

# Agenda

## General scrutiny committee

Date: **Tuesday 23 July 2019**

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Time: **2.30 pm**

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Place: **Council Chamber, The Shire Hall, St Peter's Square,  
Hereford, HR1 2HX**

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Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

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If you would like help to understand this document, or would like it in another format, please call Tim Brown, Governance Services on 01432 260239 or e-mail [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the meeting of the General scrutiny committee**

## **Membership**

**Chairperson**            **Councillor Jonathan Lester**  
**Vice-Chairperson**   **Councillor Tracy Bowes**

**Councillor Barry Durkin**  
**Councillor Bernard Hunt**  
**Councillor Jim Kenyon**  
**Councillor Paul Symonds**  
**Councillor William Wilding**

## Agenda

		Pages
1.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>NAMED SUBSTITUTES</b></p> <p>To receive details of members nominated to attend the meeting in place of a member of the committee.</p>	
3.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.</p>	
4.	<p><b>MINUTES</b></p> <p>To receive the minutes of the meetings held on 6 March 2019 and 29 March 2019.</p>	9 - 26
5.	<p><b>QUESTIONS FROM MEMBERS OF THE PUBLIC</b></p> <p>To receive any written questions from members of the public.</p> <p>Details of the scheme and related guidance are available here:</p> <p><a href="https://www.herefordshire.gov.uk/info/200148/your_council/61/get_involved">https://www.herefordshire.gov.uk/info/200148/your_council/61/get_involved</a></p> <p>Please submit questions to <a href="mailto:councillorservices@herefordshire.gov.uk">councillorservices@herefordshire.gov.uk</a></p> <p>The deadline for the receipt of questions is Wednesday 17 July 2019 at 5.00 pm.</p> <p>Accepted questions will be published as a supplement prior to the meeting.</p>	
6.	<p><b>QUESTIONS FROM MEMBERS OF THE COUNCIL</b></p> <p>To receive any written questions from members of the council.</p> <p>Deadline for receipt of questions is 5.00 pm on Wednesday 17 July 2019.</p> <p>Accepted questions will be published as a supplement prior to the meeting.</p> <p>Please submit questions to <a href="mailto:councillorservices@herefordshire.gov.uk">councillorservices@herefordshire.gov.uk</a></p>	
7.	<p><b>GAMBLING POLICY 2019-2022 (REVIEW)</b></p> <p>To review the statement of principles (Gambling Policy) to be applied by the council when exercising licensing functions under the Gambling Act 2005 (the Act).</p>	27 - 96
8.	<p><b>WORK PROGRAMME</b></p> <p>To review the committee's work programme.</p>	97 - 106

**9. DATE OF NEXT MEETING**

The next scheduled meeting is Monday 23 September 2019.



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- Attend all Council, Cabinet, committee and sub-committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all committees and sub-committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all committees and sub-committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, committees and sub-committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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The Chairperson or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

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## Guide to General Scrutiny Committee

Scrutiny is a statutory role fulfilled by councillors who are not members of the cabinet.

The role of the scrutiny committees is to help develop policy, to carry out reviews of council and other local services, and to hold decision makers to account for their actions and decisions.

Council has decided that there will be three scrutiny committees. The Committees reflect the balance of political groups on the council.

The General Scrutiny Committee consists of 7 Councillors.

Councillor Tracy Bowes (Vice-Chairperson)	It's Our County
Councillor Barry Durkin	Conservative
Councillor Bernard Hunt	True Independents
Councillor Jim Kenyon	Herefordshire Independents
Councillor Jonathan Lester (Chairperson)	Conservative
Councillor Paul Symonds	Liberal Democrat
Councillor William Wilding	Herefordshire Independents

The committees have the power:

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
- (d) to make reports or recommendations to council or the cabinet with respect to the discharge of any functions which are not the responsibility of the executive,
- (e) to make reports or recommendations to council or the cabinet on matters which affect the authority's area or the inhabitants of that area
- (f) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions and to make reports or recommendations to the council with respect to the discharge of those functions. In this regard crime and disorder functions means:
  - (i) a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and
  - (ii) a strategy for combatting the misuse of drugs, alcohol and other substances in the area; and
  - (iii) a strategy for the reduction of re-offending in the area

- (g) to review and scrutinise any matter relating to the planning, provision and operation of the health service in its area and make reports and recommendations to a responsible person on any matter it has reviewed or scrutinised or to be consulted by a relevant NHS body or health service provider in accordance with the Regulations (2013/218) as amended. In this regard *health service* includes services designed to secure improvement—
- (i) in the physical and mental health of the people of England, and
  - (ii) in the prevention, diagnosis and treatment of physical and mental illness
  - (iii) And any services provided in pursuance of arrangements under section 75 in relation to the exercise of health-related functions of a local authority.
- (h) to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

The specific remit of the general scrutiny committee includes:

- Services within the economy and place directorate and corporate centre
- Corporate performance
- Budget and policy framework matters
- Statutory flood risk management scrutiny powers
- Statutory community safety and policing scrutiny powers

### **Who attends general scrutiny committee meetings?**

Coloured nameplates are used which indicate the role of those attending the committee:

Pale pink	Members of the committee, including the chairman and vice chairman.
Pale Blue	Cabinet Members – They are not members of the committee but attend principally to answer any questions the Committee may have and inform the debate.
Orange	Officers of the council – attend to present reports and give technical advice to the committee
Green	People external to the Council invited to provide information to the committee.
White	Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.



**Minutes of the meeting of General scrutiny committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 6 March 2019 at 10.15 am**

**Present:** Councillor WLS Bowen (chairperson)  
Councillor BA Baker (vice-chairperson)

**Councillors:** SP Anderson, JM Bartlett, AW Johnson, A Warmington and SD Williams

**In attendance:** Councillors BA Durkin (Cabinet Member)

**Officers:** R Ball – Acting Director Economy and Place, B Evans – Engineering Manager, D Etherton – Assistant Director – People and Performance, A Lovegrove – Chief Finance Officer, A Neill – Chief Executive, S Vickers, Director for Adults and Communities and J Coleman – Statutory Scrutiny Officer/Democratic Services Manager. Mr P Shipton - Contract Operations Manager – Balfour Beatty Living Places was also present.

**42. APOLOGIES FOR ABSENCE**

None.

**43. NAMED SUBSTITUTES**

None.

**44. DECLARATIONS OF INTEREST**

None.

**45. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 5 February 2019 be approved as a correct record.

**46. QUESTIONS FROM MEMBERS OF THE PUBLIC**

None.

**47. QUESTIONS FROM MEMBERS OF THE COUNCIL**

None.

**48. CORPORATE PEER CHALLENGE PROGRESS UPDATE**

The Committee considered progress made against the recommendations following the Local Government Association corporate peer review held in February 2018.

The Chief Executive gave an introduction outlining the rationale for inviting the peer review and the proposed improvements in response to its recommendations.

The Assistant Director – People and Performance gave a presentation a copy of which had been published prior to the meeting.

The Director for Adults and Wellbeing commented on the “Talk Community” project.

In discussion the following principal points were made:

- With reference to the Talk Community project and the establishment of community hubs it was suggested that consideration of their development should involve parish councils and ward members.

It was also suggested that a pilot should take place in a sparse rural parish in addition to the city and market towns.

There was a lack of public awareness of the Talk Community project and social care provision in general. It was important that the communication challenges in promoting the “Talk community” and other community support projects were recognised and an appropriate communication strategy put in place. It would be particularly important to reach those on the verge of engaging with social care.

The key performance indicators, knowledge and learning of how the current hubs are operating should be publicised and utilised to assist the development of the new hubs being proposed.

