the new policy, but it is agreed that any costs will be found in current budgets.

11. Equality, Diversity and Human Rights implications

11.1 The Street Trading EQIA can be found here:

<http://www.colchester.gov.uk/article/12744/Community-Services>

12. Community Safety Implications

- 12.1 Emergency Services were consulted as part of forming this new policy. The Council is therefore confident that all risks have been considered and mitigated.

13. Health and Safety Implications

- 13.1 Some of the review's recommendations included potential Health & Safety issues. The Council is confident that all risks have been considered and mitigated in the recommended policy

14. Risk Management Implications

- 14.1 The risk of not agreeing the new policy may result in the original complaint and petition being re-instated by the complainants. It is therefore recommended by Officers that the Policy be agreed.

15. Standard References

- 15.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

Background Papers

Appendix 1 – Street Trading Policy 2015 – 2020



COLCHESTER BOROUGH COUNCIL

**LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1982
STREET TRADING POLICY**

Or visit our website: www.colchester.gov.uk/markets

Or email us at: markets@colchester.gov.uk

CONTENTS

1. Introduction
2. Consultation
3. Definition of Street Trading
4. Legislation
5. Exemptions
6. Pitches
7. Applications (& Criteria)
8. Street Trading Consents
9. Fees
10. Transfers
11. Variations
12. Trade Waste Disposal
13. Conditions and Enforcement
14. Contacts

Appendices:

1. Consents
2. Maps
3. Management Regulations

1. Introduction

- 1.1 This policy sets out how Colchester Borough Council proposes to manage Street Trading in Colchester. Street Trading activities are an essential ingredient of a vibrant and lively Town and in Colchester there is a strong demand for legitimate small scale street trading. They offer an opportunity for small businesses to get started with a relatively modest outlay. The purpose of this Street Trading Policy is to create a trading environment in which street trading complements the surrounding environment and retail offer, is sensitive to the needs of all users of the town centre and provides diversity in terms of consumer choice. The policy seeks to encourage investment from street traders and to create an environment where high quality street trading activity is achieved.
- 1.2 This document will guide the Borough Council when it considers applications for Street Trading Consents. It will inform applicants of the criteria against which applications will be considered.
- 1.3 This policy sets out Colchester Borough Council's framework for the management of street trading in the Borough of Colchester. The scheme also aims to prevent the obstruction of the streets in Colchester by street traders and ensuring the safety of persons using them. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area.
- 1.4 It is the intention that this policy will be reviewed every 5 years by the Licensing Committee or more frequently should legislative changes deem this necessary. Any minor changes can be agreed by the Licensing Committee and/or the Head of Licensing through delegated powers.
- 1.5 This Policy has been written with a view to securing the following objectives:
 - to enhance the Borough of Colchester;
 - to protect public health through the control of street trading within the town of Colchester;
 - to provide traders with guidance and clarity
 - to ensure that traders operate within the law and act fairly in their dealings with the public; and
 - to prevent nuisance, unsafe practices and anti social behaviour.

2. Consultation

2.1 There is no statutory requirement to consult before determining this licensing policy however to ensure openness and transparency the Council has chosen to consult with the following people and bodies:

- All existing Street Traders
- The Planning Authority (Colchester Borough Council)
- Legal Services (Colchester Borough Council)
- The Highways Department (Essex Highways)
- Essex Police
- Essex Fire and Rescue
- Environmental Protection Service (Colchester Borough Council)
- Local Elected Members
- Local Businesses
- Trade Associations

3.0 Definition of Street Trading

3.1 'Street Trading' is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions such as:

- (a) Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
- (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
- (c) Trading as a news vendor.
- (d) Trading at or adjoining a shop premises as part of the business of the shop.
- (e) Offering or selling things as a roundsman

3.2 Schedule 4 defines a street as any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.

4. Legislation

4.1 Street Trading is governed by the Local Government (Miscellaneous Provisions) Act 1982 (1982 Act). Under Section 3 of the 1982 Act a district council may resolve that Schedule 4 to this Act shall apply to their district and, if a council so resolve, that Schedule shall come into force in their district on such day as may be specified in the resolution.

- 4.2 On the 17th August 1987 the Transportation Committee resolved that Schedule 4 of 1982 Act would be implemented with effect from the 16th November 1987. Schedule 4 of the 1982 Act relates to Street Trading.
- 4.3 The Transportation Committee also resolved to advertise the Council's intention to designate consent streets. In order to designate consent streets within the Council's district it was required to make a further resolution after complying with the relevant requirements of Schedule 4 in relation to the proposed consent streets.
- 4.4 On the 28th September 1987 the Transportation Committee resolved "that the streets set out in the schedule below including all forecourts, road, footways or other areas adjacent to such streets for a distance of 20 metres, to which the public have access without payment, be designated as consent streets pursuant to paragraph 2 (1) (c) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 and this resolution take effect on the 16th November, 1987.
- 4.5 A copy of the schedule referred in the resolution of the 28th September 1987 is attached at Appendix 1. Accordingly a street trading consent is therefore required to trade on any of the designated consents streets that are referred to in **Appendix 1**
- 4.6 Under Schedule 4 of the 1982 Act the Council may grant a consent if they think; although a consent cannot be granted:-
- a) to a person under the age of 17 years; or
 - b) for any trading in a highway to which a control order under section7 of the Local Government (miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply
- 4.7 There is no appeal procedure set out in Schedule 4 against the refusal or revocation of any consent. However, there may be some limited scope for an aggrieved party to apply for judicial review of any decision made by the Council to refuse or revoke any consent.
- 4.8 The resolution of the 28th September 1987 also contained conditions that would need to be included.
- 4.9 Under paragraph 7(4) of Schedule 4 of the 1982 Act the Council may at any time vary the conditions of a street trading consent

5 Exemptions

5.1 For the purpose of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; the following are not street trading:

- trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;
- anything done in a market or fair, the right to hold which was acquired by virtue of a grant, or acquired, or established, by virtue of an enactment or order;
- trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- trading as a news vendor within the required specification as defined by the 1982 Act trading which:
 - (i) is carried on at premises used as a petrol filling station;
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- selling things, or offering or exposing them for sale, as a rounds man;
- the use of trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980; or
- the doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916

5.2 Street Trading for which consent is not required - The following Street Trading activities have been deemed by Colchester Borough Council as to not require the consent of the Council.

- Charitable, Local Authority organised and community type events (where an admission charge is not made for entry) (i.e. outdoor school fayres, carnivals, fund raisers, car boot sales). Any commercial vendor attending such events will be required to hold a current consent issued by the Council.
- Any market approved by the Council.

6. PITCHES

- 6.1 There are currently 24 approved street trading pitches within the town centre. These are situated on Culver Street West, Long Wyre Street and at the Bus Interchange. See Appendix 2.
- 6.2 The pitches are available 7 days per week with a range of periods to licence them for. See 7.1.1
- 6.3 The Market and Street Trading Manager, as an authorised officer of the Council, undertakes consideration of new pitches. When considering new street trading pitches, they will seek the advice of Essex Police, Essex Fire and Rescue Service, and the Highways Department of Essex County Council. They will also notify neighbouring retail establishments and residents.
- 6.4 The Markets and Street Trading Manager may have regard to the following matters in considering whether to create a new pitch for street trading:
- The likely effect on road safety (traffic and pedestrians) which may arise from the siting of the trader or from the movement and activities of customers.
 - Potential for negative impact on the local amenity arising from noise, traffic, litter or odours.
 - Existing traffic orders such as waiting restrictions.
 - Potential obstruction of pedestrian or vehicular access.
 - Potential obstruction to pedestrian traffic routes.
 - The safe access and egress of staff and customers to and from the proposed pitch and the immediate vicinity.
- 6.5 Sizes are to be shown in metric and will be as follows:
- Small = 2m x 2m
 - Medium = 2.5m x 2.5m
 - Large = 3m x 3m
 - Extra large = 2.5m x 5m

It is understood that trader's stalls may not be square and so efforts will be made to work with traders to ensure the same retail space is given.

7 Applications

- 7.1.1 Consent is available for the following periods:
- One day
 - One week
 - One calendar month
 - 6 calendar months
 - One calendar year

- 7.1.2 An application for a Street Trading Consent is not one that can be given tacit approval, as it is in the public interest, safety and policy that the Authority must undertake checks before any application can be granted. We aim to process all applications within 28 days where possible.
- 7.1.3 Applicants must submit the following to the Council:
- A completed and signed relevant Street Trading Consent application form.
 - Two (recent and identical) passport size photographs signed and dated on the reverse as a true likeness.
 - Proof of identity documentation: passport, driver licence, current utility bill/bank statement and right to work documentation (if applicable).
 - 3 colour photographs of any stall, van, barrow, cart etc that will be used for the street trading activity showing the front, rear and side of the unit and dimensions of that unit.
 - If trading in food, details of any food hygiene qualifications and confirmation that their business has a food hygiene score rating of 3 or above.
 - Confirmation that they meet the relevant qualitative criteria.
- 7.1.4 The following documentation must be forwarded to the Council before the grant of a consent:
- An original certificate of insurance that covers the street trading activity for third party and public liability risks up to a minimum of £5,000,000.
 - A certificate of insurance in respect of the vehicle and/or the tow vehicle you propose to use.
 - An appropriate vehicle test certificate.
 - Declare that you have registered as a food business (where appropriate).
 - Written confirmation that the vehicle/unit meets the Council's food safety standards.
 - Any permissions or consents already granted with regard to the proposed operation, e.g. planning consent, late night refreshment premises licence, waste disposal agreement.
- 7.1.5 If any of the required documentation expires during the term of the applicants consent, the consent will cease to have effect until the applicant has produced current valid documentation to the Council.
- 7.1.6 Please note: all vehicles / units will be inspected prior to issuing a consent to ensure they meet the qualitative criteria. If the vehicle / unit fails to meet the criteria in the opinion of the Market & Street Trading Manager then consent shall not be granted.

7.2 Criteria for assessment on applications

7.2.1 When assessing all street trading applications the Council will consider how the application meets the following criteria (NB: These will apply to renewal applications and applications for new or vacant pitches)

7.2.2 Design of stall

- Stalls must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable style and of appropriate materials.
- Examples of acceptable designs include:
 - Modern, simple, functional stalls with canopies or striped awnings.
 - Traditional or 'period' type handcarts, barrows or tricycles.

7.2.3 The stall design should be non-discriminatory and be appropriate to serve customers.

7.2.4 Advertising material must be limited to the name of the stall, the type of product sold and a simple price list. Ad hoc pictures and advertiser's slogans should be avoided, as should untidy handwritten signs.

7.2.5 Dress: The style of dress worn by stall operators should be chosen to complement the style and period of the stall:

- Over clothing must always be smart and clean.
- Operators of food stalls should ensure that sufficient changes of clothes are provided so as to enable personnel to always over clothing which is clean.
- Personal cleanliness is also important and persons employed at food stalls are required to have good personal hygiene.

7.2.6 It is recommended that persons intending to apply for a consent pitch should contact the Markets and Street Trading Manager to discuss the nature of their intended trade and the proposed style of stall and dress. No expenditure on stalls or equipment should be made until the Council has granted consent and the stall design has been approved.

7.2.7 The criteria above are intended to guide applicants for street trading consents as to the type of stall and dress, which the Council is looking to promote as a means of regulating the street scene in the historic centre of the city. It is not intended to exclude any design that does not fall within the examples given. Applicants for the prime, central locations are advised that the design of stalls is one of the main criteria that will be taken into account.

7.3 Environmental Health considerations of the stall design:

7.3.1 For Enclosed Food Mobiles:

The internal arrangements must be such that:

- There is suitable and sufficient hand washing facilities with hot water;
- The work surfaces are impervious to water and readily cleansable;
- There is sufficient compliant temperature controlled food storage, facilities appropriate to the business;
- The gas and electrical installations are certificated and deemed to be safe by a competent and suitably qualified engineer; any gas store cupboard should be outside of the food area;
- The external arrangements must be that the mobile is sufficiently weather and pest proof so as to not risk the contamination of the food.

7.3.2 For Market-Stall or Street-Barrow type food mobiles:

- The stall must be covered to prevent the risk of matter falling on to the food;
- The work surfaces likely to be in contact with the food must be impervious to water and readily cleansable;
- Any intrinsic storage food area must be able to be secured against the intrusion by pests;
- If temperature controlled food is to be stored on the mobile, the storage facility shall be capable of maintaining the food in a legally compliant manner;
- That there are adequate hand washing facilities.

7.3.3 Food Hygiene record (for all food stalls) - all food regulations have been adhered to.

The applicant will need to demonstrate that they have:

- Registered with their home Local Authority;
- That all food handlers have received adequate food safety training appropriate to their job role; ideally, the manager should be trained to CIEH (Chartered Institute of Environmental Health) Food Hygiene Level 3 and non-managerial staff should be trained to CEIH level 2. (NB: This goes beyond the legal requirements as set out in legislation);

- That the food business has a legally compliant Food Safety Management System (e.g. Safer Food, Better Business);
- That if there is a history of non-compliance, it has been addressed and accepted by the Food Safety Enforcing Officer, or that the food business is in the process of addressing the issues and the Food Safety Officer does not consider the defect too severe so as to prohibit the food business from trading.

7.4 Types of goods sold

7.4.1 The goods complement and do not conflict with the goods sold by other retailers within a certain area. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area (NB. In recognition that the surrounding retail offer is subject to change, this criterion will only apply to applications for new or vacant pitches)

7.4.2 Consideration should be given here to the adjacent retail offer to each individual pitch. The street trading offer should complement where possible rather than compete. The Council reserve the right to allow some duplicates such seasonal products.

7.5 Equal Opportunities - due consideration has been given to Equal Opportunities

- The applicant is asked to demonstrate how they take equalities into consideration with their service provision. For example, how would they look after a customer with a sight or speech impairment?

8.0 Street Trading Consents

8.1 Street Trading consents are renewed annually for the period 1st April to 31st March unless granted for a reduced period. Consents can be revoked by the Borough Council at any time based on the Management Regulations provided in **Appendix 3**.

In the event of the consent being revoked, surrendered or lapsing without being renewed then the Council will invite new applications for the vacant site.

8.2 Any proposed revocation of consent will be subject to the review of the Market & Street Trading Manager. A trader whose consent has been revoked may appeal in writing via the Council's complaints system within 5 working days from, but not including, the day the trader is notified of the decision against which they wish to appeal. The decision of the Senior Management shall be final in all respects.

- 8.3 Applicants wishing to renew their consent should do so by completing a Street Trading Consent Application form and submitting this to the Council 12 weeks prior to the start of the consent period. Application forms can be found on the Council's website <http://www.colchester.gov.uk/article/15594/Become-a-Street-Trader>
- 8.4 At this renewal time, the Markets and Street Trading Manager may consult with some or all of the consultees listed in Section 2 to determine if the street trader is a cause for concern or has been the subject of complaints over the past 12 months. In their application traders will need to be able to demonstrate that they are continuing to meet the Council's "criteria for assessment on applications" as set out in section 7.2 above.
- 8.5 Where a renewal application has been made and the trader is compliant with all the "criteria for assessment," there have been no substantiated complaints, no enforcement issues and all fees have been paid on time, the consent will be renewed. Applicants will be informed of the outcome of their application within 4 weeks of receipt of their completed application form.
- 8.6 If a renewal application is not made within 4 weeks of the start of the consent period the Council will treat the pitch as vacant.
- 8.7 Where a renewal application has been made and there is evidence of non-compliance with the Council's "criteria for assessment" or where there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred Head of Service for determination.

9.0 Fees

- 9.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location, the duration of the consent, trading hours, articles to be sold and the enforcement of the terms and conditions of any individual consent. Where trading ceases during the term of a consent, refunds will not be given for any outstanding period of less than one month.
- 9.2 For a list of current fees, please view our web page at <http://www.colchester.gov.uk/article/15594/Become-a-Street-Trader>. Fees for static consents are determined at the grant of application.
- 9.3 All fees must be paid in advance electronically or trading cannot take place. If arrears occur, trading will be prohibited until the arrears are cleared. Fees will continue to apply during this period.

10.0 Transfers

10.1 A Street Trading Consent cannot be transferred or sold to another person (Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's ill health or death).

10.2 The sub-letting of a pitch is prohibited.

11 Variations

11.1 Variations of a Street trading consent can be made for the following purposes:

- Change of vehicle / unit.
- Change of hours (only on static applications).
- Days of trading.
- Change of items to be sold.

11.2 The application must be made on the Council's prescribed application form along with the fee and any necessary supporting documentation.

11.3 A change of minor details can be made in writing with supporting documentation with a nominal fee for example:

- Change of existing consent holders name (not a transfer).
- Removal of an existing consent holder on a joint application.

11.4 Variations for the following will **not** be permitted and will require a new application:

- Change of Consent holder.
- Adding a new Consent holder.
- Change of site(s).

12 Trade Waste Disposal

12.1 Applicants have a legal responsibility under the Environmental Protection Act 1990 and other related legislation to safely contain and legally dispose of any waste produced from your business.

12.2 Applicants may be prosecuted should they not comply with the above requirements.

12.3 For further information on this, please contact Waste Services at <http://www.colchester.gov.uk/businesswaste>

13 Conditions and enforcement

- 13.1 A set of Management Regulations are attached in Appendix 3.
- 13.2 Failure to comply with one or more of the conditions may lead to revocation or non-renewal of a street trading consent.

14. Contact Information

- 14.1 The street trading function is part of the Community Services department of Colchester Borough Council.
- 14.2 Our address is:

Colchester Borough Council

Sheepen Road

Colchester

Essex CO1 1WG
- 14.2 To ask about any street trading issue, please visit
<http://www.colchester.gov.uk/article/15598/Contact-Us>

TRANSPORTATION COMMITTEE, 17TH AUGUST, 1987Part 1 (Minutes not requiring approval of the Council)

Present:- Councillor Sandford (Chairman);
 The Mayor (Councillor J.W. Lampon),
 Councillors Bayliss, E. Bird, J. Bird, Chapman,
 Mrs. Davis, Miss J.I. Fulford, Leader,
 Russell, Sanderson and Mrs. Yates.

Substitute Member:- Councillor Spendlove for Councillor Smith.

41. Minutes

The Minutes of the meetings held on 3rd and 6th July, 1987 were confirmed as a correct record.

42. Highways Depot, Jarmin Road, Colchester // Contract BM574

A Report by the Borough Property Services Officer was submitted on the need to replace valley gutters at the Highways Depot in order to protect the vehicles and materials stored in the building. Details of the two tenders received for the work, for which no financial provision had been made in the revenue estimates, were also submitted.

RESOLVED that, subject to the agreement of the Policy and Finance Committee to a supplementary estimate of £2,870, the tender submitted by Brock Roofing Limited (the lowest at £2,870) be accepted for this work.

43. Street Traders

The Committee considered a Report by the Town Clerk on the powers available to the Council to control street trading. The Committee also considered a letter dated 15th August, 1987 from Danbury Ice Cream Limited.

RESOLVED -

(i) That, in view of the escalating problems associated with street traders, the powers contained in Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 be implemented with effect from 16th November, 1987 and that the Town Clerk be authorised to advertise the Council's intention to designate as consent streets all the streets and ways to which the public have access within the main town centre area surrounded by and including High Street, Queen Street, St. Botolph's Street, Osborne Street, St. John's Street and Head Street together with Crouch Street from Headgate to Balcerne Hill and Castle Bailey, Museum Street and Cowdray Crescent and Church Street and Balcerne Passage.

(ii) That a further Report be presented to the next meeting on the terms and fees to be imposed on any consents granted and on the attitude of the owners of the private shopping precincts to street trading.

44. John Harper Street, Colchester (14)

A Report by the Borough Engineer was submitted which suggested amendments to the St. Paul's Area Residents' Parking Scheme in respect of John Harper Street, Colchester to enable more non-residents to park in that road.

RESOLVED that, subject to the consent of Essex County Council and to consideration of any objections which may be received, the Council make Orders pursuant to the provisions of the Road Traffic Regulation Act 1984 with the following effects:-

TRANSPORTATION COMMITTEE, 28TH SEPTEMBER, 1987

Part 1 (Minutes not requiring approval of the Council)

Present:- Councillor Sandford (Chairman);
The Mayor (Councillor J.W. Lampon);
Councillors Bayliss, E. Bird, J. Bird, Chapman,
Miss J.I. Fulford, Leader, Mrs. Liddy,
Russell, Sanderson, Smith and Mrs. Yates.

59. Minutes

The Minutes of the meeting held on 17th August, 1987 were confirmed as a correct record.

Councillor Miss J.I. Fulford declared her pecuniary interest in the following item and left the meeting. It was discussed.

60. Draft Stanway/Birch Action Area Plan

A Report by the Borough Planner was considered on the transportation elements of the above Plan which involved the extension of Tollgate Road southwards, improvements to Dyers Road, Church Lane and Warren Lane, Stanway and the possible construction of a southern link road from Dyers Road to Shrub End. A series of suggested traffic management measures were also included should they prove necessary to reduce environmental problems created by heavy goods traffic.

RESOLVED that the Planning Committee be informed of this Committee's support for the proposals contained in the Draft Plan.

Councillor Miss J.I. Fulford here returned.

61. Review of the Adopted Colchester Borough Local Plan

The Borough Planner submitted his Report on the proposed review of the Adopted Colchester Borough Local Plan.

RESOLVED that consideration be deferred until the results of the public consultation on the document are known.

62. Street Traders (43)

A Report by the Town Clerk was considered on the criteria which might be adopted for administering applications for street trading consents. A letter dated 21st September, 1987 from Mr. F. Mussi objecting to the proposed designation of consent streets was also submitted together with a letter dated 10th September, 1987 from Essex Police setting out their observations on the proposed system. The Report pointed out that the owners of the Lion Walk and Kingsway Shopping Precincts and the Culver Centre had indicated that they were generally opposed to street trading on their property.

RESOLVED -

(1) That the streets set out in the schedule below including all forecourts, roads, footways or other areas adjacent to such streets for a distance of 20 metres, to which the public have access without payment, be designated as consent streets pursuant to paragraph 2(1)(c) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 and that this resolution take effect on 16th November, 1987.

Schedule

Arthur Street	High Street	St. Nicholas Street
Balkerne Passage	Kingsway	Trinity Street
Bank Passage	Lion Walk	Trinity Square
Castle Bailey	Long Wyre Street	Victoria Place
Church Street	Museum Street	Vineyard Gate
Cowdray Crescent	Osborne Street	Vineyard Street
Crouch Street (from Headgate to Balkerne Hill)	Pelhams Lane	and All Streets forming Culver Centre
Culver Street East	Queen Street	including:-
Culver Street West	Red Lion Yard	Culver Square
Culver Walk	Short Wyre Street	Culver Arcade
Eld Lane	Sir Isaac's Walk	Shewell Walk
Head Street	St. Botolph's Street	St. John's Wynd
	St. John's Street	
	St. Nicholas Passage	

(ii) That consents specify the days and hours of trading, the articles to be traded, the type of stall or container to be used and be subject to conditions providing that trading shall not cause obstruction of the street or danger, nuisance or annoyance to persons in the street, or damage the surface of the highway or discharge waste water on to it.

(iii) That trading be restricted to a specific location specified in the consent and that the trader be required to provide suitable receptacles for litter and for the disposal thereof.

(iv) That each trader be required to display his name and address when trading and that he be required to move temporarily from his pitch, if necessary, to enable vehicles to deliver goods etc. to neighbouring shops or if so required by the Police or traffic wardens or by an authorised officer of the Council.

(v) That, if the trader is trading in food, he be required to comply with all relevant regulations and with any requirements of the Chief Environmental Health Officer.

(vi) That the Town Clerk be authorised to include any additional conditions to consents which may be desirable in any particular case.

(vii) That an annual fee of £1,000 be charged for a twelve month consent, payable quarterly in advance or by such other method as the Borough Treasurer may approve, with three and six month consents being issued for a fee of £260 or £520 respectively.

(viii) That a fee of £20, payable in advance, be charged for a consent for not more than six days provided that a further short term consent will not be issued before the expiry of one month from the date of expiry of the first consent.

(ix) That no charge be made for the issue of a consent to any registered charity or any other voluntary body at the discretion of the Town Clerk.

(x) That no consents be issued within the private precinct areas without the prior approval of the owners.

(xi) That no consent be issued for trading on any Sunday.

(xii) That initial applications for consents be considered at the next meeting and that the Police be consulted on each application before any consent is issued.

63. St. George's Area, Colchester // Prevention of Through Traffic (124-1986/87)

The Committee considered the Borough Engineer's Report which stated that Essex County Council's Traffic and Road Safety Sub-Committee did not support the proposed Traffic Regulation

TRANSPORTATION COMMITTEE, 9TH NOVEMBER, 1987

Part 1 (Minutes not requiring approval of the Council)

Present:- Councillor Sandford (Chairman);
The Mayor (Councillor J.W. Lampon);
Councillors E. Bird, J. Bird, Chapman,
Mrs. Davis, Miss J.I. Fulford, Leader,
Russell, Sanderson, Smith and Mrs. Yates.

Substitute Member: Councillor Mrs. Fowler for Councillor Bayliss.

76. Minutes

The Minutes of the meeting held on 28th September, 1987 were confirmed as a correct record.

77. A134 Horkesley Hill, Little Horkesley

A Report by the Borough Engineer was submitted on the dangers and problems caused by the recent occupation by gypsy caravans of land abutting the A134 and the access road to Anglian Water's pumping station at Horkesley Hill, Little Horkesley.

RESOLVED -

(1) That, in order to prevent damage to the road and buildings on or near it and for avoiding danger to persons or other traffic using that road or any other road in the vicinity, the Council, being so satisfied, subject to consideration of any objections that might be received, make an Order under Section 1 of the Road Traffic Regulation Act 1984 to prohibit the use by vehicles at all times, other than those authorised, of the access road to the Anglian Water pumping station off the A134 Horkesley Hill, Little Horkesley.

(11) That, if no objections to the proposal are received, the Borough Engineer be authorised to erect suitable bollards, gates, fencing, etc. physically to prevent vehicular entry to the sections of the road concerned.

78. Road Traffic Orders - Castle Bailey, High Street and Crouch Street, Colchester

The Town Clerk submitted his Report on a request from the Police that the Council make further Traffic Orders to assist the control of the parking spaces for the disabled in Castle Bailey and the hackney carriage stands in Crouch Street and in High Street near St. Nicholas Street.

RESOLVED that the Council, subject to consideration of any objections that might be received, make further Orders under Section 1 of the Road Traffic Regulation Act 1984 to prohibit the waiting of vehicles and the loading of vehicles at all times in the under-mentioned lengths of High Street and Crouch Street, Colchester and to prohibit the waiting of vehicles between the hours of 8.00 a.m. and 6.00 p.m. on any day in the under-mentioned length of Castle Bailey, Colchester.

High Street on its south side from a point 35.7 metres west of its junction with St. Nicholas Street eastwards for a distance of 25 metres.

Crouch Street on its north side from a point 51.6 metres west of its junction with Head Street eastwards for a distance of 30 metres.

Castle Bailey on its north side between the entrance to the Castle Park and the Castle Inn Yard.

79. Essex Act 1987

The Committee considered the Town Clerk's Report on those elements of the Essex Act 1987 relating to transportation and associated matters.

RESOLVED that the Policy and Finance Committee be requested to recommend that the Council -

(i) Delegate to the Transportation Committee the power to administer Sections 5 (awning over highways, etc.), 6 (grass verges, etc.), 11 (touting, hawking, photographing, etc.), 23-28 (houseboats), 44 (contributions by Council towards buoys, etc. outside district) and 100 (protection for Brightlingsea Harbour Commissioners) of the Essex Act 1987.

(ii) Delegate the power to serve Notices under Section 5 to the Town Clerk in consultation with the Borough Engineer.

(iii) Delegate the power to erect suitable Notices under Section 6 to the Borough Engineer and the power to take any prosecutions arising therefrom to the Town Clerk.

(iv) Delegate the power to negotiate relevant tonnage rates under Section 100 to the Borough Treasurer.

80. Priorities and Budgetary Process 1988/89 (55)

The Borough Treasurer submitted his Report on items within the budget for 1988/89 where extra costs were envisaged as a result of the priorities established by the Committee at its meeting on 17th August, 1987. It was also suggested that an order of priority be established for those items and further items which had been identified since August 1987 and were considered suitable for inclusion in the budget priorities for 1988/89.