It was suggested that the Adults and Wellbeing Scrutiny Committee be invited to consider reviewing the Talk Community project as part of its future work programme.

It was suggested that given that the directorates had different remits and cultures it would be a challenge to achieve the one council objective.

- Within the context of the One Council approach a member questioned whether the accommodation for members of the council could be reviewed. The Chief Executive commented that if members had concerns on this matter he would like these to be communicated to him for consideration.
- The Chief Finance Officer commented on the strategic review of finances that had been undertaken and the peer review team’s comments in response to which a review of reserves had been undertaken and a financial resilience reserve established.
- It was suggested with reference to recommendation 1 of the review that the outstanding natural environment of Herefordshire and a commitment to mitigating climate change should be incorporated into the economic vision and master plan.

The Chief Executive commented that the master plan was focused on economic development and growth. The council had separately made a number of commitments on environmental issues. It had been considered that it would be appropriate to connect the Community Plan to the economic master plan given the key role communities played in economic development.

A motion that when the long term vision was tested more widely that the outstanding natural environment be included in the unique selling point for Herefordshire was lost.

- Further information was also sought on the effectiveness of the new project management tool that had been acquired and how this was being measured. The Chief Executive outlined the history that had led to the adoption of the current system. He noted that while a system may be effective, unforeseen and

unforeseeable circumstances could affect the best planned projects. He confirmed that the Audit and Governance Committee was receiving reports on the matter.

The Cabinet member – finance and corporate services made the following principal comments:

- There was still a need to embed the communication of changes to responsibilities of staff when these occurred to all councillors and staff.
- A single workforce approach was difficult to achieve in a multi-departmental environment. Consideration was being given to holding some corporate days where people from different teams could work together to develop a common shared approach.
- He considered that there was work to do on the communication of the longer term vision for the council. However, it had to be recognised that there was considerable uncertainty on a range of issues at national level that meant there was a lack of clarity as to what funding would be available to the council in the future.
- He wanted to expand working with parish councils and had regrets about the demise of the market towns forum, that had been organised by the town councils not Herefordshire council, as the local economies of the market towns were vital to the county. He hoped that the parish summits would offer some compensation in this regard providing scope for discussion of issues that the forum might previously have considered

A member noted in response that a recent meeting of the mayors of the market towns it had been agreed to reconsider such a forum.

- The resilience reserve would be used to achieve changes in the way of working together with some spend to save proposals having been generated by staff for consideration by cabinet. He hoped this would encourage a cross-council approach.
- Use of electronic contact needed to be reviewed to establish level of uptake. He wanted to explore the possibility of the council making more apps available. A piece of student research into how the council appeared to a person with an enquiry would be beneficial.
- It was important to ensure that there was the ability within the workforce to use the performance management tool effectively to avoid delay to capital projects.
- Economic development was not one of the council's statutory responsibilities but it could make an important contribution to the revenue budget.
- He welcomed the publication of the council newsletter, Herefordshire Now.
- He expressed the hope that it would be possible to increase public interest and awareness of social care pressures that communities faced and the financial implications.

#### **RESOLVED:**

**That (a) it be recommended that:**

- (i) the development of the “Talk Community” approach involves parishes and ward members and that the hubs are piloted in sparse rural parishes in addition to the city and market towns;**
- (ii) the communication challenges in promoting the “Talk community” and other community support projects are**

**recognised and an appropriate communication strategy is put in place; and**

- (iii) the key performance indicators, knowledge and learning of how the current community hubs are operating are publicised and utilised to assist the development of the new hubs being proposed;**
- (b) a review of progress in response to the corporate peer review is included for consideration in work programming for the Committee in June; and**
- (c) it is suggested that the Adults and Wellbeing Scrutiny Committee reviews the Talk Community project as part of its future work programme.**

*(The meeting adjourned between 12:05 pm and 12:15 pm.)*

#### **49. TASK AND FINISH GROUP REPORT - HIGHWAYS MAINTENANCE - POTHOLE REPAIRS**

The Committee was invited to consider the report of the task and finish group it had commissioned to examine highways maintenance – pothole repairs.

The Chairperson introduced the report and invited the committee to indicate if there were any other matters, having regard to the scope of the review, that members thought should be considered.

No additional matters were identified. Members of the task and finish group present thanked officers and Balfour Beatty Living Places (BBLP) for their support to the review and complimented BBLP on their work.

The cabinet member – transport and regulatory services thanked the task and finish group and praised the work of highways officers and BBLP. He observed that some of the recommendations were already in train, some were soon to be delivered and others would receive consideration, confirming that the executive response would be made after the elections in May. He highlighted the recent publication of a leaflet on riparian responsibilities. This was to be communicated to all parish councils as they would have the closest links with landowners.

He supported the circulation of the report to all parish councils recognising the responses received from them and that the report answered several questions that were regularly asked of the service whilst also making clear the constraints under which the service operated.

The acting director – economy and place (AD) commented that the service was always keen to see how it could improve. It was to be hoped that the report would also help in explaining how services were delivered. The council worked with BBLP in a shared team effort to make the best use of the finite resources available to the benefit of the county.

The contracts operation manager BBLP was invited to comment on steps being taken to address poor driver behaviour involving motorists ignoring road closures and in doing so presenting a safety hazard. He stated that this was an issue that they were seeking to address through hard barriers where practicable and use of cameras to enable evidence to be supplied to the police.

It was suggested with regard to recommendation 11 proposing that parish councils should have a designated person to scrutinise highways works that there may be a number of issues including safety considerations of which account would need to be taken if that were to be pursued.

The question of a template for the locality steward reports to make them more consistent with one another was raised. The AD and cabinet member suggested in response that in some ways the individual character of the reports might be considered to have some merit.

In relation to funding for highway maintenance, reference was made to the recommendations for the provision of additional funding that the Committee had made in considering the public realm contract in January 2018. The AD commented that this was a matter for council in setting the budget and the outcome in relation to the resolution of outstanding issues with the previous contractor.

**RESOLVED:**

- That**
- (a) the findings of the task and finish group report at appendix 1 be agreed and submitted to the executive; and**
  - (b) it be recommended that the report be circulated to all parish councils and all members of the council.**

**Chairperson's Closing Remarks**

In closing the meeting the Chairperson thanked the members of the committee for their work and officers for their support to the Committee and wished everyone well for the future.

**50. WORK PROGRAMME**

The Committee reviewed its work programme.

**RESOLVED: That the draft work programme be approved for consideration as part of the future work programming process.**

**51. DATE OF NEXT MEETING**

Monday 1 July 2019 at 10.15 am.

The meeting ended at 12.51 pm

**Chairperson**



**Minutes of the meeting of General scrutiny committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Friday 29 March 2019 at 10.15 am**

**Present:** Councillor WLS Bowen (chairperson)  
Councillor BA Baker(vice-chairperson)

**Councillors:** JM Bartlett, AW Johnson, RJ Phillips, A Warmington and SD Williams

**In attendance:** Councillors CR Butler, E Chowns, BA Durkin (Cabinet Member), J Hardwick, EPJ Harvey, JG Lester (Cabinet Member), PP Marsh, PD Price (Cabinet Member), P Rone (Cabinet Member), A Seldon, NE Shaw (Cabinet Member), D Summers and EJ Swinglehurst

**Officers:** Herefordshire Council: R Ball, Acting Director Economy and Place (ADEP), M Lane – Head of Infrastructure Delivery (HOI), A Lovegrove – Chief Finance Officer, C Ward – Monitoring Officer, J Coleman – Democratic Services Manager/Statutory Scrutiny Officer.