RESOLVED -

(i) That the items included within Schedules A and B of the Borough Treasurer's Report be accorded the following order of priority:-

<u>Division of Service/Detail</u>	<u>Order of Priority</u>
Street furniture, etc.	1
Traffic management measures including residents' parking schemes	2
Grass cutting - provision for additional areas and more frequent attention	3
Provision of hackney carriage stands	4

(ii) That the items included within Schedule C of the Borough Treasurer's Report be accorded the following levels of priority:-

<u>Division of Service/Detail</u>	<u>Order of Priority</u>
Town Centre Paving	
- Church Street	1
- Long Wyre Street	2
- High Street between East and West Stockwell Streets	3
- Balcerne Gardens Arts Park	4

(iii) That the items included within Schedule F of the Borough Treasurer's Report be accorded the following levels of priority:-

- | <u>Division of Service/Detail</u> | <u>Order of Priority</u> |
|---|--------------------------|
| Interrogation system for car park machines | 3 |
| Contribution to footbridge at Nunns Road Car Park | 3 |
81. Street Naming
- The Borough Engineer reported that Stanway Parish Council had suggested the name "Osiers Close" for a development off Wheatfield Road, Stanway.
- RESOLVED that the name "Osiers Close" be approved.
82. Concessionary Travel Scheme (144-1986/87)
- The Committee considered a Report by the Borough Treasurer which stated that Essex County Council had agreed to support a half fare concessionary travel scheme for the extended categories of handicapped people back-dated to 1st April, 1987. Handicapped and disabled women below the age of 60 and men below 65 would be eligible under the scheme and the County Council would assume responsibility for 90% of the cost of the half fare pass and reimburse 90% of the value of concessionary travel tokens issued provided this did not exceed the cost of a half fare pass. The County Council had also agreed to meet the cost of a full fare concession for blind persons who enjoyed this benefit up to 1st April, 1987. The Report also stated that a request had been received for the concessionary travel scheme to be extended to allow the disabled to use tokens on selected local taxi services.
- RESOLVED -
- (i) That the details of the County Council's scheme for half fare concessions for handicapped and disabled people be welcomed.
- (ii) That the appropriate officers be asked to prepare a Report for submission to the next meeting on the possibility of extending the use of tokens by the handicapped for travel on selected local taxi services.
83. Harbour Undertaking // Financial Return for the Six Months ended 30th September, 1987
- The Borough Treasurer presented a Report giving details of approximate expenditure and income for the above period and showing an actual deficit of £12,264 compared with an estimated deficit of £6,330. It was possible that the estimated surplus for the year of £12,160 would not now be achieved.
- RESOLVED that the position be noted.
84. Herbicides and Chemicals used in Grounds Maintenance
- The Borough Engineer submitted a Report providing details of the Council's use of chemicals for grounds maintenance, all of which were registered under a scheme controlled by the Ministry of Agriculture, Fisheries and Food.
- Minute 92 of the Recreation, Tourism and Arts Committee, 6th October, 1987, was also submitted.
- RESOLVED -
- (i) That the decision of the Recreation, Tourism and Arts Committee be noted.
- (ii) That the Borough Engineer be requested to ascertain whether health checks had been carried out on users of the chemicals.

(iii) That a further Report be submitted on the findings of the Environmental Health Committee and including the implications of discontinuing the use of chemicals and herbicides in work controlled by this Committee.

85. British Rail Meeting at Chelmsford

The Town Clerk reported that following consultation with the Chairman and Group Spokesmen of the Committee in accordance with Standing Order No. 23(1), it was agreed that Councillor Smith should represent the Council at a meeting held in Chelmsford on 2nd November to discuss rail services in the County and that attendance at the meeting should be an approved duty. A note of the meeting would be prepared by the County Council in due course.

RESOLVED that the position be noted.

86. Storm Damage

The Committee considered a Report by the Chief Officers which catalogued the problems which arose during and in the aftermath of the hurricane on the night of 16th October. A further Report on the financial implications and the efficacy or otherwise of the Emergency Peacetime Plan would be submitted in due course.

RESOLVED -

(i) That the contents of the Report be noted.

(ii) That the Mayor be requested to express the Committee's sincere thanks to the Army and to the emergency services for their considerable assistance during this period.

87. Local Government Act 1972

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item headed "Street Traders" on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Act.

88. Street Traders

The Committee considered a Report by the Town Clerk which included the applications received for street trading consents.

RESOLVED -

(i) That the applications numbered 5, 15, 16, 19 and 20 in the Town Clerk's Report be agreed but that in respect of application number 20, no trading be permitted in Culver Square.

(ii) That the remaining applications be refused.

(iii) That it be a condition of any consent that no street furniture shall be used in any way whatsoever in connection with the sale of articles and that at all times whilst trading the street trader shall display a copy of any consent granted.

(iv) That the principle of granting consents for the Annual Mayor's Charity Market be agreed.

(v) That the power to grant, refuse or revoke street trading consents be delegated to the Town Clerk after consultation with the Chairman and Group Spokesmen of the Committee.

(vi) That power to prosecute offences under Paragraph 10 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 be delegated to the Town Clerk.

Management Regulations for Street Trading in Colchester



Issue date / reference: V1: October 2015.

Introduction

The need for Street Trading Regulations

Street Trading activities are an essential ingredient of a vibrant and lively Town and in Colchester there is a strong demand for legitimate small scale street trading. They offer an opportunity for small businesses to get started with a relatively modest outlay.

The purpose of this Street Trading Policy is to create a trading environment in which street trading complements the surrounding environment and retail offer, is sensitive to the needs of all users of the town centre and provides diversity in terms of consumer choice.

The policy seeks to encourage investment from street traders and to create an environment where high quality street trading activity is achieved. The Council intends to ensure that visitors and local people alike receive an excellent standard of customer service, enjoy a positive experience and want to visit again.

With these goals in mind these regulations set out the terms and conditions which must be adhered to by a Trader granted a consent to trade in the Council's Street Trading pitches. These regulations define the Council's rights as the operator, and the standards and obligations the Council is placing on the Street Trader.

Any Trader who is granted a consent to trade must accept and agree unreservedly to abide by these regulations.

These regulations are intended to be fair and reasonable whilst providing the flexibility of the Council's street trading operation to meet the potential future needs of the customers. These regulations also set out penalties for breach and include a fair and clearly defined process to appeal certain decisions taken by the Council's management team.

These regulations have been devised in the best interests of the estate management of the area as a whole and all traders, shoppers and the Landlord. They will be enforced as such and must be read in conjunction with your consent.

These regulations replace any regulations previously issued by the Council.

In the event of any conflict of interpretation the consent terms shall take precedence. In the event of any dispute concerning application of these regulations, the decision of the Market & Street Trading Manager as Landlord's representative, will be final.

The Council's commitment to street traders

The Council commits that it will administer the street trading operation in such a way as to ensure:

- a safe and welcoming environment in which to trade;

- the continuous development and promotion of street trading events to attract new shoppers and traders;
- a balanced street trading offering with limited duplication of both core and competing secondary product lines; while understanding that having no duplication could be detrimental to street trading. The Council reserve the right to allow some duplication such as seasonal products.
- a fair and thorough application process for Traders wishing to apply to trade or introduce a new product line;
- a right of appeal against suspension, termination or refusal to transfer a trading consent with a defined process and time table; and
- open and two-way communication with all Traders, either directly or through their nominated representatives.

Future changes

These regulations may be revoked, amended or supplemented in such manner and to such extent as the Landlord may, in their absolute discretion from time to time, direct. Traders are required to familiarise themselves and their employees, agents and consentors with same.

Colchester Borough Council may change these regulations at any time in the future. Prior to changing these regulations the Council will consult with Traders for not less than four weeks and will then give four weeks' written notice before any change takes effect.

The operation of the street trading is the responsibility of the Market & Street Trading Manager (and his/her delegated colleagues) who is entrusted and authorised to apply discretion and judgement in the interpretation of the regulations.

Definitions

- Appeal process** means the process applied by the Council for dealing with appeals submitted by Traders against decisions taken by the Council's management team.
- Casual trader** means any trader granted a consent to trade and to pitch a stall in the street trading for a single day.
- Council** means Colchester Borough Council.
- Equipment** means portable rails and stands, generators, bins and other receptacles.
- Exceptional circumstances** means circumstances that could not be reasonably foreseen and for which there was insufficient time to take the necessary action to resolve the situation arising from those circumstances.
- Goods and services** include provisions, commodities, articles and services permitted by the Council to be brought into the street trading for the purpose of sale.
- Consent** means the consent issued to a trader in the form prescribed by the Council which permits casual Traders, interim Traders and permanent Traders to trade in the street trading in accordance with these regulations.

- h) **Landlord** means Colchester Borough Council and its duly-authorised representatives i.e. the Market & Street Trading Manager and other Colchester Borough Council staff.
- i) **Street trading** means street trading held in Colchester.
- j) **Street trading day** means a day on which street trading are authorised by the Council to open for trading.
- k) **Street trading hours** means the hours of operation of street trading.
- l) **Market & Street Trading Manager** means the officer responsible for the operation of street trading.
- m) **Shoppers' Charter** means the Shoppers' Charter approved by the Council and which all traders agree to recognise and abide by.
- n) **Permanent Trader** means any Trader granted a consent to trade on a regular basis.
- o) **Serious misconduct** means conduct on the part of the Trader or of their staff which the Council considers so unreasonable that it destroys the trust necessarily required for the continuance of the Trader's consent.
- p) **Site** means the place allocated by the management team to the Trader upon which the Trader is permitted to trade.
- q) **Stall** includes a frame, canopy, link, gutter and awning, trailer, pitch or space used or intended to be used for the sale of goods or services.
- r) **Trader / Stallholder** means a person or legal entity offering goods or services for sale granted a consent to trade from a stall on the street trading and are interchangeable and includes casual Traders, interim Traders and permanent Traders.
- s) **Byelaws** are rules made by a local authority for the regulation of its affairs or management of the area it governs.

1. Compliance Requirements

- (1.1) Traders are required to comply with the directions of the Market & Street Trading Manager at all times.
- (1.2) Traders are required to comply with, and ensure compliance by their employees and other persons acting upon their behalf, the provisions of their consent, these Management Regulations, the Shoppers' Charter and Food Stall Guidance, any and all Acts of Parliament, statutory regulations, byelaws or rules and regulations made by a competent authority or notified by the Landlord.
- (1.3) Traders are required to conduct themselves in a manner which does not cause a danger, annoyance, nuisance or impediment to any other persons, traders, neighbouring businesses, members of the public or Landlords' representatives. This includes the use of threatening or abusive behaviour, foul language, substance abuse or drunkenness whilst attending street trading.
- (1.4) Goods that are counterfeit, offensive or dangerous may not be sold via street trading.
- (1.5) Traders are required to comply with any supplementary rules or regulations as may be notified by the Landlords by way of general notice or declaration from time to time.

2. Trading Days

- (2.1) Trading days are: Monday - Sunday of each week.
- (2.2) The street trading will be closed on Christmas Day. Other days will be advised with at least 2 months' notice unless there are exceptions circumstances.

3. Hours of Access and Trading

- (3.1) Access for setting-up shall be no earlier than 0500 hrs. on the day of trading.
- (3.2) All stalls shall be occupied by 0900 hrs unless otherwise directed by the Market & Street Trading Manager.
- (3.3) If an unoccupied stall is the subject of a monthly consent then the Trader will remain liable for payment of the fee for that day notwithstanding his/her non-attendance.
- (3.4) All vehicles and rollcages, pallet-lifters or other equipment must be removed from the street trading by 0845 hrs.
- (3.5) Permitted trading hours are 0830 – 1700 hrs on each trading day unless otherwise directed by the Landlord.
- (3.6) Vehicles shall not return onto the street trading before 1600 hrs and must be removed by 1800 unless otherwise directed by the Market & Street Trading Manager.
- (3.7) Stalls shall be kept clean, tidy, stocked and attended in accordance with your consent during trading hours.
- (3.8) In the event of temporary absence of the Trader a responsible adult person shall be left in control of the stall.
- (3.9) Works affecting the street trading. Whenever possible, Traders will be given prior notice of maintenance and other work on and around the street trading which could affect their trading activities. The Council will not be liable for any direct or consequential loss arising from work affecting the street trading.

4. Access by Vehicles

- (4.1) Traders shall comply with the permitted access hours and any traffic management directions made by the Market & Street Trading Manager .
- (4.2) Traders are required to comply with all Traffic Regulation Orders affecting the public highway. Details are available from the Colchester Borough Council website: www.colchester.gov.uk/markets
- (4.3) Whilst loading / unloading all vehicles must be positioned so as to avoid obstructing other vehicles in road and deliveries to adjacent stalls or shops. Vehicles must be unloaded and loaded without delay and not left unattended with their engine running. Once unloaded or loaded they must be removed from without delay.
- (4.4) Only vehicle types and trailers authorised by the Market & Street Trading Manager shall be brought into the area.. All vehicles and trailers shall be roadworthy, insured and in possession of an MOT certificate and current road fund licence. All drivers must possess a full UK driving licence and be insured to drive same.
- (4.5) Parking on pedestrian crossings, public or private access roads, passageways, pavements or property in the vicinity of the street trading is prohibited. Traders and their employees should park in town centre car parks.
- (4.6) Any spillages of oil, fuel or any liquid must be immediately cleaned-up and reported to the Market & Street Trading Manager. Vehicles that leak oil or fluids will not be allowed onto the street trading and the filling or emptying of fuel tanks whilst attending the area is expressly prohibited.

5. Terms for Consents

- (5.1) Traders are granted a consent to occupy a specific “pitch” (space for a stall) on specified day/s of the week in return for a fee (“charge” or “fee”) payable in advance.
- (5.2) Consents are for a term of between 1 day to 1 year and do not create entitlement to trade for any longer period. The Market & Street Trading Manager will contact Traders prior to the end of the consent to establish if the Trader wishes to continue hire for a further consent period.
- (5.3) Traders may be deemed to be “casual” traders if they apply for a stall a week in advance when payment, insurance and vehicle documents will need to be shown.
- (5.4) Casual traders do not benefit from the allocation of a particular pitch. The Landlords’ intention is to ensure occupancy of all pitches. The Market & Street Trading Manager may allocate casuals to unoccupied stalls and pitches at their discretion and will take into consideration past attendance and the goods being offered.
- (5.5) Traders are expected to attend in person on all the trading days specified in their consent. Non-attendance by a consented Trader without good reason may result in non-renewal of your consent. In the event of non-attendance the Market & Street Trading Manager has the discretion to waive the fee payable for that day in exceptional circumstances.
- (5.6) It is the responsibility of traders to notify the Market & Street Trading Manager or his/her designated colleague of any delay in attending (for example, because of illness, vehicle breakdown or other reasonable cause beyond the trader’s control). In the absence of doing so, Traders who fail to attend their stall by 08.15 may not be permitted to trade on that street trading day. No refund of stall fees will be paid in these circumstances. The Council may reallocate the stall to another Trader in such circumstances.
- (5.7) For all other absences Traders must advise the Market & Street Trading Manager as soon as is reasonably possible in advance of the trading day and by no later than 07.30am on the trading day in question. The Council reserves the right to reallocate the pitch for that

day. No 'like for like' product line will be allocated in place of the absent Trader. Failure to attend without formally notifying the Market & Street Trading Manager, other than in exceptional circumstances, and after two un-notified absences per consent period, will be considered a disciplinary offence.

- (5.8) It may be necessary to relocate pitches from time to time. The Landlords will give Traders as much notice as possible in this event. However, this may be on the street trading day itself in exceptional circumstances.
- (5.9) The Trader must not assign, transfer, sub-consent or licence the benefit of this consent to any other person or company.
- (5.10) Annual Leave Entitlement: A two week annual leave entitlement from April to March will be provided to Street trading Traders who are subject of a 6 month or annual consent.
- (5.11) Traders will be expected to give the Market & Street Trading Manager two weeks' notice in writing of any intended annual leave. This is required to allow the Council sufficient time to plan for filling the space vacated by the permanent consented Trader. During the time the Trader is absent the Council may reallocate their pitch/es to another Trader.
- (5.12) The number of Traders given annual leave on any one trading day will be limited to a maximum of 5 individual traders.
- (5.13) The Council reserves the right to refuse holiday requests for any reason whatsoever if it feels that there would be a detrimental effect to the financial viability of the Street trading.
- (5.14) The Council reserves the right to charge any Trader the full cost of repair or renewal to any Council property related to street trading where, in the reasonable opinion of the Council, the Trader or anyone working with the Trader caused the damage.
- (5.15) Any temporary structure erected as part of street trading must be suitable for the purpose intended, of good condition and erected by competent persons.
- (5.16) Traders must not leave any goods, articles or equipment outside street trading hours without the prior written consent of the Market & Street Trading Manager.
- (5.17) Where access to the interior of street trading pitch is restricted by a kerb Traders must offer mobility impaired customers an assisted shopping service.

6. Payment of Fees

- (6.1) Traders' fees are payable by Standing Order in advance of trading days and must be set up as soon as practically possible after entering into the consent.
- (6.2) Failure to maintain a Standing Order may result in termination of consent.
- (6.3) Where there is non-attendance by a Trader not agreed with the Market & Street Trading Manager in advance no refunds of fees will be given.
- (6.4) If adverse weather conditions or similar prevent trading for part or the whole of the day the Market & Street Trading Manager has the discretion to close all or part of street trading.
- (6.5) Non-attendance by a Trader on a regular basis or without good reason may result in termination of their consent.
- (6.6) The fee for the collection of unpaid stall fees on each occasion will be £10.

7. Size of Pitches

- (7.1) Stall pitches are sized as per the stall layout plan and rents are calculated per stall as per the schedule of fees as set out by the Landlords on the Colchester Borough Council website: www.colchester.gov/markets Pitches and stalls are licensed individually or as multiples of same and rents calculated accordingly.
- (7.2) Stall sizes are shown in Appendix 2 of the Street Trading Policy, pitches shown represent the licensed trading area. The space in front of the stall is for the purpose of serving

customers and pedestrian access only. 'Standing out' of stock onto the pavement is not permitted.

- (7.3) All storage and stock must be held within the licensed trading area.
- (7.4) Traders shall use only the stall(s) or pitch(es) licensed or allocated to them. They shall restrict their stall and any goods display area to within the extent of the licensed area. Extension bars beyond the boundary of the licensed pitch are not permitted except to dimensions and location(s) expressly authorised by the Market & Street Trading Manager which can be withdrawn at any time. The standing-out of goods on the ground in circulation aisles outside the pitch is forbidden.
- (7.5) Any goods which are hung from overhangs must not obstruct circulation aisles or present any risk of injury to the public or passing traffic.
- (7.6) Traders are required to provide cable mats (at their own expense), to ensure that trailing cables do not present trip hazards or any other hazard and are suitably protected.
- (7.7) All traders using liquid petroleum gas (LPG) must conform to LPG Code of Practice 24 and have the current annual Gas Safety Inspection certificate **on site**.
- (7.8) All traders using LPG must provide a suitable, serviceable fire extinguisher which must be located near the appliance (also see Fire).
- (7.9) Suitable hazard signage must be displayed so as to comply with the Health and Safety (Safety Signs and Signals) Regulations 1996.
- (7.10) All pallets, trolleys, rollcages, pallet-lifters or other equipment brought into the street trading area by a Trader must either be removed or stored within a stall during trading hours. They must not be used as an addition to a stall or for displaying goods or storing refuse.
- (7.11) Traders must exercise due care and attention of the stall frame, the canopy, awning and electricity supply at all times.

8. Charity Stalls

- (8.1) The number of charity stalls will be limited to 5% of the total number of stalls in any one trading day.
- (8.2) Charity stalls can be booked no more than two weeks in advance subject to availability.
- (8.3) The use of stalls at 50% discount by charities remains subject to these Management Regulations.
- (8.4) The Landlord reserves the right to terminate discounted bookings without notice.

9. Traders' Signage

- (9.1) All Traders of foodstuffs shall display their name and address in a prominent position on the stall. All other traders shall display a prominent sign showing no less than their name and the number of their stall.

10. Sale of Fresh Food

- (10.1) It is the responsibility of Traders to ensure all edible goods sold on via street trading are handled, displayed, priced and sold in accordance with trading standards' requirements and food safety regulations. Best practice concerning the sale of fresh food is contained in a separate food safety document 'Guidance to Mobile Traders at Markets & Outside Events' and forms part of these regulations.
- (10.2) All fresh foods must be stored and displayed in accordance with the EU food hygiene regulations and all edible goods including greengrocery stored displayed and sold at least

18 inches (0.5 metres) from the ground to protect all foodstuffs from the risk of contamination.

- (10.3) Some types of goods may require refrigeration.
- (10.4) Traders of foodstuffs must possess a Chartered Institute of Environmental Health Level 2 certificate in Food Safety in Catering (more details can be found here: www.colchester.gov.uk and search for Food Hygiene Courses).

11. Refuse Disposal

- (11.1) No waste or refuse shall be brought into the street trading area. Only waste or refuse generated during the course of that days' trade is allowed.
- (11.2) Traders shall keep their stall(s) and the surrounding area free of trade waste/refuse and litter during trading hours and remove it as necessary.
- (11.3) Traders shall not discharge any noxious or foul liquid waste onto the paving except for washings discharged directly to the street gulleys. At close of trading any gulley into which washings have been discharged shall be rinsed with clean water and the surrounding area left clean and tidy.
- (11.4) Traders shall not place any waste into a refuse compactor, cardboard baler or collection vehicle.
- (11.5) At the end of the street trading day, and at regular intervals throughout it, Traders must ensure their stall and surrounding area is cleaned and clear of all refuse and waste, and the surfaces around their pitch left safe and without hazard to others. All stall(s) and pitch(es) shall be left clean and clear of refuse at the close of trading.
- (11.6) Traders have a legal duty of care to maintain the health and safety of their employees, other Traders and visitors to their stall. It is also the sole responsibility of Traders to ensure the safe management of waste in and around their stall, which if not handled properly can cause surfaces to become hazardous for slips, trips and falls.
- (11.7) Waste Disposal employees are not authorised to enter a Trader's stall to collect waste, and it is solely the Trader's responsibility to prepare all waste for collection using the appropriate methods.
- (11.8) Traders are required to comply with the recognised cleansing standards, which have been adopted by the council.
- (11.9) The Council will carry out the regular cleansing of the street trading area as necessary to maintain their effective operation.
- (11.10) Traders must ensure that their stall and any adjoining passages, whether used by them or in conjunction with other Traders, are properly swept from time to time and shall ensure that litter is not allowed to accumulate.
- (11.11) Traders who produce food waste must dispose of it in the correct food waste receptacle as directed by the Council.
- (11.12) Traders must flatten any cardboard waste they produce and dispose of it in the correct recycling cardboard container.
- (11.13) Traders must not put their trade waste in public litter bins.
- (11.15) A supplementary charge of £25 will be levied upon Traders who fail to comply with these requirements on any street trading day.

12. Prohibited Goods

- (12.1) Traders shall not bring onto the street trading any inflammable liquids, gases, fireworks or similar articles which may cause fire or explosion. The exception being a gas supply for cooking food upon such conditions as the Market & Street Trading Manager may direct.

- (12.2) No goods may be displayed or sold which in the opinion of the Market & Street Trading Manager are inappropriate, dangerous or likely to cause offence to other traders or members of the public.
- (12.3) No goods may be displayed or sold that are counterfeit or in breach of copyright or patent.
- (12.4) No mains-powered electrical goods may be sold except for new items still in their original packaging.
- (12.5) Secondhand or used electrical goods may not be sold, even if PAT-tested.

13. Health & Safety Requirements

- (13.1) All Traders are required to undertake a risk assessment for their pitch as any change to operation occurs. This is to include set up, break down, supplier deliveries as well as trading and should be provided to the Market & Street Trading Manager. The form for the risk assessment can be found on www.colchester.gov.uk/markets . The Market & Street Trading Manager reserves the right to refuse trading if the risk assessment is not submitted or if, in the opinion of the Market & Street Trading Manager, is not suitable and sufficient for purpose.
- (13.2) The Landlord shall not be liable for damage to any property or for any losses claims demands actions proceedings damages costs or expenses or other liability incurred by the Licensee or any employee of the Licensee or any person or body authorised by the Licensee to be within the Street trading area. Nor shall the Landlord be liable for any such loss suffered by a visitor or member of the public except where caused by the proven negligence of the Landlord and shall indemnify the Landlord against all actions proceedings costs claims demands damages charges and expenses whatsoever arising out of the discharge of the Consent to trade.
- (13.3) Fuel supply is to be used to assist trading only.
- (13.4) All traders are required to comply with all health and safety directions issued by the Market & Street Trading Manager. Such instructions are supplemental to and do not vary these regulations.
- (13.5) There are significant health & safety risks posed to themselves, the public and other traders whilst traders deliver goods and assemble or dismantle stalls. Traders must input to and be aware of the street trading's risk assessment (available on www.colchester.gov.uk/markets) and devise and implement suitable safeguards to minimise risks in their working methods using the risk assessment form provided.
- (13.6) If adverse weather conditions or similar present a risk to trading for part or the whole of the day the Market & Street Trading Manager has the discretion to close the street trading.
- (13.7) All electrical equipment must be PAT (Portable Appliance Tested) and a certificate of proof must be presented on application for a license to trade.
- (13.8) Smoking is not permitted by Traders, their employees and suppliers within or near street trading stalls in line with 2007 legislation which banned smoking in enclosed/substantially enclosed workplaces and public spaces. Traders should not serve members of the public in any instances whilst smoking. This is to protect traders, their employees, suppliers, neighbouring traders and their stock as well as customers.
- (13.9) All traders are required to:
 - *Familiarise themselves with all Health and Safety instructions issued by the Market & Street Trading Manager.*
 - *Ensure all employees agents and consentors are adequately informed, instructed, supervised and trained in health and safety matters.*
 - *Take reasonable care of their personal health, safety and welfare and that of others who may be affected by their acts or omissions.*

- *All persons shall wear high visibility vests when setting up/dismantling stalls and loading goods.*
- *Make available and ensure the use by themselves and all employees or staff of appropriate personal protective clothing and equipment suited to the task.*
- *Assist the Landlords by reporting any accident or incident that has or may cause injury to a person or damage to plant or property.*
- *Co-operate and comply with all directions of the Landlords to ensure compliance with all statutory responsibilities and to ensure all instructions regarding health and safety issues are understood and applied by employees, agents and consentors.*

(13.10) Traders are required to pay particular attention to the hazards of:

- *Vehicle movements – Reversing, towing stall trailers and unattended stall trailers.*
- *Stall erection – Handling of components and stability of partly-constructed frames.*
- *Sheeting – Fixing of stall sheets and clips during windy conditions.*
- *Trip hazards - Stall components, stock and electrical cables that create a trip hazard.*
- *Electrical safety - Power and lighting distribution from the supply boxes.*
- *Training – The use of unsupervised or untrained staff to set up and dismantle stalls.*
- *Working at height – set up and dismantling of stalls when standing on steps or trailers*

14. Accidents

- (14.1) All accidents and “near misses” involving Traders, their staff or members of the public must be reported immediately to the Market & Street Trading Manager for investigation and entry in Colchester Borough Council’s Incident Report form (IRF07). It is the responsibility of Traders to report all notifiable accidents and “near misses” occurring during stall set up and dismantling to the HSE, as required by legislation.
- (14.2) Traders should ensure their stalls are equipped with a First Aid Kit.

15. Traders’ Insurance and Identity Requirements

- (15.1) All licensed and casual Traders are required to hold and maintain valid insurance cover for third party public and products liability with a limit for claims of not less than £5 million, and employers’ liability insurance cover with a limit for claims of not less than £10 million. By virtue of their consent and these regulations each Trader shall extend a matching indemnity to the Landlords and their agents, employees and authorised representatives. Traders shall provide evidence of insurance cover upon application for a consent to trade.
- (15.2) Prior to the first days’ trading Traders will be required to supply proof of your right to work in the UK. (UK Passport, driving licence or national insurance number will be sufficient). This data will be kept secure and confidential between the parties.

16. General Conditions

- (16.1) No animal shall be brought onto the street trading except as authorised by the Market & Street Trading Manager.
- (16.2) No child shall be employed upon the street trading except in accordance with statutory legislation.
- (16.3) The “pitching” of goods (shouting to advertise their availability) is allowable at the discretion of the Market & Street Trading Manager.
- (16.4) Any sale by auction, canvassing, street trading research or personal questionnaire or any stall advertising or promoting a political or religious organisation is expressly forbidden.

- (16.5) Radios or other sound equipment may be played subject to the approval of the Market & Street Trading Manager approval but not so loudly as to cause nuisance to other Traders, neighbouring businesses or the general public.
- (16.6) Traders shall not display or sell any goods other than those described on their consent, or in the case of a casual Trader those described to the Market & Street Trading Manager on the day of trading.
- (16.7) Traders may only extend or change product lines with the agreement of the Market & Street Trading Manager (which shall not be unreasonably withheld).

17. Conduct, Disciplinary, Complaints and Appeals Procedure

- (17.1) Traders are responsible for their own conduct and that of anyone working on or in connection with their stall at all times while they are on the street trading.
- (17.2) A breach of these regulations/terms and conditions by anyone working on or in connection with a Trader's stall will be deemed to be a breach by the trader.
- (17.3) Traders will be liable to immediate suspension and/or termination for breaches of the regulations arising out of their conduct by the Market & Street Trading Manager which is considered by the Council to be gross misconduct. In the event that a consent is terminated, the Trader shall not be entitled to compensation from the Council. The circumstances of the case will be considered by the Head of Service.

Examples of gross misconduct which will normally justify termination of a consent are outlined below:

- Dishonesty.
- Under the influence of alcohol or illegal substances.
- Assaulting a member of the public, Council staff or another Trader.
- Verbal abuse, the use of foul or abusive language, harassment, intimidation, discrimination or bullying towards a member of the public, Council officers or other Trader(s).
- Interfering in any way with the business of another Trader.
- In the reasonable opinion of the Market & Street Trading Manager, the Trader brings the street trading into disrepute.
- Failure to comply with the requirements of consumer protection legislation.
- Failure to comply with the requirements of food hygiene regulations.
- The Trader has been convicted of selling counterfeit products or has received a formal caution, formal warning or such other similar measure from the Trading Standards Service or any other enforcement agency.
- The Trader has persistently failed to make payment of the fee, within the time limit set.
- The Trader has failed to comply with the health and safety legislation affecting the street trading sites or any health and safety requirements notified to the Trader by the Council.
- The Trader consistently fails to honour a direct debit for the payment of stall fees.
- The Trader fails to attend the pitch they are licensed to attend for 5 weeks or more during the course of a 6 month consent, 10 weeks for a year consent.
- The Trader persistently infringes the Street trading Regulations.

In the event that a Trader's consent is suspended rather than terminated and there is no prescribed penalty, the length of suspension will be decided by the Head of Service.