**Balfour Beatty Living Places:** D Neal – Project Director, BBLP (PDBBLP)

**WSP Consultants:** M Brookes – Project Director, WSP (PDWSP)

**52. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor SP Anderson, and from Councillor FM Norman one of the signatories to the call-in.

**53. NAMED SUBSTITUTES**

Councillor RJ Phillips substituted for Councillor SP Anderson.

**54. DECLARATIONS OF INTEREST**

None.

**55. QUESTIONS FROM MEMBERS OF THE PUBLIC**

A copy of the public questions, supplementary questions and answers is appended.

**56. QUESTIONS FROM MEMBERS OF THE COUNCIL**

None.

## **57. CALL-IN OF CABINET MEMBER DECISION ON HEREFORD TRANSPORT PACKAGE**

The Committee considered the call-in of the decision of the cabinet member - infrastructure regarding the Hereford Transport Package.

The decision had been called in accordance with the Scrutiny Rules at part 4 section 5 of the constitution by the following 7 Councillors: Councillors EPJ Harvey, JM Bartlett, EE Chowns, FM Norman, AJW Powers, A Seldon and AJ Warmington. The grounds for the call in were: that there was inadequate evidence on which to base a decision and that not all relevant matters had been fully taken into account; and that the decision was disproportionate to the desired outcome.

The Chairman outlined the protocol for the conduct of the meeting a copy of which had been circulated to all members.

### **Cabinet Member - summary of his decision.**

Councillor PD Price – cabinet member – infrastructure provided a brief summary of his decision. He made the following principal points:

He considered the call-in unnecessary.

Public consultation had indicated majority support for the objectives of the Hereford Transport Package.

Cabinet in July 2018 had approved a preferred route for the Hereford Bypass to the west of the City, together with further work to develop the detail of the scheme and the development of a package of complementary active travel measures.

Consultation had been carried out in January on a range of potential transport improvements across the City.

The HTP including the bypass was essential to deliver the transport infrastructure the city needed. It was a key project to drive the economic growth of Hereford and the region. It was identified as a priority in the council's strategic policies as well as in the strategic economic plan for the Marches and the Business Connects Regional Transport Strategy.

The HTP would provide improvements to encourage people to lead more active lifestyles, improve road safety and reduce air and noise pollution in the City.

The allocation of funding for the project was included in the capital programme approved by council. The decision authorised officers to take the project forward.

All political groups had been consulted in drafting the report on which he had based his decision and no objections had been raised. The report set out what was being authorised.

### **Presentation of Reasons for the Call-in**

Councillor Harvey as the lead call in member spoke on the call-in followed by Councillors Seldon, Bartlett, Warmington and Chowns. A short statement was read out on behalf Councillor Norman. The following principal points were made:

- The proposal was to delegate the entire 2019/20 budget for the scheme to officers, with the potential for that entire sum to be committed prior to the council elections in May. The project was not supported by all parties. The decision was premature. Should there be a change in political priorities following the forthcoming elections this project may be affected.



- It would be better to spend the period before the election putting the project into the Council's approved project management system. Time could also be spent on considering the results of the recent consultation on active travel measures.
- The latest report to the Audit and Governance Committee indicated that insufficient assurance had been provided by the council's internal auditors that the council's governance and project management requirements were being followed on this project and on other major capital projects. It was suggested that this was contrary to the council's budget and policy framework that required all projects to be properly managed. The General Scrutiny Committee should require this assurance, in more than words, to satisfy itself that everything was in order.
- The project did not have a business case. The only published plan was dated 2014. That indicated that by now the western relief road should have virtually been completed. The committee should require an up to date plan to be produced scrutinised and published.
- The feasibility business case stated that it was to be submitted to the capital strategy board and if accepted a more detailed outline business case would be developed. If approved the project could continue. The committee should satisfy itself that this detailed business case had been produced and was available for inspection.
- The committee must establish whether there was evidence demonstrating that the entire £3.65m needed to be delegated at this moment and that it was not disproportionate to do so. It was appropriate for officers to continue to work on this approved project. However, it was not necessary or appropriate for the entire sum to be delegated. The committee should establish what sums were needed to fund work in advance of the election.
- There was no detailed information on how the sum of money was to be spent.
- There was no evidence that the council was managing capital projects in line with the recommendations made by internal audit. Until the internal audit of the South Wye transport package was completed there was no evidence that the council was able to manage and govern large projects of this type.
- The decision did not take account of council's decision on 8 March to approve a motion on the climate emergency. The strategic outline business case contained only a very brief reference to greenhouse gasses. There was no strategic assessment of the degree to which the proposed expenditure was compatible with other council decisions.
- The decision should not proceed until after the election and it was demonstrated that the project was compliant with internal audit recommendations on project management and governance, and until an up to date business case had been produced and work undertaken to ensure it was compatible with other aspects of council policy.

*(Councillors Bartlett and Warmington as signatories to the call-in and members of the committee stated that they would consider the matter with an open mind.)*

### **Cabinet Member Response**

The Cabinet member commented the main themes appeared to be: how the £3.65m was to be spent, and why expenditure could not be halted until after the election. He considered that there were good reasons why expenditure needed to be committed, noting that this would be on a monthly basis and that if a decision were to be taken after the election to change the approach to the project that expenditure could be halted.

He then invited officers and the Project Director, WSP (PDWSP) to comment on these aspects.

The Chief Finance Officer commented that the capital programme process was clear and the expenditure of £3.65m had been through that process and approved by council. The delegation of authority to officers to spend approved budgets was part of that process. There was a detailed breakdown available of how the sum of £3.65m had been arrived at and would be spent. A judgment had to be made as to how much detail it was necessary to publish at any given time.

A breakdown of the expenditure of £3.65m on the headings in the feasibility business case was circulated to the meeting. The Head of Infrastructure Delivery (HOI) commented upon it. The programme had been drawn up by the council in conjunction with BBLP and WSP. The cost and scope of the work had been scrutinised by the council's project team and the council's public realm contract management team to ensure that the price for the work was reasonable. The budget would be used to fund the programme of work through the year and if change to the programme was required this could be acted upon.

The Acting Director emphasised that the costed programme was for work throughout the year. The proposed decision gave officers authority to commission that programme. He explained the commissioning process. Expenditure was on a monthly basis and there were mechanisms allowing what was to be delivered during the year to be changed as required.

He went on to explain the commissioning approach. A forward programme of work was identified to enable the council to understand and share with partners what the resource requirements would be over the forthcoming year. This mirrored the development of the annual plan for the public realm contract with BBLP. It was necessary to secure and reserve the required resources so they were available to be delivered when needed in a timely fashion so ensuring value for money. There was otherwise the possibility that specialist resources would not be available at short notice. The document that had been circulated was a summary. Within each heading various specialisms would be required to deliver the various elements of the project.

The Project Director WSP commented on the importance of his business, like other similar businesses, having certainty in terms of forward resource planning, enabling staff to be ring-fenced to particular projects. The business had a range of similar contracts to deliver across the country. New opportunities for the business were turned down if resources were committed elsewhere. However, if there was not a reasonable level of commitment to a project by a client other work must be found for staff with the possibility that they would then be committed to other projects and therefore no longer available to that client.

It was asked whether expenditure could be limited to keep the project "ticking over" until after the election. The AD commented the project was a council commitment and officers were therefore seeking to deliver it as quickly as possible in accordance with the decisions the council had taken.

The cabinet member –finance and corporate services commented that there would be a phased cash flow for the project for the year. It was feasible to halt the project without having to spend the entire £3.65m.

The AD and HOI explained the project management process that was in place. The Chief Finance Officer confirmed that the HTP project was loaded onto the Verto project management system that was being used for all the council's capital programme projects.

*(The meeting adjourned between 11.20 and 11.23 am)*

## Questions from the Committee

The following principal matters arose during questioning:

- Clarification was sought in particular as to why it was considered necessary to delegate the whole year's budget of £3.65m at this stage, in the knowledge that should there be a change in political priorities following the forthcoming elections this project may be affected. There was an acknowledgment that some work needed to continue and there were some other smaller scale activities that could usefully continue. However, it was questioned why a proportion of the sum, say 1-2 months spend, could not be authorised instead.
- The cabinet member – infrastructure commented that the project involved a wide range of partners some of whom, such as Highways England, were engaged in many similar major projects. This required careful timetabling by all involved. The completion of a detailed design of the bypass to a standard for a planning application formed part of the ongoing process. A delay of two months by the council would have a wider knock on effect on the plans and timelines of other partners including those contributing to the funding of the project potentially losing the council's place in their plans. It was important to demonstrate the council's commitment to the project to those partners. Expenditure was on a month by month basis. If there were to be a change in political priorities changes could then be made.
- The Project Manager BBLP explained the project management arrangements in place. He confirmed that the methodology being applied was consistent with that BBLP were using for other schemes across the country for Highways England.
- The HOI confirmed that whilst some activities could be delayed and rescheduled others could not. Activities such as ecological surveys, which were seasonal, had to be undertaken at a specific time of year, otherwise considerable delay to a project could result.
- The AD observed that the government set bidding deadlines. Much of the work in developing the detailed business case was an ongoing process that had to be timed to fit with those externally set deadlines.
- In terms of best practice the AD commented that there was regular liaison with other local authorities through the Midlands Highways Alliance on how they were delivering schemes. There had also been communication with other authorities progressing schemes of a similar scale to the bypass. There were also monthly and quarterly meetings with Highways England who were supporting the project and providing advice and were aware of the processes the council was following.
- The HOI added that the scheme was being delivered in line with national standards. There was regular liaison with the Department of Transport (DoT). She elaborated on the process for the development of the business case for the DoT. The planning application would be developed by experienced consultants.
- The Chief Finance Officer stated that delegating authority to officers to spend approved sums was the usual practice. Monitoring arrangements were in place. The approach being followed with the HTP was in line with that for other projects.
- The AD confirmed that the whole sum would not be spent in the next 2 months. The HOI commented that the £3.65 m would fund a 12 month programme of work. There was a month on month schedule showing a sequence of activities. It was noted that the activities were interdependent.
- The AD explained in terms of changing the programme that whilst the contract did not include penalty clauses stopping particular activities could involve demobilisation costs (for example if a contractor was part way through a survey).

- The CFO commented that if the council were to decide on a different policy the financial implication would be made clear in any report on the matter on which a decision would have to be based.
- The profile of spend was discussed. It was noted that because of the election the council would be unlikely to take any decisions until the end of June as opposed to the end of May. The HOI reported that the profile of spend showed a commitment of £950k by the end of May.

(Councillor Baker (Vice-Chairman) took the chair between 12:33 to 12:35.)

- With reference to public questions that had been submitted, the CFO confirmed that the feasibility case for the £3.65million spend had been approved by the Capital Strategy Board. A copy of the Board's decision could be made available.
- Clarification was also sought on the statement in the report to council in February 2019 on the capital programme and capital strategy in the legal implications section that "before approval of any individual scheme and associated spend it will be necessary to ensure that the need for the scheme arises out of a legal obligation on the council for its provision." The CFO commented that the legal obligation was part of the scoring process for capital projects and the HTP project had been scored accordingly.
- The CFO confirmed the cabinet-member – infrastructure's decision had been made in compliance with the financial procedures of the council.
- The Monitoring Officer confirmed that the cabinet member's decision had been made in compliance with the constitution. The question was whether the Committee considered there was enough information for the decision to be a good one.
- A member asked the Committee to consider whether sufficient assurance had been provided that the project was being managed in line with the recommendations of project management and governance for capital projects made by internal audit; whether it would be better for a decision on the full expenditure to await internal audit of the south wye transport package, and whether adequate assurance had been provided that the decision was compatible with the recent Council resolution on the climate emergency.
- The CFO commented that there were a range of project management tools in place for the project that met the industry standard.

### **Summing up by Cabinet Member**

The Cabinet member – infrastructure commented that projects spanning the lifetime of more than one administration had to be permitted to continue until a change was agreed. The project was wider than the council, involving many partners. Trust had to be placed in professional officers. The management of the project had been reinforced. The final cost of any project could not be assured. The particular issue of his decision had been thoroughly explored.

### **Summing up by Lead call-in member**

Councillor Harvey referred to the grounds for call-in. The information that had been brought forward during the debate indicated that more information could have been provided in the report to the cabinet member to justify his decision.

The decision was contentious and one of the key relevant matters – the onset of the purdah period had not been taken into account.

There was the potential for a waste of public money. One of the reasons for not delegating the entire sum to officers, given the possibility of a change in political priorities, was to protect them. She suggested that expenditure could be limited to the sum the HOI had indicated was to be spent in the project profile. The current proposal to delegate the entire sum was disproportionate.

## **Conclusion**

The cabinet member – infrastructure highlighted in relation to a proposal to limit the sum of money to be delegated to officers to the amount profiled to be spend to the end of May that account needed to be taken of the hiatus in the council's decision making capability as a consequence of the election and that, if the Committee was minded to take that path, limiting spend to the amount profiled to be spent by the end of June should be considered instead. The HOI reported that that projected spend to the end of June was £1.25m. However, the AD cautioned that that was an estimate. Setting a specific figure limiting the delegation to spend was not wholly straightforward. Account also needed to be taken of the lead in time required to make another key decision that would be required to authorise further spend if the current policy to proceed with the project was maintained.

Recorded votes were requested.

A motion that *“this committee is not content that the delegation of the full £3.65m HTP budget for 2019-20 is proportionate and recommends that the decision is returned to the cabinet member and that he is requested to consider delegating only the amount specified by the Head of Infrastructure Development i.e. £1.425m to cover progress on the project to the end of June 2019”* was lost.

For (2) Councillors Bartlett and Warmington.

Against (5) Councillors Baker, Bowen, Johnson, Phillips and Williams.

A motion that *“no funds are committed on new or extended contracts in the next 2 months without there being clear, no penalty break clauses placed in the contracts for the end of May 2019”* was lost.

For (2) Councillors Bartlett and Warmington.

Against (5) Councillors Baker, Bowen, Johnson, Phillips and Williams.

A motion *“that the committee welcomes the spend profile supplied and does not refer the matter back to the cabinet member”* was carried.

For (5) Councillors Baker, Bowen, Johnson, Phillips and Williams.

Against (1) Councillor Bartlett.

Abstain (1) Councillor Warmington

**RESOLVED: That the committee welcomes the spend profile supplied and does not refer the matter back to the cabinet member.**



## PUBLIC QUESTIONS TO GENERAL SCRUTINY COMMITTEE – 29 MARCH 2019

*(Written answers provided after the meeting)*

### Question 1

#### **Mrs V Wegg-Prosser– Hereford**

With regard to category (e) of General Scrutiny's powers covering reports to Cabinet or Council on matters which affect the authority's area or the inhabitants of that area, and to ensure best value for money, particularly with regard to continuing progress being made by the Council to achieve modal shift away from private car dependency, would the GS Committee today please recommend that a joined-up evaluation of all the authority's planned and implemented sustainable transport measures dating from 2014 onwards is prepared and reported on to Council before any funding by borrowing is allocated to the Hereford Transport Package in the coming financial year, 2019-20?