All complaints involving stallholders and staff are dealt with in accordance with Colchester Borough Council's formal complaints procedure (more details here: <http://www.colchester.gov.uk/article/12804/Compliments-Complaints-And-Comments>)

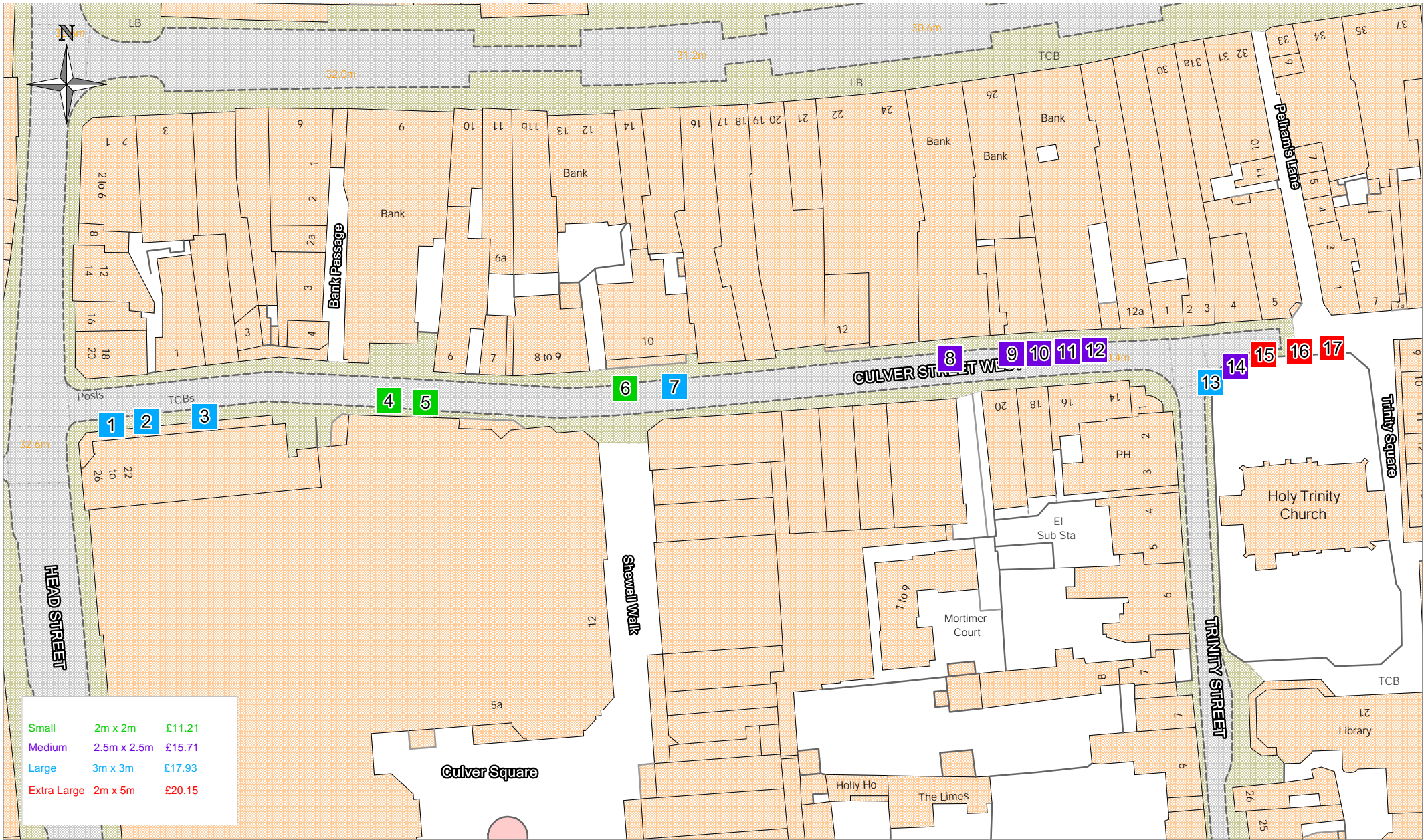
Complaints should be made in the first instance to the Market & Street Trading Manager who will seek to resolve same and issue a direction. If the complainant is not satisfied with the result he or she may complete the form in the link above which commences Colchester Borough Council's complaints procedure.

- (17.4) Complaints will be treated in confidence and all parties notified of the complaint and given the opportunity to respond. The complainant will be required to substantiate same under normal rules of evidence. If complaints are found to be vexatious then disciplinary action will be taken against the complainant.
- (17.5) Complaints made by a member of the public against any Trader will be notified to him/her in private and the Trader requested to resolve the dispute.
- (17.6) Any substantiated complaints may result in the revocation of a Trader's consent.
- (17.7) Breaches of rules or regulations will normally be discussed with the Traders concerned as soon as the Consent & Street Trading Manager is aware of any breach. Traders will normally be asked to correct any breaches or comply with any rules in the first instance.
- (17.8) If a Trader does not comply with a verbal request, or if a further breach occurs on the same day, then a formal written notice will be issued as soon as possible.
- (17.9) Any written notice issued in (17.8) will remain active for a period of 6 months, if a further written notice is issued during this period the Trader will be automatically suspended for the next trading day.
- (17.10) If any Trader incurs two periods of suspension in any period of 12 months then their consent will be terminated. Traders will be permitted to reapply for a pitch but will be placed at the bottom of any waiting list.
- (17.11) Traders suspended or removed from the Street trading are still liable to the fees due for any period of absence under their consent.
- (17.11) Disciplinary matters will, in the first instance be dealt with by the Market & Street Trading Manager and if necessary be referred to the appropriate Council Manager.
- (17.12) The Council will discuss any issue and give reasons for their decision in the first instance.
- (17.13) If a Trader is not satisfied with the explanation or decision they may contact the Council who will review any action and respond in writing stating their decision if required.
- (17.14) A Trader who has been suspended from the street trading or whose consent has been terminated, or has been refused permission to transfer their consent to another Trader, may appeal in writing to the **Head of Service** within five working days from, but not including, the day the Trader is notified of the decision against which they wish to appeal.
- (17.15) The Trader is entitled to request a hearing to make representations to explain why the decision against which they wish to appeal should be overturned. Such request must be made at the time of submitting the written appeal.
- (17.16) The **Head of Service** will conduct the hearing of the appeal in person within 28 days of receipt of the written appeal.
- (17.17) In considering any appeal the **Head of Service** will have regard to any relevant documentation and may call to give evidence such person, including the Trader in question, as he/she considers appropriate.
- (17.18) Traders attending an appeal will be entitled to bring with them a friend or colleague or, if they are a member of the National Street trading Traders' Federation, a local representative of the NMTF who are allowed to speak on their behalf.
- (17.19) The written decision of the **Head of Service** will be sent to the Trader within 14 days of the hearing to the registered address of the Trader, and will include an explanation of the

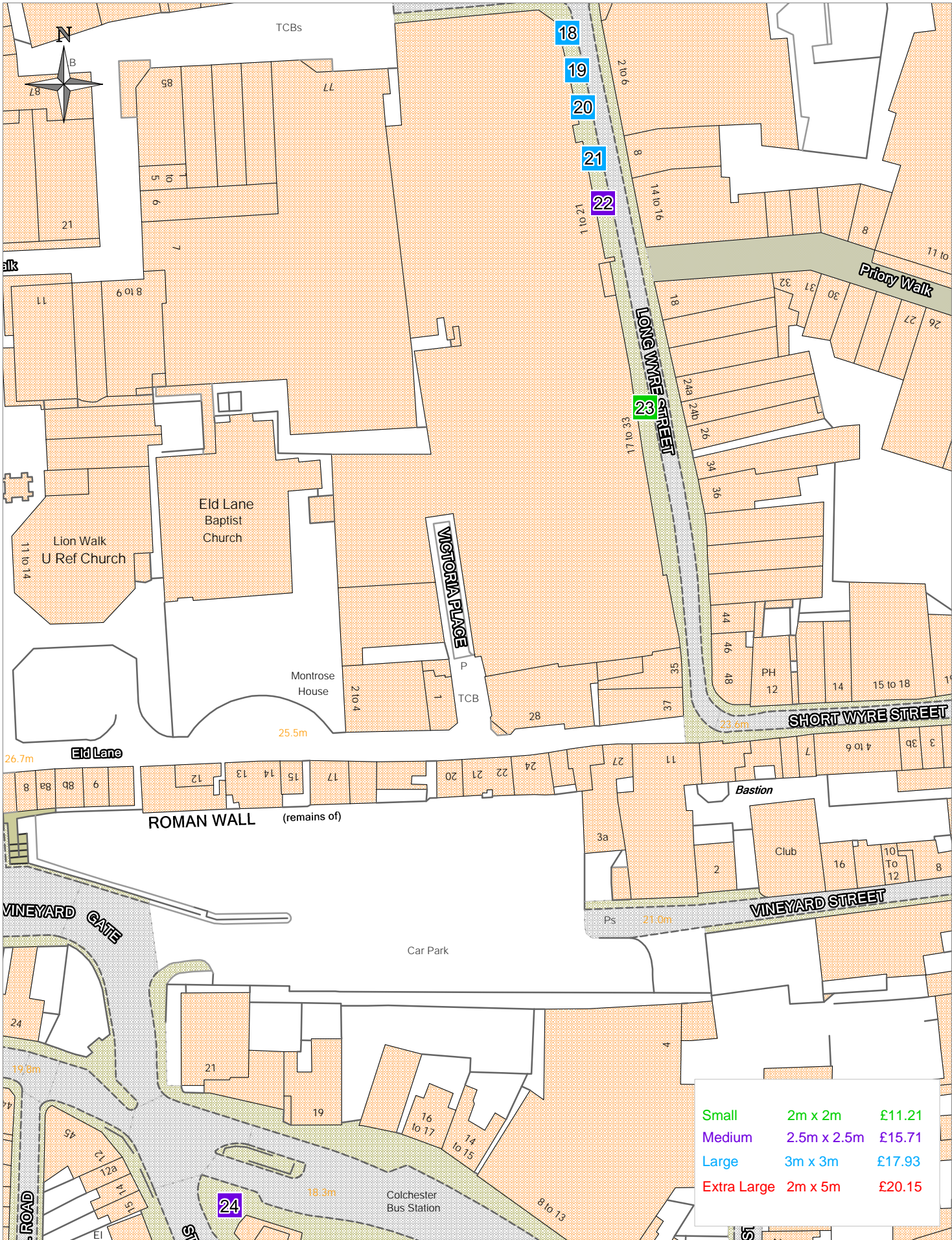
reasons for the decision. There shall be no further appeal from the decision of the **Head of Service**.

(17.20) Any complaint regarding a Council employee by a Street Trader should go to the **Head of Service** or to the **People & Performance Manager** within the HR Service for management of the complaint.


Street Trader Pitches: Proposed



Street Trader Pitches: Proposed



26 November 2016

Report of	Head of Professional Services	Author	Jon Ruder
Title	Site Management Agreement		 282840
Wards affected	Face to Face Fundraising		

This report concerns the adoption of a Site Management Agreement to control face to face fundraising in the town

1. Decision(s) Required

- 1.1 The Site Management Agreement between the Public Fundraising Regulatory Association and the Council be approved for implementation in Colchester.

2. Reasons for Decision(s)

- 2.1 To control, as far as is possible, face to face fundraising in the town centre.

3. Alternative Options

- 3.1 There is no alternative option available to control face to face fundraising as it lies outside the current laws governing the charity collections.

4. Supporting Information

- 4.1 In March 2015 the Public Fundraising Regulatory Association (PFRA) made a presentation to the Committee on its work in managing the activities of face to face fund raisers collecting direct debits, commonly referred to as 'chuggers'. Following this presentation officers were instructed to carry out further work with the PFRA with a view to establishing an agreement. A meeting took place in the summer to look at the town centre and identify areas of concern and also to discuss what was practicable.

5. Proposals

- 5.1 The PFRA have drawn up the draft agreement attached at Appendix 1.
- 5.2 As a result of this agreement the face to face collection of direct debit details will be permitted on Mondays, Tuesdays and Wednesday between 9am and 7pm in the High Street and Culver Street as shown on the plan in the agreement. The number of collections will be limited to 6 and no more than 4 collectors will be permitted on any individual street. The regulations by which the collectors must abide can be found on the PRFA website and the rule book is attached at Appendix 2.
- 5.3 The nominated Gatekeeper will be the Licensing, Food Safety Manager with copies made available to the licensing team and the Group Manager – Zones. Complaints concerning breaches of the code will be dealt with by the PFRA.

6. Strategic Plan References

- 6.1 Action to control the activities of face to face collectors in the town centre promotes the Council's strategic plan in making it a welcoming place to be.

7. Consultation

- 7.1 Consultation on the agreement has been carried out with the member charities by the PFRA.

8. Publicity Considerations

- 8.1 The site management agreement if approved will be placed on the Council's website. Charities will be made aware of its existence through the work of the PFRA.

9. Financial Implications

- 9.1 There are no significant financial implications. The street wardens and licensing team will carry provide on the ground monitoring but all subsequent enforcement actions will be carried out by the PRFA.

10. Equality, Diversity, Community Safety, Human Rights, Health and Safety, and Risk Management implications

- 10.1 There are no consultation, financial, equality, diversity, community safety, human rights, health and safety and risk management implications.



Public Fundraising *Regulatory* Association

July 2015

Site Management Agreement

Site Management Agreement

Between PFRA and Colchester Borough Council

Prepared by: **Stephen Service**
Outreach Officer

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www.pfra.org.uk

1 Purpose

The purpose and spirit of this voluntary Site Management Agreement (SMA) is to facilitate responsible face-to-face fundraising in Colchester Town centre and provide a balance between the duty of charities and not-for-profit organisations to fundraise and the rights of the public to go about their business without the impression of undue inconvenience. For the avoidance of doubt, this document does not constitute a legal contract.

Once this agreement is in place it should minimise the administration for the council, providing just one channel for information and support regarding face-to-face fundraisers, as nominated 'gatekeepers' only have to deal with one organisation, the PFRA, instead of dealing with each individual charity and fundraising organisation separately.

2 Statement of Conformity

All fundraisers will abide at all times by the relevant elements of the Institute of Fundraising's [Code of Fundraising Practice](#), and the PFRA's [Rule Book](#), or face the appropriate penalties.

If local authority officers note fundraisers contravening the PFRA's Rule Book or any local clause within the SMA, they will inform the PFRA's Head of Standards by contacting them on 020 7401 8452, providing details of the incident.

3 Access Details

3.1 Sites, team sizes, positioning, and frequency

Sites may be used as follows, as shown in the map at Appendix 1:

Town centre

High Street, between St Nicholas Street and North Hill / Head Street.

Culver Street West, between Trinity Street and Head Street.

Capacity: maximum of 6 fundraisers in total across the 2 streets. No more than 4 fundraisers to be present on any individual street.

Frequency: Mon, Tues and Wed only.

Where fundraisers are found to be working outside of the agreed locations, they must comply with requests made by Local Authority Officials and reposition themselves correctly or as directed on-site.

Only one charity will be present on any one site on any one day.

Fundraising will only be permitted between the hours of 9am and 7pm, unless otherwise specified.

Any exclusion dates (e.g specific event days) are to be announced by the Council to the PFRA to be booked into the PFRA's diary management system, giving a minimum of 4 weeks' notice to the PFRA from date of diary delivery.

3.2 Other Conditions

Fundraisers should be positioned in such a way as to offer an adequate 'comfort zone' to those users of the public highway who do not wish to engage. In furtherance of this, it is desirable that a minimum footway channel of 1 metre be maintained between fundraisers and the kerb / shop frontage where it is reasonable to do so.

Fundraisers should maintain a reasonable distance (of approximately 3 metres) apart from one another and any other legitimate street activities (e.g. street traders, Big Issue sellers, buskers, newspaper stands, promotional activities and market researching).

4 Information Required

4.1 Nominated Gatekeeper

The nominated gatekeeper for Colchester Borough Council is [insert contact](#) and [his/her](#) contact details are [insert](#). In [his/her](#) absence all enquiries should be made to [secondary email](#) or [secondary telephone number](#).

4.2 Required Information

The PFRA will maintain and manage the diary schedule. Diary/Schedule information will include: contact details for the agency (if applicable); and charity being fundraised for.

Copies of the diary are to be made available to:

[\[Example](#)

[Name, Licensing Manager, Insert Name Council](#)

[email:](#)

[Name, Licensing Officer, Insert Name Council](#)

[email:](#)

[Name, Town Centre Manager](#)

[email: ...\]](#)

These contact details shall be updated as and when necessary.

4.3 Transition and continuity

Should the nominated gatekeeper move on or responsibilities otherwise change, the gatekeeper will inform his/her successor of the detail of this agreement, the relationship with the PFRA, arrangements for the regulation of face-to-face fundraising, and provide the PFRA with contact details for the successor.

5 Complaint Management

PFRA will respond to and seek to resolve all complaints received, and issue penalties according to its rules. The Council will provide real time notification of any complaints it wishes to be resolved immediately and provide sufficient detail for any retrospective complaints to be investigated. Where the collection agencies or the charities themselves receive complaints it is expected that they will provide information to the PFRA including information about the identity of any individual collector who is subject of a complaint and of the action taken (if any).

Members of the public are encouraged to direct complaints about charity fundraising to the Fundraising Standards Board ([FRSB](#)).

6 Working Together

Colchester Borough Council agrees to work with the PFRA to raise awareness regarding this site management scheme, including explaining what face-to-face fundraising is, the PFRA, the Code of Fundraising Practice, and facts about Direct Debit.

The PFRA monitors member organisations, through a programme of random spot-checks, responding to complaints, and other mechanisms, to ensure fundraisers' adherence to the Code of Fundraising Practice, PFRA Rules, and Site Management Agreements. The PFRA can give appropriate penalties or sanctions to those not abiding by the rules.

This SMA will be reviewed 6 months after it is signed, and then once every 12 months, if necessary, or earlier if there is just cause to do so. All amendments will be agreed in writing before becoming effective. Either party can withdraw from this agreement, giving 3 months' notice in writing.

Depending on when this agreement is signed, in relation to the PFRA's bidding/allocation cycle, there will be a lead-time of up to 8 weeks before the agreement can be fully implemented.

Signed For and On Behalf Of PFRA:

Print name:

Job title:

Date:

Signed For and On Behalf Of Colchester
Borough Council:

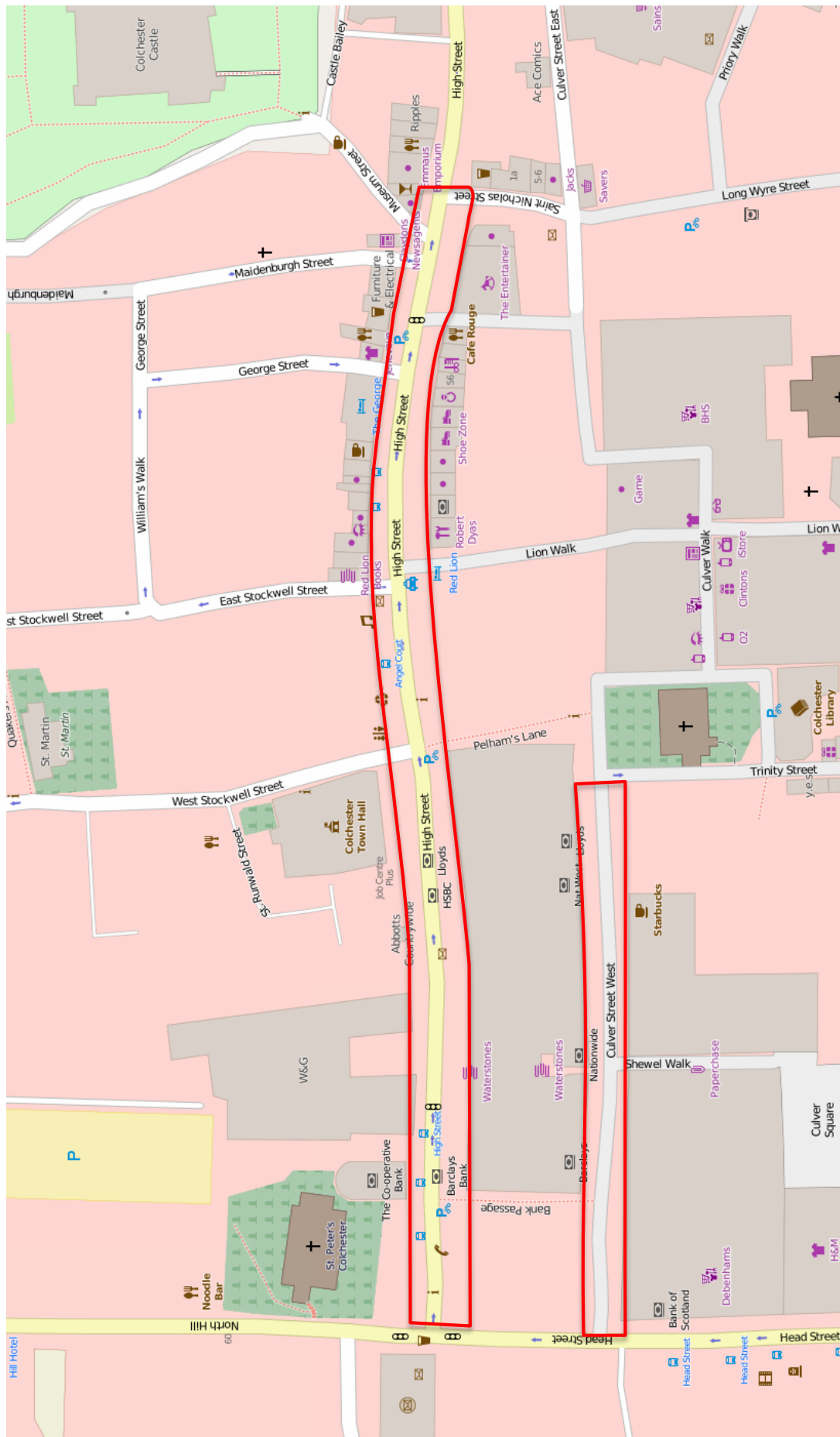
Print name:

Job title:

Date:

Appendix 1 - Map(s)

Plan showing the area(s) where fundraising is to be permitted:



Appendix 2 - Direct Debit Guarantee

Know your rights - The Direct Debit Guarantee

Direct Debit is one of the safest ways of making charitable donations. Organisations using the Direct Debit Scheme go through a careful vetting process before they're authorised, and are closely monitored by the banking industry. The efficiency and security of the Scheme is monitored and protected by your own bank or building society.

The Direct Debit Scheme applies to all Direct Debits. It protects you in the rare event that anything goes wrong.

The Direct Debit Guarantee

- The Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits.
- If there are any changes to the amount, date or frequency of your Direct Debit the organisation will notify you (normally 10 working days) in advance of your account being debited or as otherwise agreed. If you request the organisation to collect a payment, confirmation of the amount and date will be given to you at the time of the request.
- If an error is made in the payment of your Direct Debit, by the organisation or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society.
 - If you receive a refund you are not entitled to, you must pay it back when the organisation asks you to.
- You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation may be required. Please also notify the organisation.

26 November 2015

Report of	Head of Professional Services	Author	Jon Ruder ☎ 282840
Title	Review of the Statement of Licensing Policy // Results of Consultation		
Wards affected	All		

This report details the outcome of the consultation exercise undertaken in relation to the statutory review of the Statement of Licensing Policy and Counsel's opinion. It also recommends that the Policy be referred to Council for adoption

1. Decisions Required

1.1 Members are asked to -

- (i) Consider the results of the consultation exercise undertaken for the five year review of the Statement of Licensing Policy as set out at Appendix 2.
- (ii) Consider the Policy with Counsel's amendments at Appendix 1
- (iii) Agree the draft Policy and propose its adoption to full Council on 10 December 2015.

2. Reasons for Decisions

- 2.1 The Licensing Authority is required by the Licensing Act 2003 to have consulted on a review of its five year Statement of Licensing Policy and have any revisions to that Policy agreed and adopted by the beginning of January 2016.

3. Alternative Options

- 3.1 There is no legal alternative other than to comply with this requirement.

4. Matters for consideration

- 4.1 The consultation process ran between 17 August and 31 October 2015. All premises licence holders were sent a postcard alerting them to the consultation and with a link to the new policy on the website. In addition the responsible authorities and representatives of businesses and residents in the area, town and parish councils and those bodies who received the weekly applications table were consulted.
- 4.2 Comments were received from a number of the responsible authorities relating to the layout and technical information contained within the Policy and amendments have been made where necessary. The responses received from other parties are attached at Appendix 3 and the Licensing Manager's comments on the points raised are set out at Appendix 4. Officers have met with representatives of the Civic Society and are meeting with the owners of The Victoria Inn to discuss both the policy and wider licensing matters.

- 4.3 In view of the lack of responses to the consultation and the fact that no significant amendments were proposed, the decision was taken, in consultation with the Chairman and legal services, to refer the draft Policy direct to Counsel for scrutiny.
- 4.4 Counsel comments that ‘the draft policy is excellent. In particular, rather than regurgitate the law or guidance, it sets out Colchester’s policy. No reader of the policy could fail to understand the standards expected’. He has suggested a few small amendments and that some sections are re-ordered to improve its clarity. These suggestions have all been implemented in the policy appended.

5. Strategic Plan References

- 5.1 The proposed draft review of the Statement of Licensing Policy attempts to strike a difficult but reasonable and proportionate balance between the different and often competing aspirations of licensed businesses and residents. This Policy recognises the importance of widening the choice and appeal of licensed premises and the development of cultural, social and community activities while at the same time offering reasonable and proportionate protections to local residents, visitors and other non-licensed businesses. The policy is in line with the Council’s vision to create a Borough that is vibrant, prosperous, thriving and welcoming.

7. Consultation

- 7.1 The draft revised Policy has been the subject of an extensive consultation process as prescribed by the Licensing Act 2003. A copy of the draft revised Policy will be placed on the Council’s website and will therefore also be available for public scrutiny, although it will not be open to any further public comment or consultation.

8. Publicity Considerations

- 8.1 The revision of the Statement of Licensing Policy was publicised to statutory consultees, responsible authorities, organisations, voluntary groups and interested persons who were all invited to take part in the consultation process. There is no other requirement contained within the Licensing Act 2003 that requires the Licensing Authority to give any wider publicity to this process.
- 8.2 In order to publicise the final adoption and approval of the Statement of Licensing Policy that will be in place for the next five years, the Licensing Authority will seek to promote the publication of the Policy through the local media in early January 2016

9. Financial Implications

- 9.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the Statement of Licensing Policy. However, having sought Counsel’s opinion and agreed to the suggested amendments any such action is highly unlikely to be successful.

10. Equality, Diversity and Human Rights Implications

- 10.1 The draft revised Statement of Licensing Policy has been prepared in accordance with and taken account of, all relevant legislation. There is an Equality Impact Assessment in Place for the Policy.

11. Community Safety Implications

- 11.1 The Licensing Policy is a key component in the Council's strategy to tackle crime and disorder and anti-social behaviour, particularly alcohol related anti-social behaviour and as such it will contribute significantly towards improving overall community safety.

12. Health and Safety Implications

- 12.1 There is no known direct public health and safety issues arising from the adoption of the draft revised Licensing Policy.

13. Risk Management Implications

- 13.1 A flexible yet robust revised Statement of Licensing Policy will continue to provide both the Council and the Licensing Authority with a sound basis for decision making in relation to licensed premises and a secure platform from which to promote the four licensing objectives as outlined in the Licensing Act 2003.
- 13.2 To minimise the potential risks and costs associated with defending the adopted and published version of the Licensing Policy against any legal challenges or actions that may be brought against it, legal opinion/advice has been sought by the Licensing Authority from a Counsel who specialises in licensing matters. It is Counsel's opinion that the draft Statement of Licensing Policy is compliant with the Act and the Guidance and that he has not detected grounds to challenge the Policy.
- 13.3 There is risk to the Council and to the Licensing Authority in their being *ultra vires* in relation to this Licensing Policy and also to the Licensing Act 2003, if the Policy is not adopted and published in January 2016. Failure to do so would mean that the Licensing Authority would be unable to lawfully carry out any function in respect of individual applications made under the terms of the Licensing Act 2003. All necessary steps are however being taken to ensure that the timetable and deadline for the adoption and publication of the revised Statement of Licensing Policy will be met.

Consultation Responses- Licensing Policy 2016 -2021

	Name / Organisation	Response	Observation from the Licensing, Food Safety Manager
1	Colchester Civic Society	Supports the move to diversify premises and more positive engagement with local residents. Licensed premises should be required to consult with local residents Concern at the reliance on receipt of relevant representations without which an application will be granted. New expanded special policy area is welcomed.	The act doesn't require applicants/operators to engage with local residents so we can only lawfully encourage operators to do so. The law requires that an application is granted if relevant representations are not received. This is a legal requirement.
	Essex Chambers of Commerce	No comments	
	Marks Tey Parish Council	No objections to the proposed new policy	
	Mr Stringer	Concern at the number of fast food outlets in specific areas of North Hill and North Stations Road.	Public Health is not a licensing objective and this limits what can be done within the licensing policy. However the Policy indicates there is a presumption against granting any new licences in the Old Town Zone and a limitation on operating hours in residential and mixed commercial/residential areas.
5	Sheena Valentine and Andrew Pilgrim Victoria Inn, Colchester	<ul style="list-style-type: none"> Regular dialogue with residents may invite complaints Voluntary reduction on high strength products 	<ul style="list-style-type: none"> Experience tends to suggest that if there is an established channel of communication between residents and operators, complaints are more effectively dealt with and are less likely to escalate. The point relating to supermarkets is acknowledged. The reduce the strength campaign has been primarily directed at smaller shops and convenience stores which have in the

		<ul style="list-style-type: none"> • Pubwatch • Extensive consultation • Planning Permission • Consideration of need • Old Town Zone • Types of Evidence • Avoid premises simply focussed on the consumption of alcohol 	<p>past served to street drinkers.</p> <ul style="list-style-type: none"> • The concerns relating to the effectiveness of Pubwatch are noted. The Council has plans to establish a broader based licensed trade group established around the principles of purple flag aimed at promoting good business practise and encouraging people into the Town Centre. • This refers to the number of organisations consulted rather than the dialogue with those who have commented. Going forward the policy will be reviewed on a regular basis and will be more responsive to changes in circumstance. • The point made is noted. It is possible under the planning regime to change the use of a premises 'upwards' from drinking establishment to shop without change of use. • The law does not permit the consideration of need. Through the Policy the Council seeks to balance the types of premises in operation. • The boundaries are determined by evidence from a variety of sources including police and ambulance data and also the work of the multi-agency Licensing Enforcement Group (LEG). • SOS bus data is included within the evidence taken from the LEG. • The aim of the Policy is not to legislate against tradition community based pubs and Counsel's opinion has been sought on the best way to achieve the distinction in the Policy between 'traditional' pubs and high volume vertical
--	--	--	--

		<ul style="list-style-type: none"> • Opening hours • Multiple Searches • Town Link access • SOS bus • Public Safety matters • Licensing Enforcement Group 	<p>drinking establishments.</p> <ul style="list-style-type: none"> • The hours have been amended to bring the pubs and wine bars into line. • These are to search for drugs and knives. • This point is being investigated. • The operation of the bus demonstrably reduces demand for the accident and emergency attendances and reduces the negative impact of the night time economy on business, residents and the town in general. It is considered that its provision should be supported by the businesses that contribute towards its need and therefore that the inclusion of CD18 is appropriate and should remain within the policy. • These are matters of general housekeeping in well run establishments but the Policy is designed to be a document accessible to all operators, old and new alike, it is considered therefore that these matters should be retained. • Constructive dialogue with business operating in the night time economy is welcomed and will be the basis of the new group to be established
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Colchester Civic Society

CBC Draft Licensing Policy 2016-2021

This is more positive than its predecessors, in looking for diversity between premises and in interaction with residents. It is probably fairly aspirational, but should be welcomed and can be referred to when licensees fail to match up to the high ideals in the policy.

Our concerns about the legal force of a document in which the word MUST only appears once were allayed by the officer's explanation that CBC were constrained by the need to comply here with the 2003 Licensing Act.

The responsibility for ensuring cooperation between licenses and residents and local businesses lies with the former. There is no indication as to how this might be done at the planning stage. If the LA considers it extremely important that licensed premises operate as good neighbours they should "require" them to consult rather than "encouraging" them to do so.

More worrying is the reliance of the Licensing Authority on the receipt of relevant representations without which the application will be granted as applied for. The police, who with the Fire Brigade, are the responsible authorities are already heavily engaged in keeping order and the projected reduction in their numbers and will have fewer resources to commit to licensing matters.

We have revised our initial reaction to the reliance on the SOS Bus to mitigate the problems caused by the concentration of licensed premises in the newly designated Special Policy Area; it was explained that without this it could become necessary to implement a cumulative impact and saturation policy which could result in the further spread of disorder.

We welcome the new expanded Special Policy Area and hope that it will assist the Licensing Authority in the difficult task of controlling the night time economy.

We very much appreciate the determined and imaginative efforts the licensing team are making in an attempt to diversify the early evening economy.

Elisabeth Baines

Chairman, Colchester Civic Society

Licensing Committee

From: David Burch <davidburch@essexchambers.co.uk>
Sent: 18 August 2015 14:03
To: Licensing Team
Subject: Licensing Policy - Consultation

**Essex
Chambers of Commerce**

Better for business

Thank you for your email of the 17th regarding the above consultation. We have no comments that we wish to make on the council's proposals.

Kind regards

David Burch
Director of Policy

Essex Chambers of Commerce
8 & 9 St Peters Court
Colchester
Essex, CO1 1WD

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Licensing.Committee

From: Marks Tey Parish <parish.clerk@marksteyparish.org.uk>
Sent: 08 October 2015 11:58
To: Licensing Team
Subject: Council's Licensing Policy - Consultation

Dear Sir / Madam

At a meeting of the Marks Tey Parish Council on 5 October 2015 it was resolved that the Parish Council had no objection to the proposed new policy

Steve Marriott

Parish Clerk and Responsible Financial Officer

Marks Tey Parish Council

Council Offices
Old London Road
Marks Tey
CO6 1EJ
Telephone: 01206 213250

Please note that my working days are Tuesday and Thursday

Unless otherwise stated, the contents of this message should not be taken as necessarily being the views, opinions, policies or procedures of Marks Tey Parish Council.

Licensing.Committee

From: Dominic Stringer [redacted]
Sent: 27 September 2015 16:23
To: Licensing Team; Licensing.Committee
Subject: Consultation of new draft policy considerations

Dear Sir/Madam

I would like the department to consider the number of similar businesses already in the area and the effect that these type of outlets have on the residents of Colchester, when granting a license for a new premises.

For example, in North Station Road there are approximately eight fast food outlets, in close proximity, and at the bottom of North Hill, two further fast food businesses are in operation.

St Helena School, the Sixth Form College and Colchester Technical College students are tempted by these outlets en route to all the above learning centres and the council should question if this is a healthy lifestyle choice for the students.

The UK is facing a crisis of childhood obesity which is not something the council should encourage by allowing a high number of takeaway outlets so close to schools and colleges, and I feel the resulting impact of obesity on local GP surgeries and hospital services, should also be taken into account.

Yours faithfully

Dominic Stringer
[redacted]
[redacted]
[redacted]

- 1.10 **Regular dialogue with residents** This seems a good idea in theory but could be seen as actively seeking to invite complaints.
- 1.13 **Voluntary reduction in high strength products**, will this include large supermarkets as these are the main source when people are preloading?
- 1.17 **Pubwatch?....** Is it up and running, again? In the 5 years we have been at the Victoria the only contact we have had was an invoice for outstanding fees from the period before we took over!. Pubwatch is a fantastic tool but it needs organising properly. Is it not the case that participation in the Pubwatch scheme is a condition attached to most town centre premises licences?
- 1.18 **Extensive consultation?....** All we have received is the small card posted through to us. If the end of the consultation period is 31st October as stated then that only leaves November and December for Licensees to be involved in giving input should any amendments be proposed before the implementation date of 1st January. These are the two busiest months for most licenced premises. Maybe the timings could be looked at?
- 1.20 **Planning permission not generally required...** This is incorrect as no planning permission is required for change of use 'downwards' from say a public house to off-licence/supermarket. There are currently proposals in government to try and close this planning loophole however these are being opposed by the large Pub-Cos as they are currently selling off hundreds of pubs off to be converted into supermarkets. They need to do this to service the unsustainable amounts of debt they have. Marstons sold off 205 earlier this year to be converted into Co-Op stores. Yet another shift from controlled drinking environment to street drinking.
- 1.23 **Consideration of need.** This is contradictory to the aims of the Borough Council in retaining a healthy balance of venues. See page 11 KF2. In York, at town of roughly the same population as Colchester and a similar outlook re promoting its history to tourists, for many years the local council had a policy of not granting any new licences as they believed that the town centre was adequately served by the venues which were trading. This was relaxed and many new venues opened up. York has now become a northern mecca for Stag and Hen parties from Scotland, Newcastle, Leeds, Sheffield etc. and the town centre has at times become a no go zone at weekends with locals and visiting tourists avoiding whole areas. We would suggest that the market does not always know best.
- 2.30 **Evidential data from July 2015** We would be interested in viewing this. Is it publicly available?
- 2.90 **Old Town Zone** Can you confirm that this is the same as the Town Centre Zone on the attached map? If so I would be interested to learn how the boundaries were set and when.
- 3.30 **Types of evidence** To get a wider picture would it be prudent to include data from the SOS bus?
- 4.20 **Cumulative impact and saturation policy** What is this?
- 4.80
- PN3 Communication with local residents.** Please see comments on 1.10.

PN9 Not all taxi firms in Colchester will offer a ring back facility, and of those that do it is often unreliable.

PN10 Pubwatch See comments re 1.17

5.30 Key aim... Avoid premises simply focused on the consumption of alcohol This defines most old fashioned style pubs! For example at the Victoria we have no TVs, no pool table, no darts and we do not serve food. So by definition we are solely focussed on the consumption of alcohol. But in venues such as ours alcohol is consumed in a responsible manor under the supervision of the Landlords & bar staff. It also contradicts 5.11 'We aim to encourage quieter local-style venues' Maybe a rewording of this section could be considered or could you explain why 'traditional' pubs are not to be encouraged?

5.12 Opening hours It appears that pubs and wine bars are to be treated differently in regards to permitted opening hours. Why different and how do you intend to decide if a new application is a wine bar or a 'posh' pub?

5.14 Vertical Drinking Establishments We wholeheartedly agree with this for reasons set out in 1.23.

6.10 CD5 Multiple Searches What for?

CD8 Town link Radio In the 5 years we have been at our premises we have had no contact or been offered the opportunity to join this scheme.

CD18 SOS Bus Worthy as it may well be, should an obligation to support this scheme really be written into a licencing document? I would suggest that this may not be entirely legal and open to possible challenge. While the SOS bus undoubtable helps many town centre revellers at the weekends maybe we should be asking ourselves why we need the bus at all. I have much to say on this subject ... far too much to include here.

7.10 Public Safety

PS3 This is general housekeeping and not needed

PS6 Operation of a glass collection and spillage policy Again, Is this not just basic housekeeping? And if so what place does it have in a Licensing policy document?

10.10 Off Sales of Alcohol You Say that 'consumption of alcohol on the way to licenced premises gives rise to drunk and disorderly behaviour'. I would add that the majority of pre loading happens at home where people meet up before heading up town.

Again I have much to say on this subject regarding alcohol pricing, availability and controlled drinking environments, far too much to include here. The simplified issue is this....

People used to go out and get drunk, Now they get drunk to go out.

13.3 Licencing Enforcement Group I note that this group has representatives from all the responsible authorities and the Garrison. If you feel it would be helpful to have a representative from the businesses that any changes to the licencing policy mostly

affects, i.e. the licensees themselves, I would be more than willing to find the time to offer my input.

Reading back the points raised above I am aware that they may be perceived to be slightly critical and negative of the proposed policy document., I can assure you that is not the case. I thought it best to be short and to the point and would like to stress that overall the document (wordy as it is) makes for interesting reading.

Statement of Licensing Policy 2016–2021

**Licensing Act 2003
Colchester Borough Council**

Draft November 2015

Foreword

Welcome to the latest edition of Colchester's Statement of Licensing Policy.

We have made a number of significant changes to this policy following a collaborative proactive approach to licensing. We have built on the success of our multi-agency Licensing Enforcement Group and used the experience gained to shape our aspirations to promote and enhance Colchester's reputation as a safe and vibrant, welcoming and prosperous borough. We want to make sure that Colchester continues to offer a diverse range of high quality and well managed venues and experiences; valued by those who live here, work here and come to visit.

We have:

- set out what we aim to encourage
- identified how we want the town to grow and diversify
- made clear the high standards we expect premises to achieve
- created a special policy for the Old Town Zone
- reordered the Policy to make it easier to read, and
- set out our commitment to creating a vibrant, prosperous, thriving and welcoming town

We are mindful of the balance that has to be struck between the sometimes competing needs of our residents and those of our business community. It is essential to ensure our residents can peacefully enjoy their homes and environment whilst also encouraging responsible and positive investment and economic growth.

We hope that this revised Statement of Licensing Policy is clear and easily understood and reflects the needs of all our communities.

Colchester Borough Council, Essex Police and our partner agencies on the Licensing Enforcement Group are committed to working in partnership to provide a responsive licensing approach. We commend it to you and sincerely believe that it will make a positive difference.

Councillor Tim Young, Cabinet Member for Community Safety, Licensing and Culture,
Colchester Borough Council

Councillor Michael Lilley, Chair of Licensing Committee, Colchester Borough Council
xxxxxx, Borough Commander, Essex Police

Contents

1 Introduction	5
Links to other strategies, policies and initiatives	6
The Strategic Plan	6
Aspirations for the Borough	6
Purple Flag	7
Community Safety Team and the Safer Colchester Partnership	8
SOS Bus	8
Local Development Framework	9
Contributing to achieving wider aspirations	9
Pubwatch	9
Consultation and Implementation of the Policy	10
Integration with Planning	10
Consideration of need	10
Duplication with other regulatory regimes	10
Other licensing policies	11
2 Guide to the Licensing Policy	12
Key Factors	13
Operation of the Policy	13
Departures from the Policy	14
3 Key factors	15
KF1 – What we aim to encourage	16
KF2 – The location of licensed premises	17
KF3 – Hours for licensed premises	18
KF4 – Standards to promote the licensing objectives	19
KF5 – Off-sales of alcohol	20
4 The prevention of crime and disorder	21
5 Public Safety	26
6 The prevention of public nuisance	28
7 The protection of children from harm	31
8 Key Factor (KF5) Off Sales of Alcohol	33
9 Special Policy for Colchester's Old Town Zone	35
10 The Cumulative Impact of Concentrations of Licensed Premises	43

10 Temporary Event Notices	45
11 Premises Licences for large-scale public events	46
12 Licensing and Enforcement Monitoring	49
Reviews	50
Suspension for non-payment of fees	51
Ability to reinstate conditions upon review	51

DRAFT

Colchester is Britain's oldest recorded town with a unique history and heritage attracting in excess of 6 million visitors' trips a year. It is also a vibrant, thriving, prosperous and welcoming town and the existence of a large University and Garrison contribute to its overall diversity. The Borough is home to more than 180,000 residents living in communities based not only in and around the town centre but in the coastal, rural and riverside areas of the Borough. The population is expected to rise to 233,400 by 2035 with the regeneration of key areas of the borough and the creation of new communities.

The evening and night time economy in the Borough, which attracts 1.14 million visitors a year and is worth £64.4 million, is predominantly centred in the town of Colchester. The unique geography of the town centre means that the vast majority of licensed venues are located within the area circled by the old roman wall; within this area and close by are a number of residential communities. The challenge for the Council as the Licensing Authority is to balance the sometimes opposing demands of this sector with those of residents.

A recent survey of the evening and night-time economy commission by the Council and carried out in May/June 2015 identified that those surveyed wanted to see a greater variety of things to do; anti-social behaviour addressed; and action taken to reduce excessive drinking. This supports the Council's view that to attract businesses, visitors and residents the town needs to offer a variety of venue choices and to move away from a night-time economy centred on high volume drinking establishments. The survey results showed that whilst 31.3% indicated they visited the town for the purposes of clubbing, a broadly similar number, 30.5%, visited in order to eat out and that couples and families accounted for 40.5% of the users of this economy.

Introduction

1.1 This Statement of Licensing Policy (hereafter referred to as the 'Licensing Policy') is published under Section 5 of the Licensing Act 2003 and states how the Council as the Licensing Authority will exercise its licensing functions in order to promote the four licensing objectives which are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm

1.2 Unless otherwise stated this licensing policy will not depart from the Secretary of State's Guidance (known as Section 182 Guidance (as amended)). Therefore to reduce repetition if matters are detailed in the Guidance they may not be included in this policy.

1.3 The aim of this Licensing Policy is to ensure desirable destinations for a wide range of age groups and uses. Premises that will extend the diversity of entertainment and attract a wider range of participants are encouraged rather than premises mainly or exclusively focused on the sale of alcohol. The Licensing Authority believes that achieving this will promote the licensing objectives as well as support other important Council strategies.

1.4 The Licensing Policy is integral in managing the role licensed premises play throughout the Borough. A key aim of the policy is to ensure that licensed premises have a positive impact on their locality and where any premises do cause problems, they are addressed swiftly and in the most appropriate manner. This Policy aims to develop a more inclusive night time economy, ensure high standards of management for licensed premises, and promote high-quality premises that can contribute positively to their locality.

Links to Other Strategies, Policies and Initiatives

1.5 In preparing this Policy, the Council has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development. The Policy therefore integrates, as far as is reasonably practicable, with other key Council policies to ensure the promotion of the Council's strategic plan and with key initiatives to improve the night time economy

The Strategic Plan

1.6 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies to create a Borough that is -

Vibrant promoting our heritage and working hard to shape our future
Prosperous generating opportunities for growth and supporting infrastructure
Thriving attracting business and selling Colchester as a destination
Welcoming a place where people can grow and be proud to live

1.7 This Policy aims to contribute to this vision through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the Borough. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy.

Aspirations for the Borough

1.8 The Council is committed to achieving the goals set out in its Strategic Plan to create a vibrant, prosperous, thriving and welcoming town. In relation to the evening and night time economy this Policy will support the plans to

Ensure Colchester is a welcoming and safe place for residents, visitors and businesses with a friendly feel that embraces tolerance and diversity

Enhance the diverse retail and leisure mix supporting independent businesses valued by residents and visitors

Create the right environment for people to develop and flourish in all aspects of life both business and pleasure.

Create a business friendly environment, encouraging business start-ups, support to small and medium sized enterprise and offer development in the right locations

Develop a strong sense of community across the Borough by enabling people and groups to take more ownership and responsibility for their quality of life

Promote Colchester's heritage and wide ranging tourism attractions to enhance our reputation as a destination

Promote Colchester to attract further inward investment and additional businesses, providing greater and more diverse employment and tourism opportunities

Be clear about the major opportunities to work in partnership with public, private and voluntary sectors to achieve more for Colchester than we could on our own

Improve sustainability, cleanliness and health of the place by supporting events that promote fun and wellbeing

Make more of Colchester's great heritage and culture so that people can enjoy them and draw inspiration for their creative talents

Cultivate Colchester's green spaces and opportunities for health, wellbeing and the enjoyment of all.

Make Colchester confident about its own abilities, to compete with the best of the towns in the region to generate a sense of pride.

1.9 Licensed premises can have a major effect on these aspirations and so when relevant to the promotion of the licensing objectives, the Licensing Authority will aim to support the aspirations to ensure premises are only licensed that contribute positively to the Borough.

1.10 The Licensing Authority will seek to ensure that premises contribute positively to the area in which they are situated with respect to the licensing objectives having regard to the nature of its locality. Operators of licensed premises are encouraged to consult with local residents and businesses prior to submitting applications.

~~Additionally, existing licensed premises are encouraged to have regular dialogue with residents and businesses in the local area in ensuring the promotion of the licensing objectives on an ongoing basis.~~

Purple Flag

1.11 This Licensing Policy aims to build upon Colchester's success in achieving Purple Flag status and further enhance the leisure, cultural and entertainment offerings for users of the night time economy by ensuring only well-run, safe and welcoming licensed premises are operated offering a broad mix of attractions. It is a key strand of the Council's Strategic Plan, to make Colchester a better place to live, work, learn and visit, and its core themes of ensuring Colchester is vibrant,

prosperous, thriving and welcoming. This Policy aims to complement the principles behind the Purple Flag award to ensure licensed premises make a positive contribution towards a successful night time economy.

1.12 The Purple Flag Core Agenda covers five broad themes:

Wellbeing – The standards for licensed premises set out in the Policy set out how the Licensing Authority expects licensed premises to operate in order to ensure high quality of operation and management.

Movement – Getting home safely after an evening out is a prime requirement. The consideration of availability of transport is addressed through the location considerations in the Policy by ensuring that there are appropriate transport and dispersal mechanisms in place, having regard to the locality.

Broad appeal – Successful destinations should offer a vibrant choice of leisure and entertainment for a diversity of ages, lifestyles and cultures, including families. They should contain a rich mix of public and private attractions. They should be vital places for both the day and the night. The Policy sets out the diverse range and types of licensed premises the Council aims to encourage.

Place – Successful hospitality areas are alive during the day, as well as in the evening and night. They contain a blend of overlapping activities that encourage people to mingle and attractive places where spending and being are in balance. They respect and reinforce the character and identity of the area, its buildings, structures and features. They demonstrate flair and imagination in all aspects of design for the night. This Licensing Policy aims to encourage an evening and night time economy that is not solely youth-oriented and alcohol-driven and by ensuring that premises are only licensed that contribute positively to their locality.

Policy framework – this policy provides clear direction to ensure that licensed premises offer a positive experience within the area in which they are located.

Community Safety Team and the Safer Colchester Partnership

1.13 This policy ties in well with the work of the Community Safety Team. There is a significant degree of overlap in the work of Community Safety and Licensing around the areas of alcohol and safety and this Policy supports and enhances this work. Key Priority 3 of the Safer Colchester Partnership Plan deals with the issue of alcohol misuse. Alcohol together with drug misuse fuels most of the violent and antisocial behavior that takes place in the Town Centre. The Partnership seeks ways to support projects and initiatives that tackle the problems both in the night time economy and also during the day with street drinkers. The initiatives, identified in the plan, include a pilot project with licensed premises on the use of polycarbonate drinking vessels;; and the voluntary reduce the strength campaign to encourage off-licences to stop selling super strength cheap lagers, beers and ciders.

SOS Bus

1.14 The Town Centre benefits from the operation of the SOS bus and support mini bus which operates in Colchester High Street every Friday and Saturday night. The bus, which is staffed by a manager, coordinator and trained volunteers, offers a safe haven, helps diffuse trouble and provides medical support to people who need it. Its operation demonstrably reduces demand for accident and emergency attendances and helps reduce the negative impact of the night time economy on business, residents and the town in general. This Policy supports the work of the SOS staff and recognizes the essential role it plays in making the Borough vibrant, prosperous, thriving and welcoming.

Local Development Framework

1.15 The Council's adopted Local Plan emphasizes the importance of the Town Centre and regeneration. Planning policies direct development towards the most accessible and sustainable locations and plans for the provision of transport, employment and community facilities to support the growth areas of the Borough. This Policy supports these development aims; it recognizes the need to ensure that licensed premises are suitable for the area in which they are situated and encourages a diverse range of entertainment facilities to meet the needs of growing communities.

Contributing to achieving wider aspirations

1.16 The Council recognizes there is no public health licensing objective and therefore cannot conduct its licensing function in order to promote public health. However, it also recognizes the impact of alcohol misuse in the Borough, and it is hoped that through the implementation of this Policy the promotion of the four licensing objectives will in turn have a positive effect on preventing alcohol misuse. For example, by ensuring licensed premises refuse sales of alcohol to children, or those attempting to purchase it on behalf of children, this will impact positively on a reduction in child alcohol-related health problems. Additionally, by preventing the use of illegal drugs on licensed premises, it is hoped this might reduce combined alcohol and drug misuse. Through ensuring the responsible selling of alcohol, this may impact on reducing a person's drinking at harmful or hazardous levels. The Council, through its Licensing Enforcement Group (LEG), receives information on admissions to A&E and ambulance call outs and this information is used in profiling premises and areas of the borough. -However, it is accepted that any such positive impact will be as a coincidence of the Licensing Authority conducting its licensing function under the Act to promote the licensing objectives.

Pubwatch

1.17 The Council encourages participation in the town centre Pubwatch scheme and is assisting in the creation of a new scheme for West Mersea. The Council encourages licensees to participate in Pubwatch, or for them to seek to establish new ones where none currently exist, and endeavours to provide as much support as possible to any members of the trade looking to work together with neighbouring residents and businesses to ensure the promotion of the licensing objectives.

Consultation and Implementation of the Policy

1.18 In accordance with Section 5(3) of the Act, the Licensing Authority carried out extensive consultation between 17 August 2015 and 31 October 2015. The comments received in response to this consultation were considered by the Licensing Committee at its meeting on 26 November 2015.

1.19 This Statement of Licensing Policy will take effect on 1 January 2016 and will remain in force for a period of not more than five years from this date. The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation in accordance with the Act. Minor amendments which do not affect the substance of the policy may be made without consultation.

Integration with Planning

1.20 The use of premises for the sale or provision of alcohol, regulated entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.

1.21 The planning and licensing regimes involve consideration of different (albeit related) matters. The Licensing Sub-Committee is not bound by the decision made by a Planning Committee and vice versa. Where the hours granted by planning are different to the licensing hours, the licensee must observe the earlier closing time. Premises operating in breach of their planning permission may be liable to prosecution or other enforcement under planning law.

1.22 The grant or variation of a licence does not negate the requirement for the licensee to ensure that relevant planning permission (or building control approval) is in place prior to the premises operating. Applications for premises licences should normally be from businesses with planning consent for the property concerned. However applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority. It is strongly recommended that applicants contact the Planning Authority in advance of making a licensing application to seek advice on the planning constraints in respect of their premises and so ensure that in operating the premises planning and licensing requirements are compatible.

Consideration of need

1.23 The Licensing Authority ~~will not~~ is not able to take into account need or the commercial demand when exercising any licensing function; this is a matter for the market.

Duplication with other regulatory regimes

1.24 In exercising its licensing functions, the Licensing Authority shall seek to avoid duplication with any other existing legislation and regulatory regimes that already

place obligations on employers and operators e.g. the Management of Health and Safety at Work Regulations 1999, the Regulatory Reform (Fire Safety) Order 2005, or the Environmental Protection Act 1990.

Other Licensing Policies

1.25 The Council has policies to deal with applications made under the Gambling Act and for applications in relation to sex establishments.

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2. Guide to the Licensing Policy

2.1 This Licensing Policy sets out the relevant information on how licence applications will be determined and how licensed premises are expected to operate, as well as explaining how licensing integrates with other related strategies for the Borough.

2.2 The aims of this Licensing Policy are to pursue and promote the licensing objectives by encouraging:

- Desirable destinations for a wide range of age groups
- Licensed premises suitable for the area within which they are located
- Diversity of entertainment throughout the town centre that appeals to a wider audience
- A wide range of uses of premises

2.3 Licensed premises are an integral part of town and wider Borough and this Policy is a key tool in ensuring the different circumstances of our identified areas are taken into account when considering licence applications. After careful consideration and having regard to evidential data including the most recent night time economy survey data completed in May/June 2015, the Council has determined to include within the Policy a special policy for the Colchester Old Town Zone. This special policy sets out what the Licensing Authority wishes to see in this specific area and the expectations in relation to the management of premises.

2.4 The Council, as the Licensing Authority, is committed to ensuring that licensed premises are an asset to their locality and respect the character and identity of the area through the implementation of this Licensing Policy. However, where licensed premises fail to promote the licensing objectives, the Licensing Authority will take appropriate steps to address any such licence related issues.

2.5 Residents can play a significant role in contributing to the effective implementation of this Licensing Policy. The impact of licensed premises will naturally be most felt at a local level and it is important that residents and businesses have an active involvement in the licensing process and understand how they can do this.

2.6 The Licensing Authority considers it extremely important that licensed premises operate as good neighbours within their community. Operators of licensed premises are encouraged to consult with local residents and businesses prior to submitting applications to ensure they are aware of, and can address, any needs or concerns they may have.

2.7 Additionally, existing licensed premises are encouraged to have regular dialogue with residents and businesses in the local area to ensure the promotion of the licensing objectives on an ongoing basis.

2.8 This Policy contains a number of Key Factors, which are the primary issues it expects to be considered by licensees when identifying the steps they intend to take to promote the licensing objectives in respect of their licensed premises:

Key Factors

- KF1 What we aim to encourage** – desirable destinations for a wide range of groups and uses
- KF2 The location of licensed premises** – venues in the right place
- KF3 Hours for licensed premises** – operating at the right hours
- KF4 Standards to promote the licensing objectives** – excellent management
- KF5 Off sales of alcohol** - operating to the highest standards

Operation of the Policy

2.9 Applicants are expected to consider all the policies relevant to their application; these include general policies, key factors and where appropriate special policies.

2.10 Where there is no relevant representation, the licence must be granted as applied for subject to the mandatory conditions and those specified in the operating schedule.

2.11 If there is a relevant representation, the application will be considered against the policies and steps taken which are appropriate and proportionate to promote the licensing objectives

2.12 There is a greater chance of a representation being made (and therefore a hearing) where the factors contained in this Policy are not addressed.

2.13 Where the policy is to refuse the application in line with the special policy, the Licensing Authority will always consider the circumstances of the case and whether there are exceptional circumstances to justify a departure. In considering whether there are such circumstances, the authority will consider the reasons for the policy and whether those reasons would be met notwithstanding the departure.

2.14 In considering conditions to be attached to licences and certificates, the Licensing Authority will ensure that conditions must:

- be specific for the premises;
- not duplicate existing provisions;
- be capable of being met;
- be appropriate and proportionate for the promotion of the licensing objectives: and
- be tailored to the individual style and characteristics of the premises and events concerned.

2.15 It is acknowledged that conditions can only be imposed that seek to manage the behaviour of customers when they are on the premises and within the control of the licensee or in the immediate vicinity of the premises.

2.16 Where, following relevant representations and a hearing, the Licensing Authority is not satisfied that amendments to the application and/or the imposition of conditions will ensure the promotion of the licensing objectives the policy is to refuse the application. The amendments that will be taken into consideration include –

- excluding licensable activities
- amendments to the times for licensable activities
- a reduction in the licensable area

2.16 Licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorization concerned. Nonetheless, it is a key aspect of such control, and licensing law will always be part of a holistic approach to the management of the evening and night time economy in the Borough.

Departures from the Policy

2.17 This Policy sets out the Licensing Authority's vision for the regulation of licensed premises throughout the Borough and outlines the standards expected in order to ensure the promotion of the licensing objectives. The Licensing Authority may depart from the policy should it consider doing so would benefit the promotion of the licensing objectives. ~~Reasons will be given for any such departure from the general policy in this statement.~~ However, it is expected that any such departure would only be in exceptional circumstances.

3 Key Factors

3.1 The key factors set out in the Policy are intended to address the principle issues related to licensed premises. Licensed premises and activities can play an important role in ensuring that the Borough is vibrant, prosperous, thriving and welcoming. However, if premises are not managed responsibly they can also impact negatively on an area by causing a wide variety of problems.