#### **Response**

Thank you for your question. This meeting has been convened to consider a call-in made of a specific decision. The committee will consider at its next meeting whether to include in its future work plan a review of all the planned and implemented sustainable transport measures.

#### **Response after the meeting**

Herefordshire Council produced a Local Transport Plan Progress Report in 2018 which sets out the progress the council has made in delivering a wide range of projects and programmes since 2016. This report sets out the work undertaken to deliver our Local Transport Plan policies and includes an evaluation of progress towards our performance targets. This includes measuring our performance regarding walking and cycling and public transport targets and this is set out in the report which is published on the council's website. In addition the council has a monitoring and evaluation plan for the Hereford City Centre Transport Package project. Survey work is now progressing to inform the first review of this project following completion of the City Link road and this first review report will be published in due course on the council's website. The DfT business case for the Hereford Transport Package will include a monitoring and evaluation plan so I cannot accept the need to delay the progress of the Hereford Transport Package as suggested.

### Question 2

#### **Mr R Palgrave How Caple**

The Capital Programme 2019/20 Onwards and Capital Strategy presented to full council on 15 February contains this provision – *“10. Approval of provision in the capital programme is not an approval to proceed. Each project will be subject to its own governance and business case before any spend may be incurred.”* The Capital Funding Request Business Case for the HTP requesting £3.5m presented to the same Council meeting stated. *“This Feasibility Business Case is to be submitted to the Capital Strategy Board and if accepted, a more detailed outline Business Case will be developed.”* Has the Feasibility Business Case been submitted to the Capital Strategy Board, has it been accepted, and where is the record of their decision?

**Response**

Thank you for your question. The issue raised is included within the grounds for call in as set out in the report published with the agenda and will be explored by the committee.

**Supplementary question**

The capital programme 2019/20 onwards and the capital strategy presented to full council on 15 February 2019 contains the provision number 34: before approval of any individual scheme and associated spend it will be necessary to ensure that the need for the scheme arises out of a legal obligation on the council for its provision. Will the committee seek clarification on whether there is a real legal need for this Hereford Transport Package and if not enquire why expenditure of £3.5m has been authorised?

**Response after the meeting**

The council delivers a range of capital projects and not all are a direct result of its statutory duties. The legal need for the Hereford Transport Package scheme has been considered in the scoring of the business. Where a scheme is being delivered because it is a statutory duty of the council it receives a high score, if not it receives a lower score. The Hereford Transport Package scored 1 out of 4 in terms of legal need for the scheme. There are a number of other projects that progressed for approval at Council where the legal score was also a one. The decision report presented to council in February stated that all projects included in the report scored sufficient (across all criteria scored) to be proposed for inclusion in the capital programme.

Question 3**Mrs L Lewis Breinton**

The feasibility case for the £3.65million spend needed to go to the Capital Strategy Board before a more detailed outline business case could be developed to unlock funding for 2019/20. Where are the minutes of the meeting of the Capital Strategy Board as these were not published with the decision?

**Response**

Thank you for your question. The issue raised is included within the grounds for call in as set out in the report published with the agenda and will be explored by the committee.

**Response after the meeting**

This is an operational meeting and minutes of this meeting are not routinely published. Capital Strategy Board met on 13 November 2018, reviewed all funding requests, and recommended all went forward to Council and reported to Leaders Briefing on 15 November 2018.

The development of an outline business case referred to in the feasibility business case is a DfT outline business case and not a council business case. The development of the DfT outline business case will be funded from the budget in the approved capital programme for Hereford Transport Package.

Question 4**Mrs Morawiecka Breinton**

The Strategic Outline Business Case for the Hereford Transport Package which was written a few years ago, says that “the breakdown of capital costs is not available and has been



commissioned by the Project Control Group”. The recommendations of the Internal Audit report on the Blueschool House capital overspend recommended detailed budgets to be developed and regularly updated and tracked. How is the detailed budget of the Hereford Transport Package being monitored by the new capital project system, in particular tracking the cost of professional fees which are already a significant component?

### **Response**

Thank you for your question. The issue raised is included within the grounds for call in as set out in the report published with the agenda and will be explored by the committee.

### **Response after the meeting**

The July 2018 scrutiny and cabinet report provide an update on the scheme costs presented in the 2014 Strategic Outline Business Case. The Strategic Outline Business Case costs were undertaken prior to any route assessment work and were consistent with the level of project detail at that time. They were estimated at the time of production of the Strategic Outline Business Case in 2014 prices. The estimated costs for the bypass presented in the 2018 scrutiny and cabinet reports have been estimated at 2018 prices. Costs will continue to be regularly reviewed as the project is further developed and this will include the use of the Council’s VERTO system.

### **Supplementary question**

I’d like clarification and in particular how will the committee explore the issue raised by my question when the information requested in my original question has not been provided. Will it deliver a formal written response to my original question. It is important it needs to be made clear that at audit and governance the first stage of the bypass has no approved detailed budget despite over £6m being spent to date. It is important that you have this information before you debate it.

### **Response after the meeting**

It is not correct to say that there is no approved budget for the Hereford Transport Package project. There was an approved capital budget for the Hereford Transport Package in 2018/2019 and Appendix 2 of the Capital Programme and Capital Strategy report presented to Council in February set out the capital budget and forecast position for the project as of December 2018. Appendix 3 set out the proposed budget for the project for 2019/2020.

### Question 5

#### **Mrs J Morris Hereford**

The Capital Programme 2019/20 Onwards and Capital Strategy presented to full council on 15 February, contains this provision – “25. The Hereford Transport Package proposed budget of £3.5m in 19/20 will enable support of landowners who are impacted by the scheme to be provided subject to appropriate governance decisions.” Appendix 2 of the papers provided to this Scrutiny meeting state that the expenditure of £3.65m is required to fund “detailed design and consultation of the preferred route” etc. How is the budget for the £3.65million split between “support of landowners” and the “design and consultation” fees?

### **Response**

Thank you for your question. The issue raised is included within the grounds for call in as set out in the report published with the agenda and will be explored by the committee.

**Response after the meeting**

The £3.65m budget for 2019/20 includes estimated costs for consultation with landowners of £238,885 and a contingency allocation of £820,295. This contingency funding will be held to support the costs of any support for landowners identified in the consultation. Requests for support will be considered on a case by case basis and use of the contingency funding would be subject to further governance.

Question 6**Mrs C Palgrave How Caple**

The decision that has been called-in is undoubtedly politically sensitive, and I would like the committee to require the Cabinet member to explain why it was made during the election purdah period.

**Response**

Thank you for your question. The issue raised is included within the grounds for call in as set out in the report published with the agenda and will be explored by the committee.

**Response after the meeting**

The project is an approved scheme within the Capital Programme and Cabinet last July approved further work to develop the project. This is a major project which will span several years and an overall programme to deliver the project is in place. Any part of the capital programme can be altered in a new administration and this can be managed within the public realm contract. Purdah guidance is clear that business should continue as normal in relation to projects that have policy approval.



<b>Meeting:</b>	<b>General Scrutiny Committee</b>
<b>Meeting date:</b>	<b>23 July 2019</b>
<b>Title of report:</b>	<b>Gambling Policy 2019-2022 (Review)</b>
<b>Report by:</b>	<b>Director of Economy and Place</b>

## Classification

Open

## Decision type

Budget and policy framework

## Wards affected

(All Wards);

## Purpose and summary

To review the statement of principles (Gambling Policy) to be applied by the council when exercising licensing functions under the Gambling Act 2005 (the Act). The current policy was approved in March 2015; that policy has been reviewed and refreshed to take account of new guidance issued by the Gambling Commission and further guidance regarding three or more gaming machines in pubs.