3.2 Our aim is to promote an 'inclusive' evening and night time economy throughout the Borough to ensure people of all ages can participate in and enjoy a range of activities. These key factors are designed to ensure that all licensed premises throughout the Borough operate to promote the four licensing objectives in order to ensure they contribute positively to the Borough. The Key Factors are:

KF1 What we aim to encourage

KF2 The location of licensed premises

KF3 Hours for licensed premises

KF4 Standards to promote the licensing objectives

KF5 Off sales of alcohol

3.3 A key aim is to ensure the diversity of licensed premises and particularly avoid premises simply focused on the consumption of alcohol. Where relevant representations are made, there will be presumptions against premises that facilitate quick drinking through lack of seats (vertical drinking), loud music, and particularly those which aim to attract an exclusively youth-focused crowd to the exclusion or detriment of other groups.

3.4 We will also ensure that due consideration is given to the proximity of licensed premises not only to local residents and businesses, but also in relation to other licensed premises to ensure they are located in a position that does not adversely affect their ability to ensure the promotion of the Licensing objectives.

3.5 While it is recognized that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided, the Licensing Authority will consider restricting hours to ensure the promotion of the Licensing Objectives, subject to relevant representations being made in relation to the hours applied for, should the Licensing Authority deem this appropriate and proportionate following a hearing.

3.6 Where no relevant representations are received against an application for a Premises Licence or Club Premises Certificate, it shall be granted automatically subject to mandatory conditions under the Licensing Act and conditions consistent with the licensee's operating schedule.

3.7 However, we have established Key Factors we expect licensees to consider. Failure to do this may increase the possibility of representations being made against applications, particularly by Responsible authorities.

3.8 Every application will be treated in accordance with the Act, the Guidance and this Licensing Policy. The licensee is expected to consider the Key Factors and the potential impact upon the Licensing objectives relevant to them. The Licensing Policy is applicable to all premises providing any licensable activity, and it is important that all premises have regard to it and can demonstrate this.

3.9 The Standards to Promote the Licensing objectives (Key Factor 4) set out what the Licensing Authority expect licensees to have due consideration to in how they operate their premises. However, it is a matter for them to propose the measures they consider appropriate with respect to their individual circumstances.

3.10 The Licensing Authority expects licensees to implement all measures they consider appropriate to promote the Licensing objectives with respect to their individual circumstances. The Standards may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to consideration of those measures outlined in the Licensing Policy. It is proper that they address all issues they consider appropriate to promote the Licensing objectives.

KF1 - What we aim to encourage

3.11 The aim is to ensure desirable destinations that cater to a wide range of age groups and uses. Premises that are encouraged are:

Those that will extend the diversity of entertainment and attract a wider range of participants. Live music, especially original material, is encouraged particularly to provide a range of live performances and styles of music, provided that such entertainment does not undermine the licensing objectives.

Family friendly venues, where people with children can attend, are encouraged. These need not necessarily be places specifically aimed at children but could be premises appealing to adults which also provide for children.

Quieter and Smaller 'local-style' venues able to promote a sense of community and familiarity for customers.

Wind-down or chill-out venues that enable people to begin or end their nights out in a quieter venue where customers can sit down in a relaxed environment, particularly without alcohol.

Restaurants and Cafés as well as other less alcohol-dominated venues.

Theatres and Cinemas

3.12 Subject to compliance with the other policies in the policy, these types of licensed premises will generally be considered ~~generally be granted~~ in line with the Matrix set out below, unless relevant representations are made and the Licensing Authority is satisfied the individual application will undermine the licensing objectives.

Function	Residential	Mixed Commercial and Residential	Commercial
Restaurant	Yes <u>until</u> – 11pm	Yes <u>until</u> – midnight	Yes <u>until</u> – 1am
Late Night Takeaways *	Yes <u>until</u> – 10pm	Yes <u>until</u> – midnight	Yes <u>until</u> – 1am
Nightclub	No	No	No
Pub **	Yes <u>until</u> – 11pm, Midnight Friday and Saturday	Yes <u>until</u> – midnight	Yes <u>until</u> – 2am
High Volume Vertical Drinking Establishments	No	No	No
Non-Alcohol Led – Theatres etc.	Yes <u>until</u> – 11pm	Yes <u>until</u> – midnight	Yes <u>until</u> – midnight
Off-licence	Yes <u>until</u> – 10pm	Yes <u>until</u> – midnight	Yes <u>until</u> – midnight
Members' Club	Yes <u>until</u> – 11pm	Yes <u>until</u> – midnight	Yes <u>until</u> – 2am
Village Halls	Yes	Yes	Yes
Wine Bars **	Yes <u>until</u> – 11pm, midnight Friday and Saturday	Yes <u>until</u> – midnight	Yes <u>until</u> – 2am
Live Venues	Yes <u>until</u> – 11pm	Yes <u>until</u> – midnight	Yes <u>until</u> – midnight
Café Bars	Yes <u>until</u> – 11pm	Yes <u>until</u> – midnight	Yes <u>until</u> – 2am
Coffee Shops/bars	Yes <u>until</u> – 11pm	Yes <u>until</u> – midnight	Yes <u>until</u> – 2am

*premises with limited or no seating and primarily focused on the sale of hot food to take away

** premises where customers are generally seated, the density of the premises is lower and the age spread of the customer base is wider

KF2 - The location of licensed premises

3.13 The Licensing Authority considers the following as key issues in relation to the location of licensed premises:

- The proposed operation of the premises having regard:
to the licensable activities applied for,
the size, structure and proposed capacity,
the type/nature of the business
- The proximity of the premises to local residents.
- The proximity of the premises to other local businesses that could be affected
- The general character of the surrounding area including crime and antisocial behaviour levels

- The availability of transport to and from the premises

3.14 Consideration will be given to the capacity for vertical drinking at the premises. Where relevant representations are made, there shall be a presumption against new premises aimed at predominately providing vertical drinking environments i.e. through limited seating provision. Vertical drinking has been linked with encouraging binge drinking and an increased potential for violence and antisocial behaviour.

3.15 Additionally, a number of premises closing simultaneously would lead to larger numbers leaving at the same time thereby increasing the risk of disorder and disturbance, as well as creating spikes in demand for taxis and other sources of transport.

3.16 There is the need to balance the needs of residents with that of the night time economy. Licensees should consider how their premises could impact upon the needs of local residents and businesses. Particular consideration is expected to be given to:

Prevention of noise or vibration escaping from the premises due to volume of music or plant and machinery noise

Prevention of noise disturbance from people entering and leaving the premises (e.g. queue management, dispersal policy)

Prevention of disturbance by people outside the premises (e.g. smoking areas)

Litter from the premises (This issue is considered particularly relevant in respect of late night takeaways and smoking-related litter outside of licensed premises)

Disturbance caused by deliveries and collections at the premises including waste and bottle collection

3.17 Consideration should be given to the effective availability of transport in relation to the premises including the proximity of public transport in order to ensure customers are able to get home safely and without causing disturbance.

KF3 - Hours for licensed premises

3.18 The Licensing Authority considers that measures must be taken to address the causes of crime and disorder and public nuisance linked to the night time economy.

3.19 The Licensing Authority will have particular regard to the hours applied for and considers that later hours will typically be more sensitive and higher risk in causing problems, especially related to drunkenness and particularly after midnight. Consequently, the Licensing Authority expects a higher level of control measures to be implemented at the premises when later hours are applied for.

3.20 The Licensing Authority will have particular consideration to the location of premises and their likely effect on the locality when considering whether the hours requested are appropriate to the area and consistent with promoting the four licensing

objectives (see the Matrix in paragraph 3.12 above).

3.21 Where relevant representations are made, premises that are considered to meet the criteria 'What we aim to encourage' will normally be given greater freedom to operate than premises that could be considered more likely to have a detrimental impact upon the Licensing objectives, such as youth-oriented, alcohol- driven premises.

3.22 It is expected that hours for licensed premises will be particularly relevant having consideration to the location of the premises. Consequently, the hours applied for licensable activities should be appropriate with regard to the nature of the location of the premises. It is recognized that in spite of the quality of the operation of the business, where patrons are out of the control of the licensee, the lateness of the terminal hour for the premises will often be a contributory factor in the potential for disturbance.

3.23 Applicants should only apply for hours that they realistically intend to operate.

3.24 The Licensing Authority will not consider the fact that other premises in the vicinity already have later hours as a justification for granting similar or extended hours and each application will be considered on its individual merits.

KF4 – Standards to promote the licensing objectives

3.26 An application for a new premises licence application, provisional statement, or a variation to an existing licence, must contain an operating schedule which identifies robust proposals to promote the licensing objectives.

3.27 Where no relevant representation is received against an application, only conditions consistent with the steps proposed in the operating schedule will be attached to the licence (in addition to the mandatory conditions).

3.28 We have identified the standards we expect licensees to consider when preparing their operating schedules in order to promote the four objectives. However, it is a matter for them to consider and propose the measures they regard as appropriate to promote the licensing objectives with respect to the individual circumstances of their application. These measures are not exhaustive and the Licensing Authority will have regard to any relevant issues raised in any representation that may fall outside the standards.

3.29 All relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in this Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives. They may also wish to liaise with the responsible authorities and local residents or businesses in considering whether any additional issues may be relevant.

3.30 All persons, including responsible authorities, should also consider these standards in relation to making any representation against an application.

3.31 Where there are relevant representations in respect of an application, these standards will be applied by the Licensing Authority to ensure licensed premises

operate in the manner expected, where appropriate, by the Licensing Policy.

3.32 When it is considered by the Licensing Authority to be appropriate and proportionate in order to promote the licensing objectives, the policy is to attach conditions in accordance with the standards to promote the licensing objectives outlined in this Policy

3.33 While the standards have been separated under distinct titles of the four licensing objectives, many of them will be relevant for the promotion of multiple objectives. Where a measure may address more than one licensing objective it need only be included once.

KF5 Off-sales of alcohol

3.34 The Council has implemented a Public Space Protection Order for the St Botolph's Street area and has a Designated Public Place Order in the town centre in order to help address and prevent numerous problems caused by public consumption of alcohol. Street drinking can be a major cause of antisocial behaviour, often involving underage persons, which gives rise to disorder, concerns over public safety and harm to children. Additionally, it is widely reported that consumption of alcohol by persons on the way to on-licensed premises gives rise to problems of drunken and disorderly behaviour.

3.35 The Licensing Authority therefore, without prejudice to the other policies contained within this policy, will adopt the following stance in relation to premises licensed for the sale of alcohol for consumption exclusively off the premises:

- Where any Responsible Authority makes representation against the grant of a licence for off-sales and, following a hearing the committee are satisfied that there is evidence of serious concerns over demonstrable problems of street drinking or disorder associated with the off-sale of alcohol in the area, there shall be a presumption against granting a licence. Applications will only be granted, following a hearing, where the Licensing Authority is satisfied the grant of the licence would not harm the licensing objectives.
- Where relevant representations are made, the Licensing Authority will also have particular consideration to the hours requested for sales of alcohol. Persons who are alcohol-dependent may be drawn to particular premises if they are licensed to sell alcohol at earlier times than other premises. Additionally, if there are issues related to late-night disorder, the hours for alcohol sales from the premises may be restricted.

3.36 Other conditions may be imposed directed at avoiding problematic street drinking in the vicinity of the premises. Another particular concern will be irresponsible drink promotions that do not follow best practice, would appeal to underage drinkers or street drinkers, or encourage excessive consumption.

4 The prevention of crime and disorder

4.1 The Licensing Authority expects licensees to implement all measures they consider appropriate to promote the Prevention of Crime and Disorder licensing objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation, to every premises, but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to considering only those measures outlined in the Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

CD1 Implementation of effective security measures at the premises

It is expected that there should be a defined policy that documents the security measures in place for the premises. A defined policy should ensure a consistent approach and explain the standards expected of staff. It is expected that premises hold security review meetings on a regular basis to help identify and resolve issues and ensure that staff are fully aware of important issues. Relevant issues could include the prevention of thefts, or identifying problematic individuals.

CD2 The effective management of queues outside the premises

Queues should be managed effectively to prevent any nuisance or disorderly behaviour. There should be a consistent approach to the management of customers waiting to enter the premises and licensees are expected to demonstrate how they will manage queues to the premises.

CD3 The control of entry to and exit from the premises, including assessing the need for door supervisors

Consideration should be given to how capacity will be controlled and how already drunk or disorderly individuals will be prevented from being admitted. A relevant consideration will be whether security staff will be employed at the premises. It is expected that the need for security staff will be determined by documented risk assessment.

Where door supervisors are provided, it is expected that licensees have consideration of the following:

- High-visibility identification – It is expected that door supervisors shall be easily identifiable by wearing high-visibility clothing.

- Appropriate number of staff – Door supervisors should be employed at specified times with regard to the individual circumstances of the premises. The need for door staff should also be regularly reviewed and risk-assessed and appropriate security employed.

- The role of door supervisors in ensuring effective dispersal of patrons from the premises at the end of the night – Door supervisors should be instructed to encourage persons leaving the premises do so without causing disturbance and in an orderly fashion.

- Consideration of SIA-approved contractor scheme companies – The objective of the SIA's Approved Contractor scheme is to raise performance standards. Approved contractors are demonstrably committed to customer

service and the compulsory licensing of their staff, ensuring that every private security operative deployed on a premises will be working within the law.
Holding security briefings at the start and end of duty.
Maintaining a register of door supervisors on duty.

CD4 Operation of a documented policy in respect of searching patrons entering the premises.

Consideration should be given to whether searches of customers entering the premises are required. It is expected that the need for searches will be determined by risk assessment.

Any search policy is expected to include provision for the following circumstances:

Records maintained of searches and seized items – Records should be maintained of any searches where prohibited items are seized and removed. Records should be made available to the Police.

Circumstances under which searches will be conducted – Risk assessments should be conducted to consider when searches are appropriate.

Location of where searches will take place – Areas should be covered by CCTV and not in isolated areas.

Use of detection devices to detect weapons and drugs and when and where they will be used – Consideration for appropriate detection devices should be risk- assessed and employed as appropriate.

Putting procedures in place for the seizure and retention of recovered drugs and other prohibited items – Items recovered should be kept in a secure location and the Police notified.

CD5 Designing out crime in the layout of the premises

Consideration should be had to best-practice advice such as the 'Licensed Property: Security by Design' (BBPA) or at www.securedbydesign.com (ACPO).

CD6 Comprehensive risk assessments for activities at the premises

Risk assessments should be regularly reviewed and any appropriate action implemented immediately. Risks identified should be recorded and updated when appropriate. Consideration should be given to the risks associated with the activities of the business, the clientele, the Key Factors in this Licensing Policy, the nature of the area the premises is located, as well as any appropriate individual circumstances.

CD7 Use of town link radio service at the premises

Late-night premises in the town centre are expected to consider subscribing to the town link radio service which enables the rapid dissemination of information on criminal activity throughout the town centre.

CD8 Implementation of documented reporting procedures at the premises

Important and relevant incidents that occur at the premises should be recorded. Such records should be made available upon request by a Responsible Authority.

Recordable incidents could include:

- Accidents
- Lost and found property
- Refused sales of alcohol
- Thefts
- Banned and ejected persons
- Other incidents
- Injuries
- Allegations against staff.

CD9 Ensuring responsible management of externally promoted events at the premises

Promoters should be required to complete the promoter pro-forma and notification be given to Essex Police and the Licensing Authority no later than 28 days before the event.

CD10 Provision of comprehensive documented staff training

Documented staff training should be conducted relevant to the prevention of crime and disorder issues on the premises, to include (but not limited to):

- Age restrictions in respect of products
- Responsible Alcohol Service, including recognizing signs of drunkenness, refusal skills, drugs awareness
- Company policies and reporting procedures (see above)
- Managing and resolving conflict
- Action to be taken in the event of an emergency, including the report of a crime, fire, or request for emergency medical attention
- Licence conditions
- Relevant obligations and offences under the Licensing Act 2003, including those associated with the sale of alcohol.

Records of all training should be documented and kept on the premises available for inspection by the Responsible authorities.

CD11 Implementation of effective measures to prevent and deal with drunkenness at the premises

Premises licensed for the sale of alcohol for consumption on the premises should have a written policy in relation to drunkenness. Premises should not admit persons who are visibly intoxicated and staff should be trained regarding responsible alcohol sales, identifying drunkenness and preventing alcohol sales to them.

Consideration should also be given to:

- Taking practical steps to prevent drink driving
- Displaying responsible drinking information and posters throughout the premises including the toilet areas
- Ensuring alcohol free options are readily available
- Making appropriate arrangements to ensure the safe transport home of vulnerable customers

CD12 Ensuring only responsible drinks promotions are operated at the premises

Consideration should be given to how any promotions could impact upon the mandatory licence condition for on-licensed premises prohibiting irresponsible promotions. It is expected licensees have reference to recognized codes of practice in respect of the responsible sale and promotion of alcohol products such as those issued by the British Beer and Pub Association, Portman Group and Drinkaware Trust.

CD13 Effective monitoring of the premises (both interior and exterior) including the use of CCTV

It should be demonstrated how the premises will be effectively monitored, e.g. patrols by staff, which areas will be covered by CCTV, whether security staff will be employed and, if so, where – as well as any other appropriate measures. Additionally, appropriate monitoring of external areas, e.g. immediately outside the entrance to the premises, smoking shelters or beer gardens, should be addressed where relevant.

Details of CCTV cameras should be provided (both internal and external). CCTV should be installed in liaison with, and to a standard approved by, Essex Police.

| CD14 Ensuring all alcohol sales are properly ~~authorize~~authorised

The Licensing Authority considers it good practice for alcohol-licensed premises to ensure that there is a Personal Licence-holder on site at all times the premises is open for the sale of alcohol. Depending on the size of the premises, it may be appropriate for multiple Personal Licence-holders to be on duty, e.g. if the premises has more than one bar or is particularly large. The Licensing Authority expects to see written evidence of the delegation by the DPS to other persons of the authority to sell alcohol at the premises

CD15 Prevention of illegal drug use and anti-spiking at the premises

A zero-tolerance policy should be implemented regarding the use of illegal drugs on the premises. A drugs policy should be in writing and include how drugs will be prevented from being brought into the premises, what action the venue will take should anyone be caught with drugs on the premises, and how the drugs will be disposed of. The use of toilet attendants, regular documented toilet checks and searches of the premises could be conducted. Licensees for on-licensed premises should also consider what action will be taken to prevent the spiking of drinks at the premises. This could include encouraging customers to ensure that drinks are not left unattended, and the use of publicity material to ensure customers remain vigilant.

CD16 Operation of a documented glass policy for the premises

Glass injuries are a serious problem in the UK, with approximately 5,500 glassings reported each year, and glasses or bottles being used in 5% of all violent crime. A documented risk assessment should be conducted for the use of glassware on the premises and safer drinking vessels, such as toughened glass or polycarbonate, should be used when appropriate. Risk assessments should also include the use of glass in external areas (if appropriate) as well as how glass collections will be

managed throughout the premises, including the frequency of such collections.

CD17 Support for the SOS bus and other mitigation measures

The SOS bus works with other teams out and about in the night time economy – the street pastors, enforcement officers, doormen of licensed premises, police and ambulance service – to mitigate the effects caused by patrons of premises operating in the night time economy and to assist those premises in dealing with problems at their venue. Licensees are expected to demonstrate how they can offer support to ensure the continued operation of the SOS bus. This can take the form of financial contributions, display of promotional material, fundraising and actively working in a positive way with volunteers, as well as other initiatives such as taxi marshaling.

5 Public Safety

5.1 The Licensing Authority expects licensees to implement the measures they consider appropriate to promote the public safety objective regarding their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the Licensing objectives.

PS1 Maintaining a safe capacity and recording customer numbers

Capacity should be managed effectively and in accordance with an appropriate risk assessment to prevent overcrowding. Advice should be sought from Essex Fire and Rescue in relation to the safe capacity for premises and how it should be managed.

PS2 Ensuring Fire Safety procedures are in place and up to date

Licensed premises should:

Conduct a Fire Risk Assessment for the premises, which is reviewed as required, and as a minimum every 12 months. An assessment template and guidance notes are available on the Essex County Fire & Rescue Service website.

Ensure all fire equipment is inspected/serviced as per its relevant British Standard (generally, but not always, annually) and documented.

PS3 Use of a daily pre-opening and closing checklist

Consideration should be given to implementing such checklists as they can help ensure that all appropriate and routine actions are conducted consistently, ensuring good practice.

PS4 Provision of comprehensive documented staff training

Documented staff training should be provided to ensure adequate public safety on the premises, including (but not limited to):

First Aid
Fire safety procedures
Evacuation procedures
Terrorist threats (predominantly town centre venues)
Overcrowding.

PS5 Implementation of appropriate anti-terrorism measures

Licensed premises, particularly those located in the town centre, should have regard to the National Counter Terrorism Security Office (NaCTSO) publication 'Counter Terrorism Protective Security Advice for Bars, Pubs and Nightclubs'.

PS6 Operation of a documented glass collection and spillage policy

Premises licensed for the sale of alcohol for consumption on the premises should have a policy and procedure in place to ensure effective and efficient collection of glasses and the cleaning-up of spillages throughout the premises.

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6 The prevention of public nuisance

6.1 The Licensing Authority expects licensees to implement the measures they consider appropriate to promote the prevention of public nuisance objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the Licensing objectives.

PN1 Prevention of noise breakout from the premises

This relates to both internal and external areas. Measures such as double-glazing, the use of an acoustic lobby, noise limitation devices and soundproofing for internal areas may be relevant. Licensees should demonstrate the measures taken to address such issues.

PN2 Use of a last entry time for the premises

Consideration should be given to a curfew on entry times, which can reduce the possibility of persons causing noise and disturbance late at night who may have been attracted to the premises.

PN3 Communication and integration with local residents and businesses

Licensees are encouraged to consult with local residents and businesses prior to submitting an application for a new licence or variation of an existing licence to ensure that any issues that may arise in respect of the proposed operation of the premises can be addressed at the earliest possible stage and ensure the promotion of the Licensing objectives.

Licensees are expected to communicate with local residents and businesses, to address and resolve relevant problems. This could include giving contact telephone numbers to local residents so they can report any issues to the premises for them to be dealt with. It is expected that contacts at the premises would be persons in a position of responsibility who are contactable whenever the premises is open to the public so that any issues can be addressed without delay. Licensees could also arrange regular meetings with neighbours to ensure good relations.

PN4 Effective management of exterior spaces (e.g. beer gardens, smoking areas)

Where the premises include any exterior areas, licensees should demonstrate what measures are in place to prevent issues that may give rise to problems. Relevant considerations should include:

- a limit on the number of patrons in such areas
- whether there is a curfew on using them
- how they will be delineated, if relevant
- how will premises be kept clean and free of litter, particularly at the end of trading
- what supervision will be in place?

will the premises be covered by CCTV?
How will the area be lit to avoid nuisance to neighbours?
will glasses be allowed outside?
what glass collection arrangements will be in place?
how to avoid customers causing noise disturbance
how the premises will prevent begging at, and in the immediate exterior of, the premises.

PN5 Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter

Where the licensable activities could give rise to litter being dropped in the vicinity of the premises, the measures in place to prevent this occurring and/or tidy it up should be demonstrated. Such measures could include regular litter inspections during the hours of operation and at the close of business, the placing of litter bins in prominent areas of the premises, reducing packaging, and the use of branded packaging.

PN6 Responsible management of the use of flyers and other promotional material

The irresponsible use of flyers can cause major litter problems. Any use of flyers and other promotional material should be done in a responsible and appropriate manner. It should be noted that permits are required for handing out flyers in various areas of the Borough.

PN7 Ensuring adequate arrangements for secure and responsible storage of refuse

Adequate and secure storage for refuse should be provided that is appropriate for the nature of the business. Particular regard should be given to the management of glass bottles to prevent them being taken outside the premises as potential weapons, and to the emptying of bottles into refuse containers at times that could disturb local residents or businesses.

PN8 Appropriate arrangements for deliveries and collections

Consideration should be given to how and at what times deliveries are made to the premises to avoid disturbance to local residents and business and avoid any obstruction. Equally, this would apply to any collections from the premises, e.g. refuse collections by private contractors.

PN9 Prevention of customers causing disturbance when leaving the premises

Licensed premises need to ensure the orderly exit and dispersal of customers from the premises. Relevant considerations could include:

- Prominent display of notices requiring courtesy for neighbours
- Preventing customers from congregating outside
- Providing advice and directions to available public transport
- Providing contact details for taxi/private hire firms and provision of a call-back service
- Use of a dedicated taxi/private hire service
- Implementing a dispersal policy based upon good practice
- Use of a winding-down period
- The role of door supervisors in managing persons leaving.

PN10 Membership of any local Pub and Club Network/Off Licence Forum or other recognized partnership group

Licensees should commit to work in partnership through local business groups, which can provide useful forums to keep abreast of local issues and developments when they operate in the area.

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7 The protection of children from harm

7.1 The Licensing Authority expects licensees to implement the measures they consider appropriate to promote the protection of children from harm licensing objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the Licensing objectives.

CH1 Risk assessment for when children are on the premises

Regard should be had to specific risks that may arise when children are on the premises. The risk assessment should be documented and available for inspection by the Responsible authorities upon request. Relevant considerations could include:

- Will access be restricted to certain areas of the premises?
- Is there adequate supervision?
- Are the areas covered by CCTV?
- Will alcohol sales be restricted in areas where children are permitted?
- How will children be prevented from accessing alcohol?

Special consideration is expected to be given to promoted events in licensed premises aimed at, or likely to attract, persons under 18. The Licensing Authority expects robust measures to be in place to address potential risks associated with such an activity.

CH2 Ensuring any gambling machines on the premises are appropriately located and properly monitored

Consideration should be given to the ability to supervise their use regarding location to ensure underage persons do not use them with regard to any code of practice issued by the Gambling Commission (gambling machines) and advice from the Licensing Authority.

CH3 Ensuring entertainment at the premises is age-appropriate

Where adult-only entertainment is provided, children should be prevented from being on the premises when such entertainment is taking place.

CH4 Taking action to prevent proxy sales of alcohol from the premises

Premises licensed for the sale of alcohol should take proactive steps to prevent this occurring. Possible measures include:

- Regular checks around and/or outside the premises for underage persons encouraging adults to purchase alcohol for them
- Use of CCTV, particularly in external areas

Displaying prominent notices in the premises explaining the law in relation to purchasing alcohol on behalf of persons under 18 and the penalties involved.

CH5 Proper management of any child performers

It is expected that any child performers are properly licensed and a nominated adult is present to act in a supervisory capacity.

CH6 Ensuring age restrictions are enforced effectively when showing films

Where age-restricted films are displayed, appropriate and effective measures must be in place to ensure relevant age restrictions are complied with.

CH7 Prevention of underage sales of age-restricted products and underage persons access

Effective and appropriate measures must be taken to ensure age restrictions are enforced at the premises. Relevant considerations include:

- implementation of Challenge 25
- details of what forms of ID are acceptable
- the use of till prompts
- the maintenance of refusal logs
- staff training.

CH8 Provision of comprehensive documented staff training

Documented staff training is expected, particularly in relation to activities consistent with the Licensing objectives, including (but not limited to):

- Identification and refusal of underage sales
- Age-restricted products
- Any access restrictions to the premises by children.

CH9 Display of child welfare information in public areas of the premises

Where children are allowed on the premises, information should be available on what to do if there is a cause for concern regarding a child's welfare.

Off-sales of alcohol

8.1 The Licensing Authority expects licensees to consider the standards below in relation to the operation of their premises; they may not be appropriate to apply in every situation but where they are such measures will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives and in particular those set out in the preceding sections on the measures to promote the licensing objectives.

OF1 Taking action to prevent the purchase and sale of counterfeit or non-duty paid alcohol

Premises should take proactive steps to prevent this from occurring. Such measures include:

- No alcohol purchased from sellers calling at the shop
- Reporting to Trading Standards any caller to the shop attempting to sell alcohol
- Keeping invoices (or copies) on the premises for all alcoholic goods purchased for inspection by authorised officers
- Operation of a stock control system
- Use of an ultraviolet pen or light to check the UK Duty Stamp on spirits

OF2 To control the sale of alcohol for delivery

Regard should be given to the specific risks, of selling and supply alcohol to persons underage, that are presented by the ordering of alcohol by telephone or internet and the delivery to a residential address where the person receiving the alcohol be underage. Premises should take proactive steps to prevent the sale and delivery of alcohol to underage persons. Possible measures include:

- Pre-ordering by telephone or internet prior to delivery
- Carrying Invoices relating to delivery on the delivery vehicle
- Production of invoices and record of orders on request to any authorised officer
- Operation of a "Challenge 25" scheme
- A refusals book

9. Special Policy for Colchester's Old Town Zone

9.1 In the town centre restaurants and takeaways account for over half of the premises in the night time economy and pubs bars and inns account over a third of all premises. There is evidence that within the area identified as the Old Town Zone (shown on the plan at Appendix 1) the promotion of the licensing objectives is being undermined as a consequence of the operation of licensed premises in the area; having regard to the levels of crime and disorder and public nuisance experienced within it and the complaints received from local residents.

9.2 The Licensing Authority considers that whilst the levels of problems do not currently justify the implementation of a cumulative impact ~~and saturation~~ policy for the area; the area is of concern and shall be kept under review. The Licensing Authority has taken into consideration the role of the SOS bus in helping to mitigate the problems caused by the sale of alcohol in this area and recognizes that were the bus to be withdrawn the effect would be to push problems in the area to levels where a cumulative impact area would be considered.

9.3 Therefore, the Council has adopted a special policy for the area, to be known as the Old Town Zone Policy.

~~9.4 There is evidence of problems associated with operation of licensed premises in the Old Town Zone and the Licensing Authority wishes to see a decrease in the levels of crime and disorder and public nuisance already being experienced in the area. However, the authority does wish to diversify the evening and night time economy in in this area. With this in mind, the following approach for new licences and material variations, where relevant representations have been made, shall be taken:~~

9.4 There is evidence of problems associated with operation of licensed premises in the Old Town Zone and the Licensing Authority wishes to see a decrease in the levels of crime and disorder and public nuisance already being experienced in the area. However, the authority does wish to diversify the evening and night time economy in in this area.