## Recommendation(s)

**That: the committee determine any recommendations it wishes to make to Cabinet regarding proposed adoption of a revised Statement of Gambling Licensing Policy 2019-2022 (attached at appendix 1).**

## 1. **Alternative options**

There are no alternative options to that recommended as it is a function of the committee to inform and support the process for making cabinet proposals to Council in terms of the adoption of any item that forms part of the budget and policy framework, including providing constructive challenge to the responsible cabinet member on policy proposals and exploring options for future policy development.

## **Key considerations**

2. Section 349 of the Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. The current statement was approved in March 2015.
3. The previous policy appears to have been effective although as a Licensing Authority we receive very few applications concerning actual gambling premises. Most of the applications under the Act are for gaming machines and small lotteries.
4. The purpose of the policy is to ensure that the three licensing objectives are promoted within Herefordshire and this appears to have been effective in the past. The council has never received any complaints in relation to gambling. Within Herefordshire there are a total of:  
  
Thirteen (13) Betting Shops  
Five (5) Adult Gaming Centres and  
Four (4) Bingo Premises
5. Whilst the policy remains largely unchanged, amendments have been made to reflect the requirements of two new codes issued by the Gambling Commission: Licensing Conditions and Code of Practice (LCCP) and the Social Responsibility Code. The policy now reflects the requirement for these codes to be followed.
6. Also, further guidance has been added in respect of applications for three or more gaming machines in licensed premises.
7. Over the life of the policy, the effectiveness of the policy will be monitored to ensure that the licensing objectives are being promoted. This will be achieved by monitoring whether any issues are identified which affects these licensing objectives.
8. The new policy will be published on the website and has already been consulted on, so people are already aware of the proposed changes.

## **Community impact**

9. The Licensing objectives under the Act are:
  - a. Preventing gambling from being a source of crime or disorder; being associated with crime or disorder; or being used to support crime;
  - b. Ensuring that gambling is conducted in a fair and open way;
  - c. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

10. The policy will ensure that businesses are aware of the expectations of the Licensing Authority in respect of gambling premises. This will result in the promotion of the licensing objectives, as well as having a positive impact on the priorities with the council's corporate plan which are:
  - enable residents to live safe, healthy independent lives
  - keep children and young people safe and give them a great start in life
  - support the growth of our economy
  - secure better services, quality of life and value for money
11. Also the policy will help promote the life chances of looked after children or care leavers, by protecting them from being harmed or exploited by gambling, whilst at the same time ensuring the health, safety and wellbeing of employees, contractors or others who may be affected by the decision.
12. By exercising the functions correctly in respect of the Act, an appropriate balance can be struck between the requirement to protect children and the vulnerable from being harmed and exploited, whilst supporting the needs of legitimate business and the local economy.

## Equality duty

13. The effects of this policy have been considered in relation to both the Equality Act 2010 and the Human Rights Act 1998. It will have little impact as:
  - a) The policy remains in essence the same as the previous one, with only minor amendments which are updating the policy, mainly as a result of guidance issued by the Gambling Commission and
  - b) One of the Licensing Objectives under The Gambling Act is the protection of children and other vulnerable persons from being harmed or exploited by gambling and the policy reflects this objective
14. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

## Resource implications

15. This report has no resource implications. Resource implications associated with any recommendations made by the committee will inform Cabinet's recommendations to Council.

## Legal implications

16. None associated with the recommendation. The legal implications of any recommendations made by the committee will inform Cabinet's recommendation to Council.
17. Section 349 of the Act requires all licensing authorities to prepare and publish a statement of licensing principles every three years. In exercising their functions under s153 (1) of the Act a Licensing Authority must have regard to the legislative requirements of the Act and the statement published by the Licensing Authority under section 349 of the Act. Failure to have an up to date Gambling Licensing Policy would mean that the Licensing Authority was in breach of legislation and was open to challenge in relation to the exercise of its functions under the Act.

## Risk management

18. None associated with the recommendation. The risks associated with any recommendations made by the committee will inform Cabinet's recommendation to Council. Failure to reach a decision could result in an application for Judicial Review being made as the regulation of gambling establishments would have to be in the absence of an up to date policy.
19. Should no policy be adopted then there would cease to be any up to date guidance to applicants as well as to decision makers which would make it difficult to defend any decision that is challenged.

## Consultees

20. In accordance with the Gambling Act 2005 the following have been consulted:
  - West Mercia Police
  - All holders of premises licences under the Gambling Act 2005 in Herefordshire
  - The Gambling Commission
  - Public Health
21. No feedback has been received from any of the above listed.

## **Appendices**

Appendix 1 – Statement of Gambling Licensing Policy 2019 – 2022

## **Background papers**

None Identified





**GAMBLING ACT 2005**

**STATEMENT OF**

**GAMBLING LICENSING**

**POLICY**

**2019 – 2022**

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## FOREWORD

The Gambling Act 2005 (hereafter referred to as “the Act”) requires licensing authorities to publish a Statement of Principles which they propose to apply when exercising their functions under the Act. The Statement of Principles must be published at least every three years and should be reviewed from “time to time” and any amended parts should be the subject of re-consultation.

This Statement of Principles has been prepared as required by Section 349 of the Act and has had regard to the guidance issued to licensing authorities by the Gambling Commission under Section 25 of the Act, the licensing objectives and the views of those consulted. We have consulted widely upon this statement before finalising and publishing. A list of those consulted can be found at the rear. A full list of comments can be obtained by writing to the Licensing Section. The policy was approved at a meeting of the Full Council onXXXXXXXXXXXX

Its purpose is to set out the principles that the licensing authority proposes to apply in exercising its functions under the Act. Herefordshire Council as the licensing authority must carry out its functions with a view to promoting the gambling objectives and as such, these objectives provide a framework for the Statement of Principles. 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;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

These objectives are supplemented by the core principle of ‘social responsibility’ that will be given effect through the licensing and regulatory decision-making of the Gambling Commission and licensing authorities, and by the publication of codes of practice and guidance by the Gambling Commission and, in the case of licensing authorities, by the preparation of a statement of Gambling Licensing Policy.

## **GENERAL**

### **1.0 Introduction**

- 1.1 The Licensing Authority recognises that the licensed entertainment business sector in Herefordshire contributes to the local economy and social infrastructure, but that this has to be balanced with the impact of such activities on the licensing objectives. The Licensing Authority wishes to encourage responsibly run premises to provide a wide range of entertainment activities throughout their opening hours and to promote gambling in accordance with the licensing objectives. They are a factor in maintaining a thriving and sustainable community, which is one of the Council's aims.
- 1.2 Herefordshire is a mixed commercial and residential area, with many areas lying in tranquil rural surroundings, whose amenity the Council has a duty to protect, and one of the Council's aims is to promote safer and stronger communities. These factors may be taken into account in relation to applications that may have a material impact on a vicinity.
- 1.3 This policy will set out the general approach that the Licensing Authority will take when it considers applications. It will not undermine the right of any individual to apply for a variety of permissions nor undermine the right to have any such application considered on its individual merits. Nor will it override the right of any 'responsible authority' or 'interested party' to make relevant representations on an application or seek a review of a licence where provision has been made for them to do so in the Act.
- 1.4 The Licensing Authority is required to publish a Gambling Licensing Policy that will be used when exercising its licensing functions. This Policy has been prepared to assist the Licensing Authority in reaching a decision on applications, setting out those matters that will normally be taken into account. It also seeks to provide information

for applicants, residents, businesses in the County and the responsible authorities on the Licensing Authorities expectations.

- 1.5 This Policy will be published at least every three years. The Policy may also be reviewed from time to time. Any proposed amended or revised Gambling Licensing Policy will be consulted upon and re-published.
- 1.6 The Gambling Act requires that the following parties are consulted:
  - a) The Chief Officer of Police
  - b) One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
  - c) One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 1.7 The Licensing Authority will consult widely (but within reasonable limits) upon any Policy Statement review before finalising and publishing it.
- 1.8 A list of comments made and the consideration given by the Council of those comments will be available (subject to the Data Protection Act 2018) on request by contacting the Licensing Section.
- 1.9 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so.
- 1.10 In producing a Gambling Licensing Policy, the Licensing Authority will have regard to:
  - the licensing objectives of the Gambling Act 2005

- any relevant current Code of Practice issued by the relevant Government Department,
- the current guidance issued by the Gambling Commission;
- any relevant current statutory regulations, and
- any responses from those consulted on the Policy statement.

Note: The Gambling Commission Guidance to Licensing Authorities, together with other guidance and information is available on the Gambling Commission website: <https://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

## 2.0 The Licensing Objectives

2.1 In exercising most of the functions under the Gambling Act 2005 (the Act), Herefordshire Council (the Council) as the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Act.

2.2 The licensing objectives are:

- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- (b) Ensuring that gambling is conducted in a fair and open way
- (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling (It should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.)

2.3 With regard to the crime and disorder objective, this Licensing Authority notes that there is no definition of the term 'disorder' in the Act, that there is no indication of the meaning of 'disorder' in the Explanatory Notes to the Act and that the Gambling Commission's current Guidance to Licensing Authority's states that "disorder is intended to mean activity that is more serious and disruptive than mere nuisance" and that the word 'intended' is used without any form of qualification by the Gambling Commission. The Licensing Authority will expect applicants for premises licences to assess the impact of their premises on the locality in relation to crime and disorder, and will give consideration to the measures offered by applicants in relation to this licensing objective and their assessment. The Licensing Authority considers that serious nuisance and anti-social behaviour can sometimes amount to disorder. They will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it, in determining whether the line has been crossed.

2.4 For premises licences, the Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed

via operating and personal licences that are issued and regulated by the Gambling Commission.

2.5 With regard to the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling:

- (a) Children: This objective is concerned with preventing them from taking part in gambling, consideration will be given as to whether specific measures are required at particular premises. Such measures may include supervision of entrances / machines, segregation of areas, age verification schemes (i.e. 'Challenge 25') etc.
- (b) Vulnerable persons: It is noted that there is no definition or interpretation of the term "vulnerable persons" in the Act. In addition it is noted that the Gambling Commission does not seek to offer a definition but states that "it will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." In the view of such lack of statutory interpretation or definition, or definitive guidance from the Gambling Commission, this Licensing Authority shall endeavour to consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this Policy statement will (by way of a revision) be updated with it.

2.6 The Licensing Authority is legally obliged under provisions of the Act when making decisions about premises licences and temporary use notices to aim to permit the use of premises for gambling in so far as the Licensing Authority thinks it:

- (a) complies with any relevant code of practice issued by the Gambling Commission
- (b) in accordance with any relevant guidance issued by the Gambling Commission



- (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above), and
- (d) in accordance with Herefordshire Council's Gambling Licensing Policy (subject to (a) to (c) above)

## 2.7 Licensing Conditions and Codes of Practice 2015 (LCCP)

The Gambling Commission released a new 'Licensing Conditions and Code of Practice' (LCCP) in February 2015 with a commencement date of May 2015. The code strengthened the 'social responsibility' code (SR) requirements.

2.8 Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

2.9 The code requires operators;

- To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.
- With effect from April 2016 to have in place schemes to allow customers to self-exclude themselves from all operators of a similar type in the area where they live and work.
- To have a range of measures with regard to marketing to ensure social responsibility that are transparent and not misleading.
- With effect from April 2016 to produce a risk assessment on individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives.

## 2.10 Risk Assessments

Such risk assessments are required from new applicants, and from existing Premises Licence's seeking to vary a licence. The code requires all operators of; AGC's,

Bingo Premises, FEC's, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

2.11 Operators are required by the SR code to make the risk assessment available to licensing authorities when an application is submitted either for new Premises Licence or variation of a Premises Licence, or otherwise on request, and this will form part of the Licensing Authority's inspection regime. Copies of the risk assessment must be kept on the premises and made available to the inspecting officer if requested.

2.12 The code requires the Licensing Authority to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this Licensing Authority would recommend that the following matters are considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may reflect benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

2.13 The Licensing Authority would recommend that the following matters are considered by operators when making their risk assessment. Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling

2.14 Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

2.15 Other issues that may be considered could include:

Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.

2.16 This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.

### 3.0 Responsible Authorities

3.1 The Act sets out the responsible authorities that can make representations about premises licence applications, or who can apply for a review of an existing licence. In Herefordshire these are:

- The Council as the Licensing Authority
- The Gambling Commission
- West Mercia Police
- Hereford and Worcester Fire and Rescue Authority
- The Council's Planning Department
- The Council's Environmental Health & Trading Standards
- HM Revenue and Customs
- For vessels, the Environment Agency, British Waterways Board, Secretary of State.
- Any other bodies identified in Regulation by the Secretary of State,

A current list of responsible authorities and their addresses can be obtained from the Council's Licensing Team.

#### 4.0 Interested parties

4.1 Interested parties can make representations about applications for new premises licences applications and variations of an existing premises licence, or apply for a review of an existing licence.

4.2 Interested parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Council which issues the licence or to which the applications 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 paragraph (a) or (b) above.”

4.3 In determining whether a person is an interested party, the Licensing Authority will take into account the ‘Guidance to Licensing Authorities’ by the Gambling Commission when determining whether a business interests might be affected by the authorised activities considering any factor considered to be relevant.

- Each case will be decided upon its merits, subject to the licensing objectives and to any requirements imposed by the Gambling Act, 2005.
- This authority will not apply a rigid rule to its decision making,
- It will take into account any guidance provided by the Gambling Commission’s current ‘Guidance to Licensing Authorities’ and other current relevant guidance provided by the Gambling Commission to Licensing Authorities.

4.4 Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor or MP represents the ward likely to be affected. Other than these, however, the Licensing Authority will require written evidence that a person ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business

interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

- 4.5 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Sub Committee dealing with the licence application. If there are any doubts then please contact the Council's Governance Team.

## 5.0 Representations

5.1 Representations for or against premises licence applications and premises licence variation applications must be made in writing, include the name and address of the person making the representation and must contain details of the effect of the application based on one or more of the following: -

- 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,
- Protecting children and other vulnerable persons from being harmed or exploited by gambling (It should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.)
- The Council's Gambling Licensing Policy,
- Any relevant current guidance issued by the Gambling Commission,
- Any relevant current code of practice issued by the Gambling Commission,
- The Gambling Act 2005 and any relevant Regulations made there under.

Please note: -

- a) that this Licensing Authority considers 'disorder' to include anti-social behaviour (see number 2.3 above), and
- b) that the Licensing Authority is unable to accept representations made purely on moral grounds or planning grounds or which fall outside of its statutory remit as the Licensing Authority .

5.2 All representations must be received by the Licensing Authority within the statutory deadlines set out in either the Act or the Regulations made under the Act. The Licensing Authority cannot legally accept any late representations. Applications will be advertised by a notice placed at the premises (in a position where it can be seen and read by passers-by) and by a notice in a local newspaper.