9.5 With this in mind, the following approach for new licences and material variations, where relevant representations have been made, shall be taken:

a. The following venue types are strongly encouraged provided they do not undermine the licensing objectives and licensing policy:

- Restaurant - open until midnight
- Non-alcohol lead premises - open until midnight
- Live entertainment venue - open until 01.00
- Café Bar - open until 01.00
- Coffee shops/bars - open until 01.00

b. The following venue types will be judged according to the measures set out in paragraph 37 (pages x to x). Positive proposals for the promotion of the

licensing objectives, including from departing customers, must also be demonstrated in the operating schedule. A stricter approach is likely to be taken to where customers are not seated at tables and/or where a substantial food offer is not available at all times the premises are open.

- Restaurant - open after midnight
- Pub – open until midnight
- Members Club – all
- Wine Bars – all
- Live entertainment venue – open after 01.00
- Café Bars – open after 01.00
- Coffee Bars/Shops – open after 01.00

c. There will be a strong presumption against the following venue types. A genuinely exceptional case would need to be shown. The reasons for the exception should be shown in the operating schedule and must demonstrate that there will be no derogation in the licensing objectives, including from departing customers

- Late night takeaway – all
- Nightclub – all
- High Volume Vertical Drinking establishment – all
- Pub – open after midnight

Old Town Zone Policy

Function offered	Closing Time	Approach
Restaurant Non-Alcohol lead premises (theatre/cinema) Live Venues Café Bars Coffee Bars/Shops	Up to midnight Up to midnight Up to 01.00 Up to 01.00 Up to 01.00	Strongly encouraged provided they do not undermine the licensing objectives.
Restaurant Pub Members Club Wine Bars Live Venues Café Bars Coffee Bars/Shops	Beyond midnight Up to midnight All All After 01.00 After 01.00 After 01.00	Judged according to set criteria. Positive proposals for the promotion of the licensing objectives, including from departing customers, must also be demonstrated in the operating schedule. A stricter approach is

		likely to be taken to where customers are not seated at tables and/or where a substantial food offer is not available at all times the premises are open.
Late night takeaway Nightclub High Volume Vertical Drinking establishment Pub	All All All Beyond midnight	Strong presumption against. A genuinely exceptional case would need to be shown. The reasons for the exception should be shown in the operating schedule and must demonstrate that there will be no derogation in the licensing objectives, including from departing customers

9.6 Key Factor 4, Standards to Promote the Licensing objectives, sets out many measures that the Licensing Authority considers to be appropriate in order to ensure the promotion of the licensing objectives.

9.7 Having regard to the issues within the Old Town Zone the Licensing Authority has also set out particular matters that it expects operators to pay special attention to in order to ensure their operation will not add to the problems within this area. Operators are not required to do so, but where the authority's discretion is engaged, any applications which fail to address all appropriate matters may be refused or have conditions applied to comply with the policy measures.

9.8 These measures shall be considered in conjunction with the policy approach set out above and may be more or less appropriate depending on the style of operation applied for. Applicants are not limited to only these proposed measures and should propose all measures they consider appropriate in the promotion of the licensing objectives.

9.9 The measures are set out as follows:

Please note – the references below refer to the standards under the licensing objectives
(See pages 21 to 32)

Ref	Matter to be addressed	Measure to be adopted
CD2	Effective management of queues outside the premises	A documented policy addressing how queues outside of the premises will be managed to prevent any nuisance or disorderly behavior
CD3	The control of entry to and exit from the premises, including assessing the need for door supervisors	A documented risk assessment assessing the need for door supervisors at the premises. Where employed, door supervisors shall be easily identifiable (through high-visibility uniform) and employed in appropriate numbers and during appropriate times. Written records to be kept of any door supervisors on duty.
CD6	Designing out crime in the layout of the premises	Positive consideration will be given to the commissioning a Licensing Impact Statement (by Design for Security) and operation of the premises in line with the recommendations of that report.
CD9	Implementation of documented reporting procedures at the premises	Documented records to be kept in respect of: Lost and found property Refused sales of alcohol Thefts Banned and ejected persons Injuries Complaints and any remedial action taken.
CD11 and CH8	Provision of comprehensive documented staff training	Documented staff training conducted in respect of: Preventing underage sales Preventing drunkenness Managing and resolving conflict Emergency procedures Compliance with the licence conditions

		<p>Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol</p> <p>Identification and refusal of underage sales</p> <p>Positive consideration will be given to the use of accredited training course and recognized industry qualifications (e.g. BII)</p>
CD12	Implementation of effective measures to prevent and deal with drunkenness at the premises	<p>A documented policy in relation to preventing and managing drunkenness on the premises.</p> <p>Access to the premises should not be permitted to any person who is visibly intoxicated.</p> <p>Positive consideration will be given to:</p> <p>The sale of alcohol being subject to the use of waiter/waitress service for consumption by persons seated at tables</p> <p>Substantial food being available at all times</p> <p>Use of the Responsible Alcohol Service Guide</p> <p>Displaying responsible drinking information and posters throughout the premises</p> <p>Ensuring alcohol-free options are readily available</p> <p>Making appropriate arrangements to ensure the safe transport home of vulnerable customers</p> <p>Training of staff in the Responsible Alcohol Service award</p>
CD13	A documented policy in relation to preventing and managing drunkenness on the premises.	<p>Positive consideration will be given to:</p> <p>Voluntary restriction of high strength alcohol (i.e. high ABV beers and cider)</p> <p>No promotional activity resulting in a minimum unit price of less than 50p.</p>
CD14	Effective monitoring of the premises (both interior and	A digital CCTV system installed in conjunction with any specification or

	exterior) including the use of CCTV	recommendations of Essex Police.
CD15	Ensuring all alcohol sales are properly authorised	Positive consideration will be given to there being at least one personal licence holder on duty on the premises at all times it is open to the public.
CD17	Operation of a documented glass policy for the premises	A documented risk assessment in respect of the use of glassware on the premises. Where appropriate plastic or polycarbonate drinking vessels.
CD18	Support for the SOS bus and other mitigation measures	Positive consideration will be given to measures to support the SOS bus and other mitigation measures
PS1	Maintaining a safe capacity and recording customer numbers	The maximum occupancy of the premises should be prominently displayed at the entrance to the premises and appropriate measures put in place to ensure the capacity is not breached.
PS6	Operation of a documented glass collection and spillage policy	A documented policy to ensure that drinking vessels are not left unattended and the efficient collection of glasses and cleaning up at the premises, especially in outdoor areas.
PN1	Prevention of noise breakout from the premises	Systems to ensure that any noise from the premises, especially regulated entertainment, does not cause disturbance to neighbouring properties, particularly local residents.
PN3	Communication and integration with local residents and businesses	Positive consideration will be given to: Participation in any community local initiatives Communication with local residents and groups, Provision of a mobile contact number for the DPS or nominated person for the immediate resolution of problems Hosting of meetings with local residents to troubleshoot issues associated with the premises.

PN4	Effective management of exterior spaces (e.g. beer gardens, smoking areas)	Policies in place in relation to: Supervision arrangements How such areas will be kept clean and free of litter, particularly at the end of trading Avoiding customers causing noise disturbance.
PN5	Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter	Systems in place to ensure the premises and surrounding area are kept clean and free of litter at all times the premises is open to the public, and at the close of trade. Positive consideration will be given to: Contribution (including financial) to any community local initiatives or infrastructure Cleaning initiatives beyond the immediate vicinity of the premises.
PN6	Responsible management of the use of flyers and other promotional material	The distribution of flyers shall only be conducted in accordance with the terms of the requisite permit to distribute free printed material issued by the Council.
PN9	Prevention of customers causing disturbance when leaving the premises	Policies for the dispersal of customers to ensure orderly conduct and minimize disturbance. Positive consideration will be given to: Supervision of customers leaving including preventing customers congregating outside Use of a winding-down period Providing a dedicated taxi/private hire calling service, which operates a call back facility.
PN10	Membership of any local Pub and Club Network/Off Licence Forum or other recognized partnership group	Positive consideration will be given to: Participation in the local Pubwatch scheme Support of any local resident / community schemes including the voluntary hosting of meetings.

CH4	Taking action to prevent proxy sales of alcohol from the premises	Operators should ensure staff are aware of the risks of proxy sales and take appropriate measures to deter offences.
CH7	Prevention of underage sales of age-restricted products and underage persons access	The operation of Challenge 21 (on-licence) or Challenge 25 (off-licence) with acceptable forms of ID Positive consideration will be given to: The use of till prompts Operation of mystery shopper exercises at own expense.

9.9 The special policy shall apply to all new and material variation applications within the Old Town Zone. In relation to variations, this includes any variation that seeks to add a licensable activity, increase the capacity/size of a licensed premises, or extend the hours for licensable activities, but will usually exclude minor variations.

9.10 Each application will be considered on its individual merits.

9.11 Departure from policy is expected only in exceptional circumstances. Exceptional circumstances will not include the quality of management or size of venue.

9.12 Applicants will be expected to have particular regard to all key factors of this Policy.

9.13 This special policy area will be kept under review and where problems of crime and disorder or public nuisance are not improving, or are worsening, the Policy will be reviewed with a view to introducing a cumulative impact area.

10. The Cumulative Impact of Concentrations of Licensed Premises

10.1 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its licensing policy statement.

10.2 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increase in crime, anti-social behaviour, noise pollution and disturbance to residents in the vicinity of those premises **and other patrons of the nighttime economy**. In such cases the amenity of local residents can be placed under severe pressure but the causes may not be attributable to any individual premises and therefore enforcement action taken to ensure adherence to conditions may not always resolve the problems.

10.3 Types of evidence the Licensing Authority will take into consideration when considering whether to implement a cumulative impact policy include:

- **Information and intelligence from its own Licensing Enforcement Group**
- Alcohol-related crime
- The number and type of licensed premises and the hours and activities for which they are licensed
- Ambulance and A&E data in respect of alcohol-related incidents
- Residential density
- Noise complaints
- The number of consumers attracted to the area and the availability of public transport

10.4 In coming to any decision about a cumulative impact, the Licensing Authority will also have regards to other mechanisms outside of the licensing regime, which may also be available to address the issues, these include but are not limited to:

- Planning controls
- Positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other Council departments
- The provision of CCTV in the town centre, sufficient taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- Police enforcement including the issuing of fixed penalty notices
- Prosecution of personal licence holders or other members of staff who sell alcohol to people who are already drunk
- Confiscation of alcohol from children and adults in designated areas
- Police and Council powers to close down instantly, for 24hours, a premises or temporary event on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance

- The power to seek the review of a licence

10.5 Such a special policy will be implemented if the Authority is satisfied that there is evidence to support such a decision, and that it is proportionate and the most effective measure to address the problems identified.

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11 Temporary Event Notices

11.1 Temporary Event Notices, TENS, can be used to authorise premises for licensable activities for temporary periods or specific occasions.

11.2 Unlike applications for premises licences and club premises certificates, the licensing authority does not grant temporary event notices. Instead the premises user notifies the licensing authority of their intention to hold an event. Only the police and environmental protection can intervene to prevent it taking place or agree modifications to the event arrangements. However, in the interests of public safety the fire authority are notified by the Licensing Authority of all temporary events notices.

11.3 It is strongly suggested that TENS are lodged well in advance of the event to enable the licensing authority to work with event organisers, where necessary, to resolve any potential issues that may arise as a result of the TEN. This is particularly relevant for organisers of events anticipating maximum attendance and/or involving the sale of alcohol. Organisers should also have regard to the relevant parts of the guidance in this policy on large scale events.

11.4 Events such as village fetes which occur on a temporary basis may not require a licence. However, organisers of such events are requested to notify the Licensing Authority to ensure that, in the event that enquiries/complaints are received from members of the public, they can be effectively dealt with.

11.5 Temporary Event Notices do not override the need to have the necessary planning consent in place for the event to be held.

12 Premises Licences for large-scale public events

12.1 The Council holds a number of Premises Licences for public areas throughout the town centre. If you wish to hold an event in a public space it is strongly recommended that you first contact the Council's Licensing Team.

12.2 Licensees are expected to have regard to the management standards set out in the Policy as well as address the following elements:

- Overall event safety control
- Production details
- Medical and first aid provision
- Site management and the structural integrity of all temporary structures
- Crowd management, stewarding and security
- Fire safety and control
- Configuration and control of sound systems
- Management of any on-site and off-site car parking
- Management of concessions and franchises
- Provision and maintenance of water supplies
- Welfare and provision of information
- Provision and maintenance of sanitary facilities
- Reception collection and removal of litter and other waste
- Liaison with local residents and businesses

12.3 Relevant details in respect of the above may include:

- The proposed capacity of the event
- The provision of plans to agreed scales detailing exits, entrances, temporary bars, marquees and all facilities to be provided within the premises
- Details of proposals for entertainments, together with information regarding any special effects
- Details of proposals for concessionary activities, including food franchises, bars, restaurants and non-food retail sales
- An alcohol management plan, which will include details of:

- The designated premises supervisor
- Personal Licence-holders
- Control of the sale of alcohol
- Proof-of-age policy
- Promotion of responsible drinking
- Appropriate signage

- A Safety Policy and Risk Assessment for the event
- Details of arrangements for co-ordinating and controlling event safety on the site
- A site safety plan, including site safety rules, requirements for construction and breakdown of site, structural safety calculations, drawings of temporary structures and safety barriers, details of electrical installations and lighting arrangements
- Incident contingency and emergency plans (including a Major Incident Plan)
- A crowd management, stewarding and security plan (taking into account the views of Essex Police)
- A medical ambulance and first aid plan
- A fire safety plan
- A traffic management plan
- A sound assessment with details and proposals for monitoring and controlling sound emission
- Details for the provision of cleaning and maintenance of sanitary accommodation, washing facilities and drinking water
- Details for the reception collection, litter and disposal of other waste
- Details of welfare arrangement facilities and provisions for information on site
- Details of the arrangements and facilities for disabled persons.
- Consideration should not solely focus on the activities taking place within the area of the licensed premises. Appropriate measures to address issues outside the licensable area include:
 - Putting in place plans that will assist to minimize disruption to the day-to-day lives of local residents, businesses and existing operations for the period of the event
 - Providing a robust traffic and transport plan that takes into account the needs of the local community – and minimizes the impact of visitors to the area for the event – while maintaining a safe and convenient point of access and egress for the attendees within the parameters of existing traffic, transport and parking provision
 - Putting in place a strategy to manage the consumption of alcohol by visitors

accessing and leaving the event in the public realm and highway

- Putting in place a strategy for the control of access to and egress from the licensed premises for the control of disorderly behaviour.
- Providing facilities external to the licensed area that will assist in the management of the access and egress of visitors to the event – and minimize the impact on the existing public realm – including, but not restricted to, additional toilet facilities and a designated park and ride area
- Putting in place a cleansing strategy beyond the immediate perimeter of the licensed premises in association with the Local Authority
- Providing communication channels for the local community that will enable residents and businesses to access sufficient detailed information prior to the event days
- Providing a hotline and information phone number for residents and local businesses for the duration of the event.

12.4 Licensees should contact the Safety Advisory Group which oversees large scale events in the Borough and have reference to The Event Safety Guide – A Guide to Health, Safety and Welfare at Music and Similar Events, commonly referred to as 'The Purple Guide'.

13 Licensing Enforcement and Monitoring

13.1 It is essential that licensed premises comply with the terms of their licence as well as other requirements of the Licensing Act. Equally important is ensuring that premises not licensed to provide licensable activities are prevented from doing so. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with the licence conditions and the specific requirements of the Act. The Council will also monitor the Borough for unlicensed activities that require a licence and then act accordingly and in line with the Council's Enforcement Policy. The Policy can be found at (add reference)

13.2 Enforcement activities to promote the licensing objectives will be targeted and will concentrate on those premises that present a greater risk; have a history of non-compliance with conditions and regulations; or demonstrate poor management practice.

13.3 The Licensing Authority is the lead authority on the Council's Licensing Enforcement Group which comprises representatives from all the responsible authorities and the Garrison. The Group meets monthly to share information on licensed venues. The purpose-terms of reference of the Group is to:

Work together to share knowledge and deal effectively with premises licensed under the Licensing Act 2003 that have been subject to complaints or raised concerns.

Identify and discuss at an early stage those premises which may be called for review.

Establish agreed means by which an intervention by the Group rather than by a single responsible authority could be achieved.

To consider matters of potential serious or escalating concern that may fall outside the Licensing Act 2003 (e.g. taxi problems or disturbance that may be related to the management of one or more licensed premises).

The aims and responsibilities of the Group are to:

Improve the local and immediate neighbourhood that is affected by poorly managed premises.

Raise the levels of compliance and standards of management in licensed premises.

Prevent a possible escalation of problems with early and coordinated intervention.

Enable the Licensing Authority to optimise its role as responsible authority under the Licensing Act.

Improve understanding and foster positive working relationships between all responsible authorities.

13.4 The Licensing Authority takes a risk-based and proportionate approach to regulatory enforcement and monitoring in relation to the likely impact of the premises upon crime and disorder, public nuisance, problems concerning public safety and the protection of children from harm. Therefore, higher-risk and problem premises will be targeted for enforcement activity whereas a lighter touch approach will be adopted for low risk, well-run premises.

13.5 Failure to promote the Licensing objectives may result in licence review and the possible implementation of sanctions by the Licensing Committee, including removal of licensable activities, reductions in hours or, ultimately, revocation of the licence. Additionally, where offences are committed and/or licence conditions are not adhered to, prosecution will be considered.

13.6 The Licensing Authority and partner agencies shall continue to work with the licensed trade through the provision of advice, education and training, information, promotion of good practice and behaviour.

13.7 The principles of enforcement for the Licensing Authority focus on:

- Taking firm action against those who flout the law or act irresponsibly
- Assisting businesses and others in meeting their legal obligations
- Promptly acting on issues of concern to local communities.

13.8 The Responsible authorities are available to provide advice and support for licensees as well as members of the public in relation to any problems they may be encountering relevant to licensed premises.

Reviews

13.9 The review of a licensed premises is the key protection for residents and businesses where one or more of the licensing objectives are being undermined and these problems can be linked to the operation of a licensed premises. A responsible authority or any other body can ask for the review of a licence.

13.10 When considering a review request, or other possible enforcement action, the Licensing Authority will consider all relevant matters and in particular –

- The use of the premises for criminal activities such as the supply of drugs or money laundering
- Failure to promptly respond to a warning given by a responsible authority
- Failure to engage with the responsible authorities in an effective manner
- Previous convictions for licensing offences
- Previous failure to comply with licence conditions

13.11 The Licensing Authority will not normally engage its role as a responsible authority by calling reviews on behalf of other persons, such as local residents or community groups.

These individuals are entitled to do so in their own right where there are sufficient grounds to do so.

13.12 Where responsible authorities have concerns about problems identified at a premises, the Licensing Authority considers it to be good practice for them to give the licence holder early warning of their concerns and the need for improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given, such as using an Improvement Plan before bringing the premises to review. Responsible authorities may seek to amend a licence via review where evidence indicates the need for permanent enforceable conditions to be added to a licence.

13.13 It should be noted that a review can be called without an early warning where a serious situation has occurred and immediate action is required. Where premises are associated with serious crime and/or disorder a senior Police officer may apply for a summary review of a premises licence.

13.14 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of.

Suspension for Non Payment of Fees

13.15 The Licensing Authority is required to suspend a premises licence or club premises certificate if the annual fee has not been paid when it is due. Where a premises licence or certificate has been suspended, no licensable activities can be lawfully carried out at the premises until the annual fee has been paid. The suspension shall be lifted immediately upon payment of the fee and licensable activities may be resumed.

13.16 If an annual fee has not been paid by the due date, the licence holder shall be notified accordingly by the Licensing Authority and given notice of the date the suspension shall take effect.

13.17 Where payment has not been made by the due date as a result of a genuine administrative error, or because the licence holder disputed liability for the fee before or at the time of the due date, there shall be a grace period of 21 days to resolve the matter before the licence is suspended.

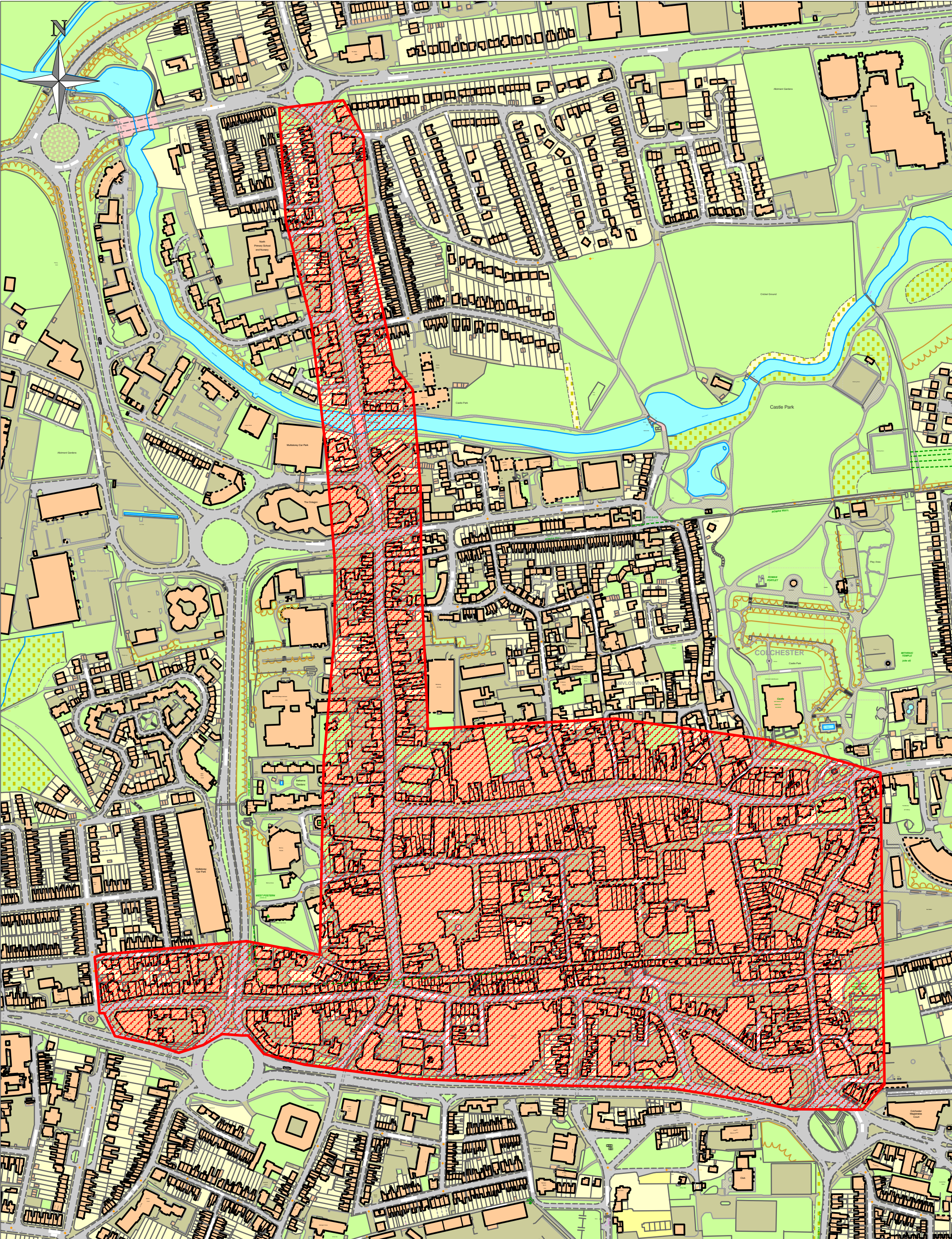
Ability to re-instate conditions upon Review

13.18 Where entertainments authorised under the Licensing Act 2003 have been deregulated and the conditions in relation to those matters no longer apply, the Licensing Authority may reinstate or impose conditions following a review of a premises licence or club premises certificate. The reinstatement or imposition of conditions will be considered where it can be demonstrated that the promotion of the licensing objectives is being undermined and such action is considered to be appropriate.


[Add plan](#)

DRAFT

Town Centre Zone



26 November 2015

Report of	Head of Professional Services	Author	Jon Ruder
			 282840
Title	Draft Statement of Gambling Policy // outcome of consultation		
Wards affected	All		

This report details the outcome of the consultation exercise carried out for the Council's draft Statement of Gambling Policy and seeks the Licensing Committees approval for the adoption of the proposed final Statement of Gambling Policy by full Council.

1. Decision Required

- 1.1 Members are asked to consider the outcome of the public consultation exercise in relation to the draft Statement of Gambling Policy and recommend the proposed draft for the final approval of the full Council on 10 December 2015.

2. Reasons for Decision

- 2.1 The Council must re-adopt its licensing policy every three years as a requirement of the Gambling Act 2005. A final version of the policy must be approved by full Council on the 10 December 2015 to be in place and published by no later than the 31 January 2016.

3. Alternative Options

- 3.1 The Gambling Act 2005 requires this policy to be in place as a legal requirement of that Act and consequently there is no alternative.

4. Supporting Information

- 4.1 The public consultation on the proposed draft of the Council's Statement of Gambling Policy took place from 8 October to 8 November 2015. Letters advising of the consultation were sent to the responsible authorities, members and other persons who would have an interest in the policy and to businesses that were, or would be, holders of a premises licence.
- 4.2 Two representations were received to the consultation and these are attached at Appendix 1. The contents of the letters have been noted but it is not considered that any changes should be made to the Policy. The Gambling Commission is currently in the process of consulting on its 5th edition of their Guidance to Licensing Authorities. The Commission highlights the strengthening of the narrative emphasising the role and powers of licensing authorities and their mandate to manage local gambling provision. Once the updated guidance has been issued by the Gambling Commission a more fundamental review of the Policy will be carried out and some of the points raised will be covered in this review.

- 4.3 The final revision of the draft Statement of Gambling Policy is attached at Appendix 2.

5. Proposals

- 5.1 It is proposed that Members the draft policy document for submission to full Council on 10 December 2015.

6. Strategic Plan References

- 6.1 The proposed draft review of the Statement of Licensing Policy attempts to strike a difficult but reasonable and proportionate balance between the different and often competing aspirations of licensed businesses and residents. This Policy recognises the importance of widening the choice and appeal of licensed premises and the development of cultural, social and community activities while at the same time offering reasonable and proportionate protections to local residents, visitors and other non-licensed businesses. The policy is in line with the Council's vision to create a Borough that is vibrant, prosperous, thriving and welcoming.

7. Community Safety

- 7.2 The Council's Statement of Gambling Policy recognises the need for commercial enterprises involved in gambling to be able to go about their lawful business without being hindered by unnecessary restrictions. However, at the same time it also recognises the scope for negative effects that gambling can have on both society and individuals, and endeavours to ensure that the approach adopted by the Licensing Authority will be proportionate, reasonable, accountable, consistent, transparent and targeted and in accordance with the principles of Better Regulation.

8. Consultation

- 8.1 The revised draft policy has been comprehensively consulted on in accordance with the Guidance issued by the Gambling Commission. The Licensing Authority will continue to publicise the implications of this policy and the legislation covered under the Gambling Act 2005 and also assist licence and permit holders as widely as it possibly and practically can.

9. Publicity Considerations

- 9.1 Those businesses, persons, responsible authorities, voluntary groups and other interested parties who may be affected by this policy or have an interest in it, have been invited to submit comments via the consultation process which was the most direct way of publicising the policy to those that needed to know about it.

10. Financial Implications

- 10.1 The Council's Statement of Gambling Policy could be judicially reviewed by an aggrieved party and decisions made by the Licensing Authority to grant or refuse applications submitted under the Gambling Act 2005 can be appealed at Court. The costs of any successful review or appeal brought could be awarded against the Council.

11. Equality, Diversity and Human Rights Implications

- 11.1 The policy has been drafted in accordance with all relevant .

- 11.2 A licence is to be regarded as the property of the holder and their right to the use of that property must be balanced against any other public interest.

12. Community Safety Implications

- 12.1 The Council's Statement of Gambling Policy reasonably and proportionately seeks to offer safeguards against gambling activities in Colchester from becoming a source of crime and disorder, being associated with crime or being used to support crime and protects children and other vulnerable persons from being harmed or exploited by gambling wholly in line with the expectations of the Gambling Act 2005 and the guidance issued by the Gambling Commission that accompanies the Act.

13. Health and Safety Implications

- 13.1 There are no direct health and safety issues arising from the policy.

14. Risk Management Implications

- 14.1 A flexible yet robust revised Statement of Gambling Licensing Policy will continue to provide both the Council and the Licensing Authority with a sound basis for decision making and a secure platform from which to promote the licensing objectives as outlined in the Gambling Act 2005.

Licensing Section
'Gambling Policy Response'
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 9SA

6th November 2015

Dear Sir,

Consultation on Cheltenham Borough Council's Statement of Principles – Gambling Act 2005

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

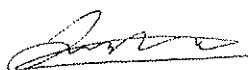
Coral Racing Limited are supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. Your Statement also correctly includes that the Council should not take into account any moral objections to gambling either.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 6th April 2016) following the consultation completion and are pleased to see this information included.

Coral's experience is that through all it does, it achieves an exemplary degree of compliance already, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. A number of Council's have created long lists of locations which by inclusion are required to be risk assessed & often with strict templates to be completed. Coral are of the opinion that as there is no evidence that the proximity of such locations causes harm to the licensing objectives, it is best left to the operators to provide their own risk assessments. Naturally, if these do not meet the level desired by the Council, we would adjust to suit.

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

Yours faithfully,



John Liddle
Director of Development – Coral Retail



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Registered Office: New Castle House, Castle Boulevard, Nottingham NG7 1FT
Registered in England No. 541600
Tel: 020 3288 7000 Fax: 020 3288 7050



a  company



GOSSCHALKS
SOLICITORS

Colchester Borough Council
Licensing Manager
Environmental & Protective Services
Professional Services
33 Sheepen Road
Colchester
CO3 3WG

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHK / 097505.00004
#GS461576
Your ref:
Date: 06 November 2015

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

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

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

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

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

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

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

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

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

Working in partnership with local authorities

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

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

LGA – ABB Betting Partnership Framework

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

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

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

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

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

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

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

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

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

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

Primary Authority Partnerships in place between the ABB and local authorities

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

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

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

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

Local area risk assessments

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

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

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review

should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

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

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

Local Area Profiles – Need for an evidence based approach

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

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

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

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

Concerns around increases in the regulatory burden on operators

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

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

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

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

Employing additional licence conditions

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

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

Specific Policy Comments

Under the "General Principles" heading at paragraph 16.1, there is a statement that *"licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate."* The licensing policy statement should be clear throughout that conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licensing objectives in the circumstances of a particular case.

Paragraph 16.8 to 16.11 specifically deal with conditions. These paragraphs would be assisted by an indication that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The licensing policy statement should indicate that additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented. This need for clear evidence is referred to in paragraph 16.11 in relation to door supervision. The need for clear evidence as a basis for conditions should be made throughout.

Paragraph 16.13 indicates that the licensing authority may impose conditions relating to the number and circumstances of use of betting machines. The statement of licensing policy would be assisted if a clear distinction was made between betting machines and gaming machines. The licensing policy statement should indicate that whilst there is power to restrict the number of betting machines (s181 Gambling Act 2005) there is no power to restrict the number of gaming machines. The holder of a betting premises licence is authorised to make up to 4 gaming machines of categories B, C or D available for use when there are sufficient facilities for over the counter betting made available.

Conclusion

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

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

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



GOSSCHALKS

COLCHESTER BOROUGH COUNCIL

GAMBLING LICENSING POLICY STATEMENT 2016-2019

ITEM	PAGE
 PART A	
1. Introduction	3
2. The Licensing Objectives	3
3. Licensable Activities and Functions of Licensing Authority	3
4. Description of the District	4
5. Responsibilities under the Act	5
6. Statement of Licensing Policy	6
7. Consultation	6
8. Approval of Policy	7
9. Declaration	7
10. Responsible Authorities	8
11. Interested Parties	8
12. Exchange of Information	10
13. Public Register	10
14. Compliance and Enforcement	10
15. Delegation of Powers	11
 PART B	
16. General Principles	12
17. Provisional Statements	16
18. Representations and Reviews	16
19. Adult Gaming Centres	17
20. (Licensed) Family Entertainment Centres	17
21. Casinos	18
22. Bingo Premises	19

23.	Betting Premises	19
24.	Tracks	19
25.	Travelling Fairs	19

PART C

26.	General	20
27.	Unlicensed Family Entertainment Centre Gaming Machine Permits	20
28.	(Alcohol) Licensed Premises Gaming Machine Permits	20
29.	Prize Gaming Permits	21
30.	Club Gaming and Club Machine Permits	22
31.	Temporary Use Notices (TUN)	22
32.	Occasional Use Notices (OUN)	23
33.	Small Society Lotteries	23
34.	Gaming Machines	24
35.	Definitions	24

APPENDICES

1.	Definitions/Glossary of Terms	25
2.	Responsible Authorities	33
3.	Scheme of Delegation	36
4.	Application Process	38
5.	Fees	67
6.	Useful Contacts	68
7.	Map of the Borough of Colchester	69

PART A

GENERAL INTRODUCTION

1. INTRODUCTION

- 1.1 This Statement of Licensing Policy sets out the principles the Colchester Borough Council, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act'), proposes to apply in discharging its functions to license premises for gambling under the Act as well as:-
- Designating the body responsible for advising the Authority on the protection of children from harm;
 - Determining whether or not a person is an "Interested Party";
 - Exchanging information with the Gambling Commission and others; and
 - Inspecting premises and instituting proceedings for offences under the Act.

2. THE LICENSING OBJECTIVES

- 2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:-
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3. LICENSABLE ACTIVITIES & FUNCTION OF LICENSING AUTHORITY

- 3.1 The following are the gambling activities that are allowed by the Act and in respect of which authorisations can be applied for from the Licensing Authority (in some cases authorisations must also be obtained from the Gambling Commission):-
- Casinos
 - Bingo
 - Betting Premises
 - Tracks

- Adult Gaming Centres
- Licensed Family Entertainment Centres
- Unlicensed Family Entertainment Centres
- Club Gaming Permits
- Club Machine Permits
- Alcohol Licensed Premises Gaming Machine Permits
- Prize Gaming
- Prize Gaming Permits
- Small Society & Local Authority Lotteries

3.2 The following are the main regulatory functions of the Licensing Authority in relation to gambling:-

- License Premises for gambling activities;
- 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 centres 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.

4. DESCRIPTION OF THE DISTRICT

4.1 Colchester is Britain's oldest recorded town. It was the administrative centre of Roman Britain and has a heritage of national importance. The modern borough of Colchester also has a large and rich rural hinterland. This makes Colchester an obvious visitor centre. Our historic buildings, green spaces, countryside and coastline all help create a high quality environment for local people. More than five million people visit Colchester every year from Britain and overseas.

4.2 Colchester is also special because of the different communities who enjoy life here. These include people who are based around the coastal, rural and riverside parts of the borough, those who choose to live near to the heart of town, and people living on well-established, large housing estates, as well as those who are now moving into one of the new communities that are developing around the regeneration areas. The University and the Garrison bring an extra perspective too, with hundreds of new people coming into the borough every year. Colchester is also somewhat unusual because of the large number of residents who live in and around the town centre itself, in historical areas such as the "Dutch Quarter".

- 4.3 Colchester's educational and training institutions range from the national award-winning nursery, primary and secondary schools and Sixth Form College, to a nationally acclaimed technology college and a leading university. Britain's most important army garrison is based in Colchester, and there has been a major military centre here since the first millennium.
- 4.4 Colchester has a rare opportunity to develop a vibrant future because of its strategic position and the availability of brownfield land. The town is seen as a logical centre for commerce, shopping and visitors and is strategically positioned just 45 minutes away by road from London's third airport at Stansted and is close to the Haven Ports of Harwich International and Felixstowe. With excellent rail links to London and the A12/M25 road networks so accessible, Colchester is close enough to London to provide good business opportunities at an economic rate. Colchester is the natural centre for the surrounding rural areas of north Essex, south Suffolk and beyond.
- 4.5 A map of the Borough is attached as Appendix 7.

5. RESPONSIBILITIES UNDER THE ACT

- 5.1 The Act introduced a new licensing regime for commercial gambling, to be operated by the Gambling Commission and/or by Licensing Authorities, depending on the matter to be licensed.
- 5.2 The Act established each District or Borough Council as the Licensing Authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Colchester Borough Council is the Licensing Authority for the Colchester District.
- 5.3 The Gambling Commission is responsible for issuing Operating and Personal licences to persons and organisations that:-
- operate a casino;
 - provide facilities for playing bingo or for pool betting;
 - act as intermediaries for betting;
 - make gaming machines available for use in Adult Gaming Centres and licensed Family Entertainment Centres;
 - manufacture, supply, install, adapt, maintain or repair gaming machines;
 - manufacture, supply, install or adapt gambling machine software; or
 - promote a lottery.
 - provide facilities under a general betting operating licence
- 5.4 The Licensing Authority is responsible for licensing premises in which gambling

takes place. All types of gambling are covered, other than spread betting (regulated by the Financial Services Authority) and the National Lottery (regulated by the National Lottery Commission). It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt Small Society Lotteries.

5.5 The Licensing Authority cannot become involved in the moral issues relating to gambling and must aim to permit the use of premises for gambling in so far as they think it is:-

- in accordance with any relevant codes of practice;
- in accordance with any relevant Guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives and subject to both of the above provisions; and
- in accordance with the Licensing Authority's Statement of Licensing Policy and subject to all three of the above provisions.

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

6. STATEMENT OF LICENSING POLICY

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

6.2 In this document this is referred to as 'the Policy'. This Policy must be published every three years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.

6.3 This Policy takes effect on 1 January 2016.

7. CONSULTATION

7.1 In producing this Policy, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A list of the other groups and persons consulted is also provided below.

7.2 The Act requires that the following parties are consulted by the Licensing Authority:-

- the Chief Officer of Police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

7.3 The other groups and people consulted were:-

- organisations, including faith groups, voluntary and community organisations working with children and young people and organisations working with people who are problem gamblers, medical practices or primary care trusts and the citizens Advice Bureau;
- other tiers of local government;
- businesses who are, or will be, holders of Premises Licences;
- Responsible Authorities under the Act.

7.4 The consultation also included meetings and open forums for the public.

7.5 The Licensing Authority's consultation took place between 8 October and 8 November 2015.

7.6 A full list of comments made, and details of the Council's consideration of those comments, is available via the Licensing Authority's website at:- www.colchester.gov.uk or by email to licensing.committee@colchester.gov.uk

8. APPROVAL OF POLICY

8.1 This Policy was approved by full Council on 10 December 2015

8.2 It should be noted that this Policy does not override the right of any person to make an application to make representations about an application, or to apply for a review of a licence, as each case will be considered entirely on its own individual merits and in accordance with the requirements of the Act.

9. DECLARATION

9.1 In this Policy the Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses received during the consultation process.

- 9.2 Appendices have been attached to this statement providing further information and guidance that is intended only to assist readers, and should not be interpreted as legal advice or as part of the Council's policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or the Guidance or regulations issued under the Act.

10. RESPONSIBLE AUTHORITIES

- 10.1 A full list of the Responsible Authorities designated under the Act and their contact details are given in Appendix 2. It should be noted that, under the Act, the Licensing Authority is designated as a Responsible Authority.
- 10.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-
- The competency of the body to advise the Licensing Authority;
 - The need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
 - The need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.
- 10.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates the Essex County Council Children's Safeguarding Service for this purpose.

11. INTERESTED PARTIES

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

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

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*
- b) has business interests that might be affected by the authorised activities, or*
- c) represents persons who satisfy paragraphs (a) or (b).'*

- 11.2 Interested parties can be persons who are democratically elected, such as District, Town and Parish Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the Ward likely to be affected. Likewise, Town and Parish Councils likely to be affected are also considered to be interested parties.
- 11.3 Colchester Borough Councillors, who are members of the Licensing Committee, may also qualify to act as an 'interested party'. In order to resolve any potential conflict of interest, these members will not be eligible to sit on a Sub-Committee to determine an application for any premises within their own Ward. However, a Member of the Licensing Committee or any other Ward Councillor with a prejudicial interest in an application although not permitted to sit on a Licensing Sub Committee, may appear before it to make a representation in the capacity of an 'Interested Party'.
- 11.4 Other than persons mentioned in paragraphs 11.3 and 11.4, the Licensing Authority will generally require some form of written confirmation that a person is authorised to represent an interested party.
- 11.5 The Licensing Authority considers that Trade Associations, Trade Unions and Residents' and Tenants' Associations qualify as "Interested Parties" where they can demonstrate that they represent persons in (a) or (b) above.
- 11.6 In determining whether a person lives or has business interests sufficiently close to the premises, that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-
- the size of the premises;
 - the nature of the premises;
 - the distance of the premises from the location of the person making the representation;
 - the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
 - the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
 - the catchment area of the premises (i.e. how far people travel to visit); and
 - whether the person making the representation has business interests in that catchment area that might be affected.

12. EXCHANGE OF INFORMATION

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

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

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

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

13. PUBLIC REGISTER

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

14. COMPLIANCE AND ENFORCEMENT

14.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice as promoted by the Better Regulation Executive and the Hampton review of Regulatory Inspections and Enforcement and will endeavour to be:-

- Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
 - Accountable – Authorities must be able to justify decisions and be subject to public scrutiny.
 - Consistent – Rules and standards must be joined up and implemented fairly.
 - Transparent – Enforcement should be open and regulations kept simple and user friendly.
 - Targeted – Enforcement should be focused on the problems and minimise side effects.

14.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme.

14.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act will be to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operating and Personal Licences. It should be noted that concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority, but will be notified to the Gambling Commission for their attention and action as appropriate.

14.4 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.

14.5 Recognising the principle of transparency, any enforcement/compliance protocols, or written agreements prepared by the Licensing Authority and its partners will be available on request.

15. DELEGATION OF POWERS

15.1 The Council has agreed a scheme of delegation for discharging its functions under the Act and this can be found as Appendix 3 of this policy.

PART B PREMISES LICENCES

16. GENERAL PRINCIPLES

- 16.1 Premises Licences will be subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is thought necessary or appropriate.
- 16.2 Licensing Authorities are required by Section 153 of the Act, in making decisions about Premises Licences, to aim to permit the use of premises for gambling so far as it thinks it:-
- In accordance with any relevant codes of practice issued by the Gambling Commission;
 - In accordance with any relevant guidance issued by the Gambling Commission;
 - To be reasonably consistent with the Licensing Objectives and subject to both of the above provisions; and
 - In accordance with the Authority's Policy and subject to all three of the above provisions.

Save as required by that section, each and every application for a licence will be considered and determined on its own individual merits having due regard to the Licensing Objectives, Codes of Practice, Guidance and Policy.

- 16.3 **Definition of Premises:**
Premises are defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises. However this determination will always be considered in conjunction with the Guidance issued by the Gambling Commission. The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separated can be properly regarded as different premises. The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).
- 16.4 **Demand:**
Demand is a commercial consideration and is not an issue for the Licensing Authority to consider.
- 16.5 **Location:**

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

16.6 Duplication with other Regulatory Regimes:

Duplication with other statutory/regulatory regimes will be avoided where possible. The Licensing Authority will not consider whether a licence application is likely to be awarded Planning Permission or Building Control consent.

16.7 Licensing Objectives:

Premises Licences granted must be reasonably consistent with the licensing objectives. The Licensing Authority will take into account the following:-

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

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

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

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Gambling Act 2005

(ii) Ensuring that gambling is conducted in a fair and open way –

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way.

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

(iii) Protecting children and other vulnerable persons from being harmed or exploited by gambling –

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

The Council will pay attention to the proposed location of gambling premises in terms of the proximity of gambling premises to schools and vulnerable adults centres, or residential area where there might be high concentration of families with children

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

16.8 **Conditions:**

Any conditions attached to Licences by the Licensing Authority will be proportionate, and will be:-

- Relevant to the need to make the proposed premises suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

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

- Proof of age schemes
- CCTV
- Door Supervisors
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices and signage;
- Specific opening hours; and
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, and helpline numbers for organisations such as GamCare.

- 16.9 Decisions upon individual conditions will be made on a case-by-case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. Applicants will

also be expected to offer their own suggestions about the way in which the Licensing Objectives can be effectively met.

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

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

16.11 **Door Supervisors:**

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

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

16.12 **Credit:**

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. However, cash dispensers (ATMs) may be installed in such premises but the Licensing Authority may apply conditions prescribing where they are sited.

16.13 **Betting Machines:**

In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching reasonable and necessary conditions to a Betting Premises Licence or to a Casino Premises Licence (where betting is permitted in the Casino).

16.14 When considering whether to impose reasonable, necessary and proportionate conditions to restrict the number of betting machines in particular premises the Licensing Authority, among other things, may take into account:-

- The size of the premises;

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

16.15 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own individual merit, and proper account will be taken of codes of practice or guidance issued under the Act.

17. PROVISIONAL STATEMENTS

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

18. REPRESENTATIONS AND REVIEWS

18.1 Representations and applications for review of a Premises Licence may be made by responsible authorities and interested parties.

18.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is reasonable and necessary. For the purpose of exercising its discretion in these matters, the Authority has designated the Council's Planning and Licensing Service Manager as being the proper person to act on its behalf.

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

- frivolous or vexatious.
- made on the grounds that will certainly not cause the Authority to wish to alter/revoke/suspend the Licence or remove, amend or attach conditions to the licence.
- substantially the same as previous representations or requests for a review.
- in accordance with any relevant codes of practice issued by the Gambling Commission.
- in accordance with any relevant guidance issued by the Gambling Commission.
- reasonably consistent with the licensing objectives.

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

19. ADULT GAMING CENTRES

- 19.1 An Adult Gaming Centre is defined in Appendix 1 of this policy. Entry to these premises is age restricted.
- 19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

20. (LICENSED) FAMILY ENTERTAINMENT CENTRES

- 20.1 A Licensed Family Entertainment Centre is defined in Appendix 1 of this policy. Entry to these premises is not generally age restricted, although entry to certain areas may be restricted dependent on the category of machines available for use.
- 20.2 The Licensing Authority will have specific regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will encourage the applicant to satisfy the Authority that they have taken reasonable and proportionate measures to ensure that under 18 year olds do not gain access to any area of the premises that may contain adult only gaming machines and that vulnerable persons should not be exploited on the premises.
- 20.3 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises, but would also encourage applicants to voluntarily offer their own measures to promote the licensing objectives. Such measures may include:
- Proof of age schemes
 - CCTV
 - Supervision of entrances and machine areas
 - Physical separation of areas
 - Provision of information leaflets/helpline numbers for organisations such as GamCare
 - Self-barring schemes
 - Measures/training for staff on how to deal with suspected truant school children on the premises
 - Measures/training for staff by way of written procedures covering how staff would deal with unsupervised and obviously very young children being on

the premises, or unsupervised children causing problems on or around the vicinity of the premises.

- Specific opening hours

21. CASINOS

21.1 The Licensing Authority has not passed a resolution under Section 166(1) of the Gambling Act 2005 which would allow it to grant a Casino licence.

21.2 Any future decision to pass or not pass such a resolution will be made by the Council's Licensing Committee and will need to be endorsed by the full Council, but will only be taken after a full consultation process has been undertaken within its area.

21.3 Casinos and Competitive Bidding:

The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style casino, there are likely to be a number of operators which will want to run a casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State.

21.4 Betting Machines:

The Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching reasonable and necessary conditions to a Betting Premises Licence or to a Casino Premises Licence (where betting is permitted in the casino). When considering whether to impose a reasonable and necessary condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things should take into account:-

- The size of the premises;
- The number of counter positions available for person to person transactions; and
- The ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons;
- The steps that the applicant has taken, or is offering, to positively and proportionately promote the licensing objectives.

21.5 In deciding whether to impose reasonable and necessary conditions to limit the number of betting machines, each application will be considered entirely on its own individual merits and account will be taken of all Codes of Practice or Guidance that has been issued under the Act.

21.6 Credit:

Credit facilities are prohibited in casinos; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

22. BINGO PREMISES

- 22.1 A Bingo premises is defined in Appendix 1 of this policy. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 22.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 22.3 **Credit:**
Credit facilities are prohibited in premises licensed for Bingo; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines, for example by requiring adequate separation from areas used for gambling.

23. BETTING PREMISES

- 23.1 Betting Premises are defined in Appendix 1 of this policy.

24. TRACKS

- 24.1 A Track is defined in Appendix 1 of this policy. Entry to these premises is generally age restricted other than on event days. On event days, specific areas within the Track may also be age restricted dependent on the licensable activities taking place.

25. TRAVELLING FAIRS

- 25.1 It is for the Licensing Authority to determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use.

PART C
PERMITS/TEMPORARY OR OCCASIONAL USE
NOTICES/REGISTRATIONS

26. GENERAL

- 26.1 Forms and method of application, and any additional information or documents required, for permits covered by this section are available via a link from the Council's website, www.colchester.gov.uk

27. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

- 27.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted, however, that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

27.2 Statement of Licensing Principles

The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic criminal record check for staff or equivalent criminal records check for the applicant & also the person who has the day to day control of the premises;
- How the applicant proposes to ensure that children will be protected from harm whilst on the premises.
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on, or around, the premises,Safeguarding awareness training, and
Suspected truant children

28. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

- 28.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises (under the Licensing Act 2003) to automatically have two gaming machines, of Categories C and/or D, by the person who holds the 'on' premises licence notifying the Licensing Authority at least two months before the expiry of their current permit or of their intention to make

gaming machines available for use. Gaming machines can only be located on licensed premises that have a bar for serving alcohol to their customers. Premises restricted to selling alcohol only with food will not be able to apply for a permit.

28.2 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:

- adult machines being in sight of the bar;
- adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
- Appropriate notices and signage; and
- with regard to the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information and leaflets/help-line numbers for organisations such as GamCare; and

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

28.3 Where the Licensing Authority is satisfied that the applicant has provided sufficient measures to protect children and vulnerable persons from harm, or from being exploited by gambling, the Licensing Authority will grant permits allowing up to a maximum of four machines per premises without the need for the application to be considered and determined by the Licensing Sub Committee.

29. PRIZE GAMING PERMITS

29.1 Statement of Licensing Principles

The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic Criminal Record Bureau check or equivalent criminal records check for the applicant and the person having day to day control of the premises;
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises, or

- children causing perceived problems on/around the premises or suspected truant children
- Safeguarding awareness training, and
- Suspected truant children

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

30. CLUB GAMING AND CLUB MACHINE PERMITS

- 30.1 Members' clubs and miners' welfare institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines, and to equal chance gaming and games of chance. A fast track procedure is available for premises that hold a Club premises certificate under the Licensing Act 2003.

31. TEMPORARY USE NOTICES (TUNs)

- 31.1 The persons designated to receive TUNs and to issue objections are specified in Appendix 5 of this licensing policy.
- 31.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations have been issued by the Secretary of State prescribing the activities to be covered. At present a temporary use notice can only be granted for equal chance gaming.
- 31.3 For the purpose of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 31.4 The definition of "a set of premises" will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of "a set of premises" the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 31.5 The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

32. OCCASIONAL USE NOTICES

- 32.1 Occasional Use Notices defined in Appendix 1 of this licensing policy, apply only to tracks, which are described as being premises on any part of which a race or other sporting events take place, or is intended to take place. Tracks need not be a permanent fixture.
- 32.2 OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a Betting Premises Licence for the track.
- 32.3 The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 32.4 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.
- 32.5 The person in the Licensing Authority who is designated to receive the OUN's and assess validity is specified in the scheme of delegation as shown in Appendix 3 of this licensing policy. A copy must also be served on the local Chief Police Officer for the area.

33. SMALL SOCIETY LOTTERIES

- 33.1 The definition of a Small Society Lottery is contained in Appendix 1 of this licensing policy and these require registration with the Licensing Authority.

34. Gaming Machines

- 34.1 The table below shows the various categories of gaming machine and the maximum stakes and prizes

<u>Category of Machine</u>	<u>Maximum Stake £</u>	<u>Maximum Prize £</u>
<u>A</u>	<u>Unlimited – no category A gaming machines are currently permitted</u>	<u>Unlimited – no category A gaming machines are currently permitted</u>
<u>B1</u>	<u>5</u>	<u>10,000</u>
<u>B2</u>	<u>100 in multiples of 10</u>	<u>500</u>
<u>B3</u>	<u>2</u>	<u>500</u>
<u>B3A</u>	<u>2</u>	<u>500</u>
<u>B4</u>	<u>2</u>	<u>400</u>

<u>C</u>	<u>1</u>	<u>100</u>
<u>D – non money prize (other than a crane grab machine or a coin pusher or penny falls machine)</u>	<u>30p</u>	<u>8</u>
<u>D Non money prize (crane grab machine)</u>	<u>1</u>	<u>50</u>
<u>D – combined money and non money prize (other than a coin pusher or penny falls machine)</u>	<u>10p</u>	<u>8 (of which no more than 5 may be a money prize)</u>
<u>D – combined money and non-money prize (coin pusher or penny falls machine)</u>	<u>20p</u>	<u>20 (of which no more than 8 may be a money prize)</u>

A separate table (Appendix 4) shows which types of gambling premises may have which category of gaming machine.

35. Definitions

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

Appendix 1

DEFINITIONS/GLOSSARY OF TERMS

Adult	An individual who is not a child or young person.
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect (Premises limited to entry by adults making Category B, C and D gaming machines available to their customers).
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting Machines	A machine designed or adapted for use to bet on future real events (not a gaming machine).
Bingo	A game of equal chance.
Braintree District Council	The area of Essex administered by the Braintree District Council (see map – Appendix 9)
Casino	An arrangement whereby people are given an opportunity to participate in one or more Casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs).
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines (3 machines of Categories B,C or D).
Code of Practice	Any relevant code of practice under Section 24 of the Act.
Conditions	<p>Conditions to be attached to licences by way of:-</p> <ul style="list-style-type: none"> <input type="checkbox"/> Automatic provision <input type="checkbox"/> Regulations provided by Secretary of State <input type="checkbox"/> Conditions provided by Gambling Commission <input type="checkbox"/> Conditions provided by Licensing Authority <p>Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.</p>
Default Conditions	Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

Delegated Powers	Decisions delegated either to a Licensing Committee, Sub- Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank
	and where the chances are equally favourable to all participants.
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Small Society Lottery (required to register with Licensing Authorities). <input type="checkbox"/> Incidental Non Commercial Lotteries. <input type="checkbox"/> Private Lottery (Private Society, W o r k or Residents lottery). <input type="checkbox"/> Customer Lotteries.
External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the Lottery.
Gaming	Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission 3rd edition dated May 2009.
Human Rights Act 1998 Articles: 1,6,8 and 10	<p>Article 1: Protocol 1 The right to peaceful enjoyment of possessions.</p> <p>Article 6: The right to a fair hearing.</p> <p>Article 8: The right of respect for private and family life.</p> <p>Article 10: The right to freedom of expression.</p>

Incidental Non Commercial Lottery	A Lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events (commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance).
Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	<p>A person who:-</p> <ul style="list-style-type: none"> ❑ lives sufficiently close to the premises to be likely affected by the authorised activities; ❑ have business interests that might be affected by the authorised activities, or ❑ represents persons in either of these two groups. <p>See paragraph 10.6 for the criteria the Licensing Authority will apply in determining who lives or has</p>
	interests sufficiently close to the premises that they are likely to be affected by any authorised activities.
Licensing Authority	Braintree District Council acting under Section 2 of the Act.
Licensed Family Entertainment Centre	Premises offering Category C gaming machines that are restricted to adults and offering Category D machines to children and young persons in segregated areas.
Licensed Lottery	A Large Society Lottery or a Local Authority Lottery. They require registration with the Gambling Commission.
Licensing Objectives	<ol style="list-style-type: none"> 1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. 2. Ensuring that gambling is conducted in a fair and Open way. 3. Protecting children and other vulnerable persons From being harmed or exploited by
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.

Lottery Tickets	<p>Tickets that must:-</p> <ul style="list-style-type: none"> ❑ identify the promoting society; ❑ state the price of the ticket, which must be the same for all tickets; ❑ state the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and ❑ State the date of the draw, or enable the date of the draw to be determined.
Mandatory Conditions	Specified conditions provided by Regulations under Section 176 of the Act to be attached to Premises Licences.
Members' Club	<p>A Club that must:-</p> <ul style="list-style-type: none"> ❑ have at least 25 members; ❑ be established and conducted 'wholly or mainly' for purposes other than gaming; ❑ be permanent in nature; ❑ not be established to make commercial profit; and ❑ be controlled by its members equally.
Occasional Use Notice	Betting may be permitted on a 'track' for eight days or less in a calendar year without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.

Operating Licence	<p>Issued by the Gambling Commission. Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling</p> <ul style="list-style-type: none"> - Casino Operating Licence - Bingo Operating Licence - General Betting Operating Licence - Pool Betting Operating Licence - Betting Intermediary Operating Licence - Gaming Machine General Operating Licence (for an Adult – Gaming Centre Operator or a Family Entertainment Centre) - Gaming Machine Technical Operating Licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine) - Gambling Software Operating Licence (to manufacture, supply, install or adapt gambling
Permits	<p>Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. Issued by the Licensing Authority (for Unlicensed Family Entertainment Centres, Prize Gaming, Gaming Machines, on alcohol related premises, Club Gaming and Club Gaming Machines).</p>
Personal Licence	<p>Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.</p>
Pool Betting - Tracks	<p>Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the</p>
Premises	<p>Defined as 'any place', including a vehicle, vessel or moveable structure. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.</p>
Premises Licence	<p>Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.</p>

Private Lotteries	<p>There are three types of Private Lotteries:</p> <ul style="list-style-type: none"> ❑ Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society; ❑ Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises; ❑ Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or
	by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:-</p> <ul style="list-style-type: none"> ❑ Expects to be constructed. ❑ Expects to be altered. ❑ Expects to acquire a right to occupy.
Regulations	Regulations made by the Secretary of State under the Gambling Act 2005.
Relevant Representations	Representations that relate to the Gambling Licensing Objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of

Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <ul style="list-style-type: none"> ❑ Braintree District Council acting as the Licensing Authority ❑ The Gambling Commission ❑ The Chief Officer of Police (Essex Police) ❑ Essex County Fire and Rescue Service ❑ Local Planning Authority, ie Braintree District Council Planning Department ❑ The authority having functions in relation to the environment or harm to human health, i.e. Braintree District Council Environmental Health ❑ Essex Local Safeguarding Children's Board ❑ HM Revenue and Customs ❑ Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency ❑ Other persons prescribed by the Secretary of State <p>Full details of Responsible Authorities for the Braintree District are contained in Appendix '2' to this Policy.</p>
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice	To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
The Act	The Gambling Act 2005.
The Council	Colchester Borough Council
The Commission	The Gambling Commission.
The Policy	The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act.
Tote [or Totalisator]	Pool betting on tracks.

Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Travelling Fair	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
Unlicensed Family Entertainment Centre	Premises offering Category D machines only with unrestricted entry.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- <ul style="list-style-type: none"> ❑ gamble more than they want to ❑ gamble beyond their means ❑ who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs
Young Person	An individual who is not a child but who is less than 18 years old.

RESPONSIBLE AUTHORITIES

The following table shows the Responsible Authorities designated under the Act and their relevant contact details.

RESPONSIBLE AUTHORITY	CONTACT DETAILS
Licensing Authority	Licensing Food Safety Manager Colchester Borough Council Environmental and Protective Services Po Box 889 Rowan House 33 Sheepen Road Colchester Essex CO3 3WG e-mail address: licensing@colchester.gov.uk Website: www.colchester.gov.uk
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP e-mail address: info@gamblingcommission.gov.uk Website: www.gamblingcommission.gov.uk
Essex Police	Police Licensing Officer Essex Police Colchester Police Station 10 Southway Colchester Essex CO3 3BU e-mail address: ED-Licensing@essex.pnn.police.uk Website: www.essex.police.uk
Essex County Fire & Rescue Service	Community Commander Colchester & Tendring Community Command Block C Park Road

	<p>Colchester Essex CO3 3UL</p> <p>e-mail address: ct.command@essex-fire.gov.uk Website: www.essex-fire.gov.uk</p>
Planning Services	<p>Planning Services Manager Colchester Borough Council PO Box 889 Rowan House 33 Sheepen Road Colchester Essex CO3 3WG</p> <p>e-mail address: licensing@colchester.gov.uk Website: www.colchester.gov.uk</p>
Environmental Protection	<p>Environmental Control Manager Colchester Borough Council PO Box 889 Rowan House 33 Sheepen Road Colchester Essex CO3 3WG</p> <p>e-mail: environmentalcontrolteam@colchester.gov.uk Website: www.colchester.gov.uk</p>
Essex County Council Children's Safeguarding Service	<p>Head of Children's Safeguarding Service Licensing Applications Essex County Council DG06, D Block Schools Children's and Families Service PO Box 11 County Hall Chelmsford CM1 1LX</p> <p>Email: licenceapplications@essex.gov.uk Website: www.essexcc.gov.uk</p>

HM Revenue & Customs	<p>Tj Proper Officer H M Revenue & Customs HMRC Banking St Mungos Road Cumbernauld Glasgow G70 5WY</p> <p>Tel: 0141 555 3633</p> <p>e-mail: nrubetting&gaming@hmrc.gsi.gov.uk Website: www.hmrc.gov.uk</p>
Trading Standards	<p>Information and Business Support Team Essex Trading Standards New Dukes Way Office 2 Beaufort Road Dukes Park Industrial Estate Chelmsford Essex CM2 6PS</p>

SCHEME OF DELEGATION

Licensing Authority Delegations as permitted under the Gambling Act 2005.

(Note: X indicates the lowest level at which decisions are delegated (within Guideline limits)).

Matter to be dealt with	Council	Licensing Sub-Committee	Officers (Head of Professional Services).
Final approval of three year licensing policy	X		
Fee Setting			X
Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received from the Commission
Review of premises licence		X	Chief Executive (will make decision as to whether to seek review of premises licence on behalf of Licensing Authority)
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	

Application for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notices			
Decision to give a counter notice to a temporary use notice		X	
Policy to permit/not to permit Casino's	X		
Consideration of an Occasional Use Notice			X

APPLICATION PROCESS

This guidance covers those aspects that are the responsibility of the Licensing Authority only; guidance on aspects dealt with by the Gambling Commission can be obtained via the following link: - www.gamblingcommission.gov.uk

PREMISES LICENCES

A Premises Licence is required for any premises where gambling activity is carried out of a type requiring Personal and Operator's Licences to have been issued by the Gambling Commission.

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

Premises Licences are issued by the Licensing Authority and are required for Casinos, Bingo premises, Betting premises (including tracks and premises used by betting intermediaries) Adult Gaming Centres and Family Entertainment Centres providing Category C gaming machines.

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

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

Premises Licences are valid indefinitely from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the Licensing Authority.

BINGO, BETTING, ARCADES (Adult Gaming Centres & Licensed Family Entertainment Centres)

New Licences or Permissions

Applicants wishing to commence operating on or after 1 September 2007 may apply from 1 January 2007 to the Gambling Commission for an Operator's Licence and from 31 January 2007 to the Licensing Authority for a Premises Licence.

TRACKS

An Operator's Licence is not required from the Gambling Commission to operate a track but a Premises Licence from the Licensing Authority is required. A number of Premises Licences may be granted for one track, provided each is for a different part of the track.

Betting is usually divided into on-course, off-course and pool betting, the provision of which requires Operators to hold either a general Betting Operator's Licence or a Pool Betting Operating Licence from the Commission.

Pool betting on tracks may only be offered by the Tote (in relation to horse tracks) and by the Premises Licence Holder (in relation to dog tracks). Pool betting may not be provided elsewhere.

Gaming machines, consisting of a maximum of 4 machines of categories B2 – D, may be operated at a track by the Premises Licence Holder provided they hold a Pool Betting Operator's Licence (for sitting and other special considerations in respect of gaming machines at tracks, see *'the Gambling Commission's guidance'* at www.gamblingcommission.gov.uk).

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

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

BETTING MACHINES

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

GAMING MACHINE SUPPLY & REPAIR

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

GAMING MACHINES IN LICENSED PREMISES

Premises Licences issued under the Act automatically authorise the provision of gaming machines, according to the type of premises and gambling activities permitted (but see also *Tracks*).

The Act introduces new classes of gaming machines, as shown in Fig. 1 below. The category and number of machines that may be operated under a Premises Licence are shown in figure 2 below.

-

Fig. 1

Category of machine	Maximum Stake £	Maximum Prize £
A	Unlimited – No category A gaming machines are currently permitted	
B1	5	10,000
B2	100 (in multiples of £10)	500
B3	2	500
B3A	2	500
B4	2	250
C	1	100
D money prize	10p	£5
D no money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	8
D non money prize (crane grab machine)	1	50
D combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

Fig. 2

	Machine category						
Premises Type	A	B1	B2	B3	B4	C	D
Regional Casino		A,B,C and D, except B3A. Maximum of 1250 or 25 x No of gaming tables, whichever is less. (Casino must have at least 40 gaming tables. Otherwise permission is as for large casino)					
Large Casino		B,C and D, except B3A. Maximum of 150 or 5 x No of gaming tables, whichever is less. (Large casino must have at least one gaming table)					
Small Casino		B,C and D except B3A. Maximum of 80 machines or 2 x No of gaming tables, whichever is less.					
Pre-2005 Act Casinos (no machine/ table ratio)		Maximum of 20 machines categories B to D or C or D machines instead(except B3A)					
Betting premises and tracks occupied by Pool Betting		Maximum of 4 machines categories B2 to D not to include B3A					
Bingo Premises				Maximum of 8 category B3 or B4 machines or 20% of the total number of gaming machines, whichever is the greater *		No limit on category C or D machines	
Adult Gaming Centre				Maximum of 4 category B3 or B4 machines or 20% of the total number of gaming machines, whichever is the greater *		No limit on category C or D machines	
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family Entertainment Centre gaming machine permit						D	

Club Gaming Permit					B3A, B4, C and D	3 total Cat B3A machines are lottery only machines which are only permitted in members clubs and miners welfare institutes
Club Machine Permit					B3A, B4, C and D	3 total
Licensed premises: automatic entitlement					C and D	2 total
Licensed premises: Gaming Machine Permit					C and D	Unlimited

**Licensed AGC and Bingo premises in existence before 13th July 2011 are entitled to make available four (AGCs) or eight (Bingo) Category B Gaming Machines, or 20% of the total number of Gaming Machines, whichever is greater. AGC and Bingo Premises Licences granted on or after 13th July 2011 but before 1st April 2014 are entitled to a maximum of four or eight category B Gaming Machines or 20% of the total number of Gaming Machines, whichever is the greater; from 1st April 2014 these premises will be entitled to 20% of the total number of Gaming Machines only.*

TEMPORARY USE NOTICES (TUNs)

A TUN may only be issued by a person or company holding an Operating Licence relevant to the proposed temporary use of the premises and may be issued in respect of a 'set of premises' for a maximum of 21 days in any 12 month period. (NB. A TUN may not be issued in respect of a vehicle).

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

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

The Licensing Authority will generally aim to permit gambling activities under a TUN but will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

Issue

Not less than 3 months and 1 day prior to the day on which the gambling event is to take place, a TUN must be given to: -

- the Licensing Authority;
- the Chief Officer of Police;
- HM Commissioners for Revenue and Customs and, if applicable;
- any other Licensing Authority in whose area the premises are situated.

The Notice must include details of: -

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

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

Objections

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

Modifications to the Notice may be suggested by those objecting to it. If accepted by the issuer, a new Notice must be issued. It should be noted that the 3 month, 1 day time limit and a new fee will not apply to the new notice, nor may the original objector(s) object to the new notice.

A Hearing must be held before the Premises/Personal Licences Sub-Committee to hear representations from all parties, unless agreement is reached that a Hearing is unnecessary (e.g. by modification of the notice) within 6 weeks of the date of the notice.

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

OCCASIONAL USE NOTICES (OUNs)

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

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

OUNs are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. An OUN dispenses with the need for a Betting Premises Licence for the track.

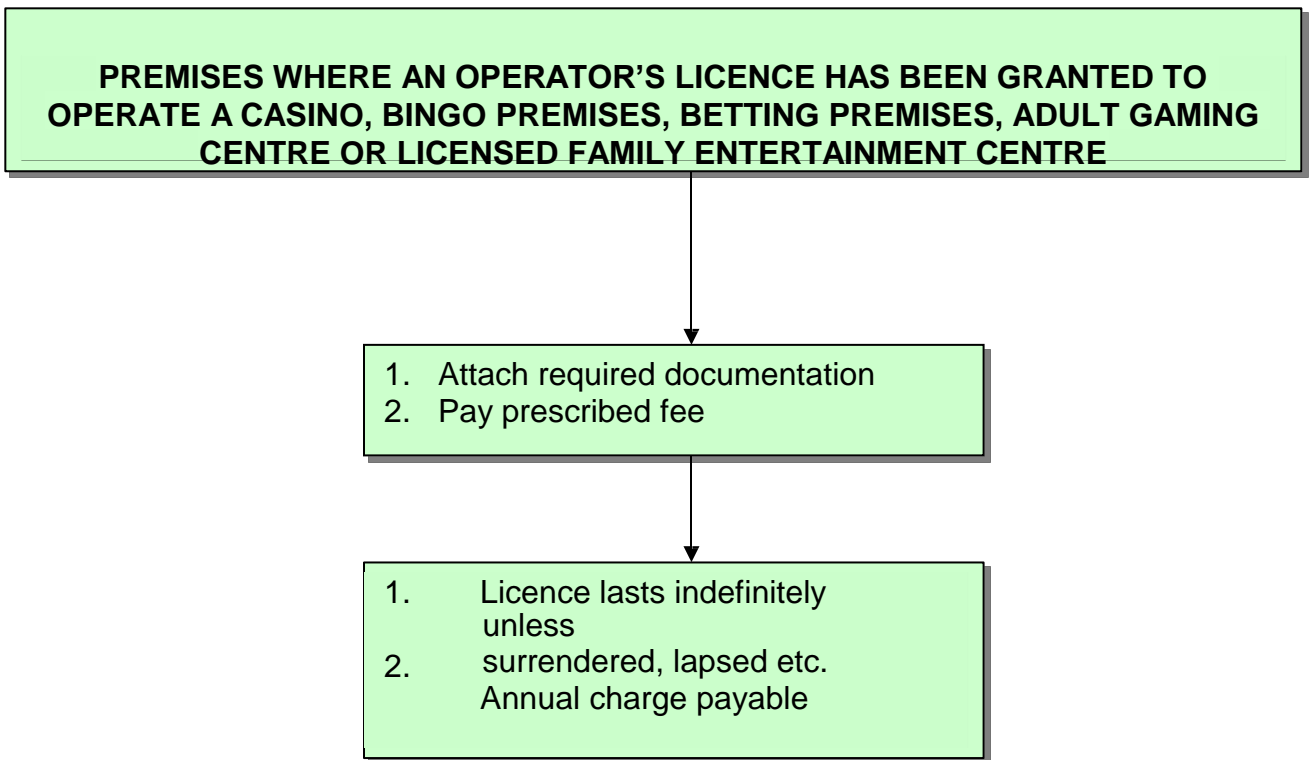
Issue

The Notice may be issued by the person responsible for the administration of events on the track or the occupier of the track. **The Notice must be served on the Licensing Authority and a copy on the Chief Officer of Police.**

Objections

Generally objections may not be made to the issue of an OUN, except the Licensing Authority must issue a counter notice where the effect of the OUN would result in betting facilities being made available for more than 8 days in a calendar year.

PREMISES LICENCES



GAMING PERMITS

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

- Gaming machines in alcohol-licensed premises, Member's Clubs, unlicensed Family Entertainment Centres (FEC's) and certain other premises, e.g. taxi offices (see '*Other premises*' below)
- Equal chance gaming, games of chance and gaming machines in Member's Clubs, and
- Prize gaming, e.g. at Travelling Fairs.

GAMING MACHINES

The Act introduces new classes of gaming machines that may be operated under a Permit, as shown in figure 3 below.

Fig. 3

Category of machine	Maximum Stake £	Maximum Prize £
B3A	2	500
B4	2	400
C	1	100
D (Money prize)	10p	5
D Non money prize (other than a crane grab machine)	30p	8
D Non money prize (crane grab machine)	1	50
D combined money and Non money prize (other than a coin pusher or penny falls machine)	10p	8 (of which no more than 5 may be a money prize)
D combined money and non money prize (coin pusher or penny falls machine)	20p	20 (of which no more than 8 may be a money prize)

The category and number of machines that may be operated under a Premises Licence are shown in Figure 2 above.

Fig. 4

	Machine category							
Premises Type	A	B1	B2	B3	B3A	B4	C	D
Clubs or Miner's Welfare Institutes with Permits					Maximum of 3 category B3A to D machines			
Qualifying alcohol licensed premises upon notification							Automatic entitlement of 1 or 2 category C or D machines	
Qualifying alcohol licensed premises with Gaming Machine Permit							Unlimited entitlement of 1 or 2 category C or D machines	
Family Entertainment Centre (with permit)								Unlimited category D machines
Travelling Fair								Unlimited category D machines

ALCOHOL-LICENSED PREMISES

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

Premises holding a Premises Licence may be authorised to operate machines of Class C or D provided the Premises Licence authorises the sale and supply of alcohol for consumption on the premises without it being a condition that the sale and supply of alcohol has to be accompanied by food.

The following paragraphs apply only to those premises.

Automatic Entitlement

The Act gives an automatic entitlement for the Holder of a Premises Licence under the 2003 Act to provide up to two gaming machines on their premises.

An application for a Permit is not required but Premises Licence Holders must notify their Licensing Authority in writing of their intention to provide the machines and pay the prescribed fee.

The entitlement may be withdrawn if:-

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

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

New permits

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

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

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

Where the Authority grants the application, a Permit will be issued for the number of machines authorised, which will include the automatic entitlement of 2 machines.

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

Where the Premises Licence is transferred, the Gaming Machine Permit must also be transferred or it will lapse. In all other cases the Permit will last indefinitely, unless surrendered or revoked.

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

MEMBER'S CLUBS

The Act permits a Member's Club holding a Club Premises Certificate issued under the Licensing Act 2003, or Miner's Welfare Institute, to hold a **Club Gaming Permit** allowing participation in equal chance gaming or playing games of chance (see Annex C for definitions of 'equal chance gaming' and 'games of chance'). In addition they may operate a maximum of 3 machines of either Class B3(A), B4, C or D.

The Act also permits a Member's Club holding a Club Premises Certificate or a Commercial Club holding a Premises Licence under the Licensing Act 2003 to operate a maximum of 3 machines of either Class B3(A), B4, C or D under a **Club Machine Permit**.

New Permits

Applications for a Permit for premises already holding a Club Premises Certificate are subject to a 'fast track' procedure that prevents the making of objections, and restricts the ability of the Licensing Authority to refuse the application.

An application under this process may be refused if the Club is established primarily for gaming (other than that permitted); if, in addition to the permitted gaming, facilities are provided for other gaming; or that a Club Machine Permit issued to the applicant within the preceding 10 years has been cancelled. An application and payment of the prescribed fee is required. A Permit has effect for 10 years unless surrendered or revoked.

Applications for a Permit for premises not holding a Club Premises Certificate e.g. a Commercial Member's Club with a Premises Licence, may be refused by the Licensing Authority on the grounds that:-

- the applicant does not fulfil the requirements for a Members or Commercial Club
- the premises are used wholly or mainly by children and/or young persons; an offence under the Act or breach of a permit has been committed by the applicant while providing gaming facilities
- a Permit held by the applicant has been cancelled in the previous 10 years

- an objection has been made by the Police or Gambling Commission

Permits may be varied at any time to meet changing circumstances, other than an increase above 3 to the number of machines. Licensing Authorities may only refuse a variation if, on consideration of the proposed variation as a new application, they would refuse a Permit.

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

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

A registration that is in force on 1 September 2007 will continue to have effect until its natural expiry date. Upon expiry a club will be entitled to apply for either a Club Gaming Permit or Club Machine Permit irrespective of the type of registration previously held.

An application for a new Club Machine Permit must be made at least 2 months before the existing registration expires, together with the prescribed fee.

OTHER PREMISES

Premises such as taxi offices, take-away restaurants, cafes etc., are prohibited from obtaining a gaming machine permit under the Act and will be unable to operate gaming machines of any kind.

UNLICENSED FAMILY ENTERTAINMENT CENTRES

The Licensing Authority may grant an application for a Permit for Category D Gaming Machines in an unlicensed Family Entertainment Centre (FEC) provided it is satisfied the premises will be used as an unlicensed FEC and that the Chief

Officer of Police has been consulted. There are no limits to the number of machines that may be applied for in an unlicensed FEC.

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

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

The Authority may refuse an application for renewal of a Permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the Licensing Objectives.

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

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

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

Unlicensed FEC's may also offer equal chance gaming under the authority of their Gaming Machine Permit.

Applications for new permits may be made to the Licensing Authority .

PRIZE GAMING

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

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

The Authority may refuse an application for renewal of a Permit only on the grounds that an authorised Local Authority Officer has been refused access to

the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.

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

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

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

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

New Permits

Applications for new permits may be made to the Licensing Authority.

Prize gaming without a Permit

Prize gaming without a Prize Gaming Permit may be carried on in any premises with a Premises Licence issued under the Act, except that Casinos may not offer prize bingo.

Unlicensed FECs may also offer equal chance gaming only, under the authority of their Gaming Machine Permit.

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

TRAVELLING FAIRS

Travelling Fairs do not require a permit to provide gaming machines but must comply with Codes of Practice on how they are operated.

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

ALCOHOL LICENSED PREMISES

PREMISES WHERE THE LICENCE PERMITS THE SALE OF ALCOHOL FOR CONSUMPTION ON THE PREMISES AND THE SALE IS NOT CONDITIONAL UPON FOOD BEING SOLD MAY HAVE GAMING MACHINES OF CLASS C OR D

AFTER 1 SEPTEMBER 2007

UP TO 2 MACHINES

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

MORE THAN 2 MACHINES

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

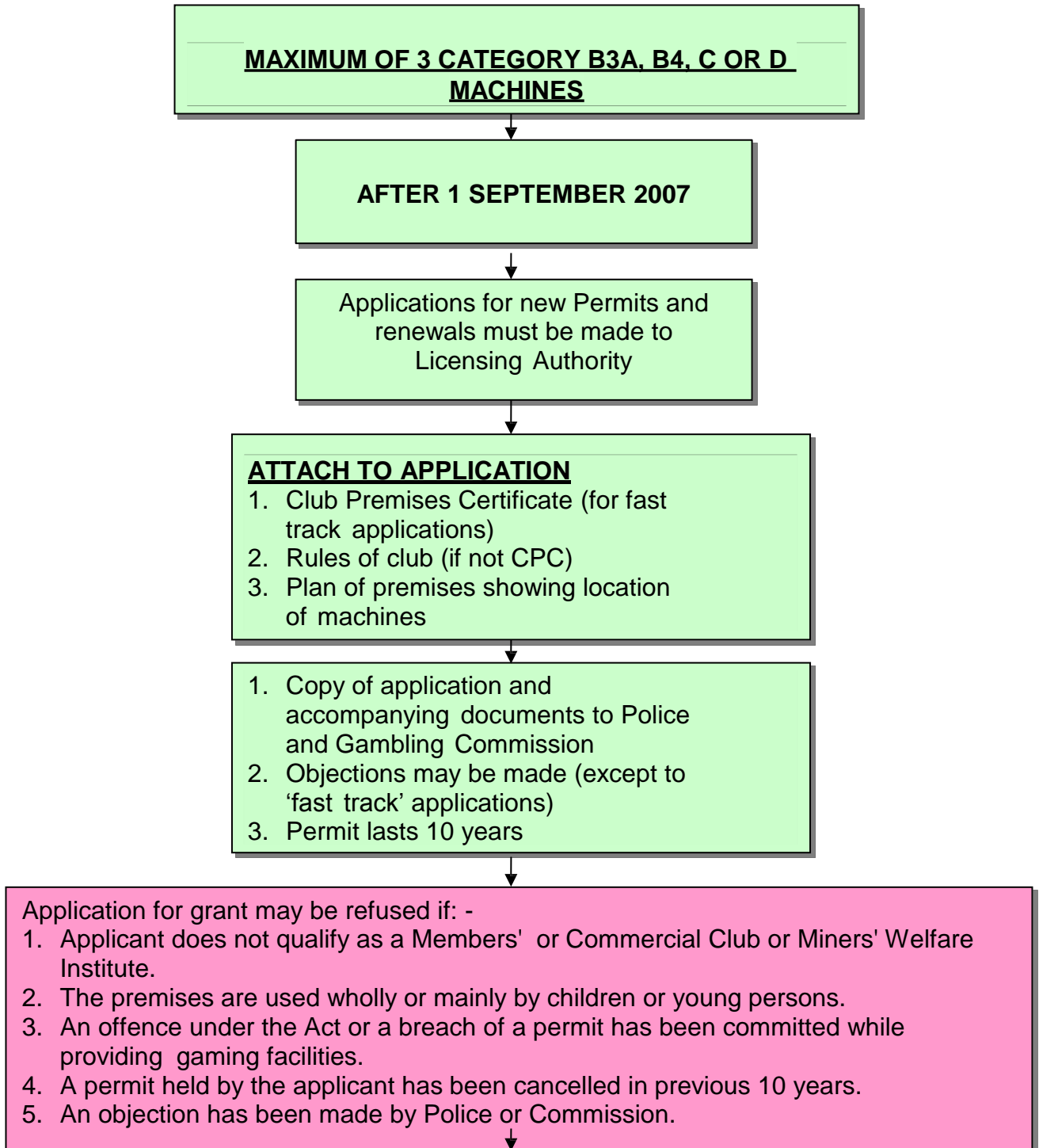
1. Permit has effect from date of grant unless surrendered or cancelled
2. Annual charge to be paid to

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

BUT

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

MEMBERS CLUBS



Application for renewal must be sent to Licensing Authority with fee between 3 and 6 weeks before permit expires and may only be refused on the same grounds as for original grant.

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

UNLICENSED FAMILY ENTERTAINMENT CENTRE

PERMIT MAY BE ISSUED FOR PREMISES WHOSE PRIMARY USE IS AS AN UNLICENSED FAMILY ENTERTAINMENT CENTRE TO HAVE AN UNLIMITED NUMBER OF GAMING MACHINES OF CLASS D

**NEW PERMIT TO OPERATE
AFTER 1 SEPTEMBER 2007**

1. Attach information required by Gambling Licensing Policy Statement
2. Attach plan of premises showing location of machines
3. Consult Chief of Police
4. Pay prescribed fee
5. Permit lasts for 10 years

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

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

Permits will lapse if: -

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

PRIZE GAMING PERMIT

PRIZE GAMING PERMITS MAY ONLY BE ISSUED IN RESPECT OF PREMISES FOR WHICH THERE IS NO PREMISES LICENCE OR CLUB GAMING PERMIT ISSUED UNDER THE GAMING ACT 2005

**NEW PERMIT TO OPERATE
AFTER 1 SEPTEMBER 2007**

1. Attach information required by Gambling Licensing Policy Statement
2. Attach plans of premises
3. Pay prescribed fee
4. Permit lasts for 10 years

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

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the Licensing Objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

Permits will lapse if: -

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

LOTTERIES

A lottery is unlawful unless it is run in accordance with an Operating Licence issued by the Gambling Commission, or it is exempt. This advice covers only those categories of lottery that are exempt. For more information on the licensing requirements for lotteries, see the Gambling Commission's website on www.gamblingcommission.gov.uk

The Act defines 4 categories of lottery that are exempt from needing an operating licence: -

- Incidental non-commercial lottery
- Private lottery
- Customer lottery
- Small society lottery

Only a small society lottery is required to be registered with the Licensing Authority.

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

The Licensing Authority will require applicants to declare: -

- the purposes for which the society is established
- that they represent a bona fide non-commercial society, and
- that they have no relevant convictions

The Licensing Authority may refuse an application if: -

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

An application shall be refused if an Operating Licence held or applied for by the applicant has been revoked or refused in the previous 5 years.

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

Where the Licensing Authority intends to refuse or revoke the registration application it will give the society: -

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

NEW REGISTRATIONS

An application for registration with the prescribed fee must be made to the Licensing Authority under the Act. The registration will be valid indefinitely with an annual fee being payable to the Licensing Authority.

Lottery Requirements

To ensure the main purposes of the lottery are met: -

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

Returns

No later than 3 months after making the draw (or in the case of a rollover, the last draw), a return must be sent to the Licensing Authority that: -

- has been signed by 2 members of the society over 18 years of age who are appointed for the purpose in writing by the society or its governing body, if it has one,
- is accompanied by a copy of each member's letter of appointment, and include the following details: -
 - the dates when tickets were available for sale;
 - the dates of any draw and value of prizes, including any rollover;
 - the proceeds raised;
 - the amounts deducted for prizes and expenses incurred in organising the lottery;
 - the amount applied or to be applied to the purposes of the promoting society; and
- whether any expenses incurred in connection with the lottery were paid for other than from the proceeds of the lottery and, if so, the amount and the source(s) from which they were paid

- **EXTERNAL LOTTERY MANAGERS**

External Lottery Managers require Operators' Licences issued by the Gambling Commission. For more information, see the Gambling Commission's website on www.gamblingcommission.gov.uk

SMALL SOCIETY LOTTERIES

PROMOTED BY A NON-COMMERCIAL SOCIETY ESTABLISHED FOR CHARITABLE PURPOSES; FOR PURPOSE OF ENABLING PARTICIPATION IN OR OF SUPPORTING SPORT, ATHLETICS OR CULTURAL ACTIVITY; OR FOR OTHER NON –COMMERCIAL PURPOSES OTHER THAN PRIVATE GAIN

REGISTRATION TO OPERATE AFTER 1 SEPTEMBER 2007

1. Attach information required: -
 - (a) Purpose for which society established
 - (b) Confirm bona fides of society as non-commercial
 - (c) Declare convictions, if any
1. Pay prescribed fee
2. Registration valid for life, annual fee payable to Licensing Authority

Lottery requirements: -

1. Society must apply minimum 20% of proceeds to purposes of society
 2. No single prize to exceed £25000
 3. Rollovers permitted provided all lotteries affected are small society lotteries & maximum single prize does not exceed £25000
 4. Tickets must cost the same, be paid for before being entered in draw and include details of society, price, name and address of the person responsible for promotion of the lottery and date of draw
- Returns, which must be made no later than 3 months after draw, must be signed by 2 members and include details of: -
5. Dates tickets were available for sale, dates of draw and value of prizes
 6. Proceeds raised, amounts deducted for prizes, expenses incurred in organising lottery and where any were paid for other than from proceeds of lottery, the amount and source
 7. Amount to be applied to purposes of the promoting society

Registration may be refused if: -

1. Society is not considered to be non-commercial
 2. Any person connected with promotion of lottery has been convicted of relevant offence , or
 3. Information provided in application is false/misleading
- Registration must be refused if an operating licence held by or applied for by the applicant has been revoked or refused in the previous 5 years
- Registration may be revoked where grounds exist for an application for registration to be refused.
- BUT a registration will not be refused or revoked unless the society has been informed of the reasons and the evidence supporting them and been given the opportunity to make representations

FEES



Colchester Borough Council
Approved Fees for Applications made under the Gambling Act 2005

Non Statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Details of the current fees can be found on the Council's website

Appendix 6

USEFUL CONTACTS

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk. Some of these organisations provide codes of practice on their particular interest area. Links to a selection of these are shown below:

Trade Associations:

Association of British Bookmakers	Website: www.abb.uk.com
British Amusement Catering Trade Association (BACTA)	Website: www.bacta.org.uk
Bingo Association	Website: www.bingo-association.co.uk
British Horseracing Board	Website: www.britishhorseracing.com
British Greyhound Racing Board	Website: www.thedogs.co.uk

Gambling Support Organisations

GAMCARE	Website: www.gamcare.org.uk
Responsibility in Gambling Trust	Website: www.rigt.org.uk
Gamblers Anonymous	Website: www.gamblersanonymous.org.uk

Other Links:

Department for Culture, Media & Sport (DCMS)	Website: www.culture.gov.uk
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The Gambling Commission also maintains a list of useful contacts for organisations involved in gambling and these can be found on the commission's web site: www.gamblingcommission.gov.uk

Some of the organisations mentioned above also provide codes of practice on their web sites for their particular field of interest.

MAP OF THE BOROUGH OF COLCHESTER