- 5.3 Copies of all valid representations (including names and address) will be sent to the applicant in accordance with the provisions of the statutory regulations made under the act.
- 5.4 Persons making representations should be prepared to attend a Licensing Sub-Committee hearing to verbally inform the Committee of the grounds for their representation.
- 5.5 The Licensing Authority may determine an application for a premises licence without a hearing if it thinks that the representations: -
- are vexatious,
  - are frivolous, or
  - will not influence it's determination of the application.
- 5.6 When an application has not attracted relevant representations, the Licensing Authority is compelled under the provisions of the Act to automatically grant the application (with or without licence conditions).



## 6.0 Exchange of Information

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.
- 6.4 The authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in the area.
- 6.5 The authority would wish to make its decision making process as transparent as possible and all representations made to it will be shared with all parties to an application. Freedom of information legislation will be complied with.
- 6.6 Please contact the Licensing Service for further information on our protocols.

## 7.0 Enforcement

7.1 When making decisions regarding enforcement or inspection regimes the Council will take into account the Gambling Commission's current Guidance and will endeavour to be:

- (a) Proportionate: regulators should only intervene when necessary, and remedies should be appropriate to the risk posed, and costs identified and minimised;
- (b) Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- (c) Consistent: rules and standards must be administered, enforced and implemented fairly;
- (d) Transparent: regulators should be open, and keep regulations simple and user friendly; and
- (e) Targeted: regulation should be focused on the problem, and minimise side effects, and
- (f) Within the principles of the Regulators Compliance Code issued by the Department for Business, Enterprise and Regulatory Reform.

7.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

7.3 The Licensing Authority may also adopt a risk-based inspection programme that will be based on the Licensing objectives.

7.4 The Licensing Authority shall whenever appropriate ensure that enforcement is within the principles of the Regulators' Code issued by the Department for Business, Innovation and Skills.

7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions that it gives. (e.g. compliance with licence conditions). The

Gambling Commission is the enforcement body for the Operating and Personal Licences, Club Gaming Permits, Club Machine Permits and Lotteries. West Mercia Police also has a wide range of enforcement powers available to it under the provisions of the Act. When the Licensing Authority receive complaints about matters falling outside of its remit, such complaints will be referred to the Gambling Commission and/or West Mercia Police and/or such other body as may be appropriate.

7.6 Subject to the above principles relating to enforcement, this Licensing Authority may institute criminal proceedings in respect of an offence under any of the following provisions of the Gambling Act 2005: -

- (a) section 37,
- (b) section 185,
- (c) section 186,
- (d) section 229,
- (e) section 242,
- (f) section 258,
- (g) section 259,
- (h) section 260,
- (i) section 261,
- (j) section 262,
- (k) section 326,
- (l) section 342,
- (m) paragraph 20 of Schedule 10,
- (n) paragraph 10 of Schedule 13, and
- (o) paragraph 20 of Schedule 14.

## 8.0 Licensing Authority functions

8.1 The main functions and responsibilities of the Licensing Authority under the Act are the:

- (a) Licensing of certain premises where gambling activities are to take place and/or gaming machines are provided, by issuing Premises Licences. The types of premises licences being Bingo, Adult Gaming Centre, Family Entertainment Centre, Betting (Track), and Betting (Other).
- (b) Issue Provisional Statements for premises being or expected to built or altered, or that a person expects to acquire.
- (c) Issue either Club Gaming Permits or Club Machine Permits to members' clubs and miners' welfare institutes.
- (d) Issue Club Machine Permits to Commercial Clubs
- (e) Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- (f) Receive notifications for certain premises licensed for the sale by retail of alcohol for consumption on the premises under the Licensing Act 2003 for the use of two or fewer gaming machines.
- (g) Issue Licensed Premises Gaming Machine Permits for certain premises licensed for the sale by retail of alcohol for consumption on the premises under the Licensing Act 2003 for the use of more than two gaming machines.
- (h) Register small society lotteries below prescribed thresholds.
- (i) Issue Prize Gaming Permits.
- (j) Receive and endorse Temporary Use Notices.
- (k) Receive Occasional Use Notices.
- (l) Provide information to the Gambling Commission regarding details of licences issued (see section 6 above on 'information exchange').
- (m) Maintain registers of the permits and licences that are issued under these functions.
- (n) Issue notices and other documentation required under the Act and the Regulations made there under.

## 9.0 Duplication with other regulatory regimes

9.1 The Licensing Authority will seek to avoid any duplication with other statutory and regulatory systems where possible, unless it believes such duplication is necessary for the promotion of and compliance with the licensing objectives. When considering an application for a premises licence the council will not (under the provisions of the Act) be able to consider matters such as:

- Whether the premises is likely to be awarded planning or building consent, or
- whether the premises is safe for its use (e.g. structurally, means of escape, fire precautions etc.), or
- whether the use of the premises under the licence may cause any public nuisance (e.g. to residents in the vicinity),

9.2 The Licensing Authority will listen to, and consider carefully, any concerns that an applicant will not be able to meet any proposed licensing condition due to planning restrictions.

## **PREMISES LICENCES - Matters not covered above**

### **10.0 General Principles**

**10.1** Premises licences may be obtained for the following categories of gambling premises: -

- Betting (other than a Track)
- Betting (Track)
- Bingo
- Adult Gaming Centre
- Family Entertainment Centre

**10.2** Premises Licences are subject to the requirements set out in the Gambling Act 2005 (the 'Act') and Regulations, as well as specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions (upon application) and also when appropriate to attach additional conditions. The holders of premises licences may apply for the variation of their licences. Premises licences may also be transferred to another party.

**10.3** In exercising its functions as the licensing authority this Licensing Authority will, in accordance with section 153(1) of the Act, aim to permit the use of premises for gambling in so far as it considers it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission
- (b) in accordance with any relevant guidance issued by the Gambling Commission
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with this Gambling Licensing Policy (subject to (a) – (c)).

- 10.4 The grant of premises licences must be reasonably consistent with the licensing objectives, and in this respect this Licensing Authority has considered the Gambling Commission's current Guidance to Licensing Authorities.
- 10.5 The Licensing Authority will take particular care in considering applications for multiple licences for what may be considered a single premises.
- 10.6 In the Act "premises" is defined as "any place", and no premises except for a 'track' may have more than one premises licence.
- 10.7 However, it is possible for a single place such as a building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts can be reasonably regarded as being different premises. Whether different parts of a place/building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Licensing Authority will consider the following when deciding whether a building or part of a building is a separate premises:-
- Has it a different postal addresses?
  - Has it a separate registration for business rates?
  - Is a neighbouring premises owned by the same person or someone else?
  - Can it be accessed from the street or a public passageway via a separate entrance?
  - Can it only be accessed from any other gambling premises?
  - Would the ordinary person on the street consider that they were one premise or two?
- 10.8 The Licensing Authority will also take particular care in considering applications:
- for a part of a building, when another part of the building is not licensed and is used for non-gambling purposes. In these circumstances the entrances and exits from the licensed premises will have to be separate, identifiable and conspicuously distinct from the unlicensed areas. Persons using the

unlicensed areas of the building must not be able to unknowingly 'drift' into the licensed area; and/or

- involving access to the licensed premises through other premises (which themselves may be licensed or unlicensed). The Licensing Authority will consider issues such as whether children can gain access; the nature and compatibility of the two establishments; and the ability of the proposed licensed premises to comply with the requirements of the Act and the regulations.

**10.9** When an application is made for a premises licence for a premises that is in the course of construction or alteration, or are still to be constructed or altered, the Licensing Authority will take into account the current Guidance issued by the Gambling Commission. The Licensing Authority will also consider:

- whether the premises ought to be permitted to be used for gambling,
- whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place, and
- when the premises intends to start operating under the licence (in order to ascertain whether the application is being made for 'speculative' purposes.

**10.10** In considering licensing applications, the Licensing Authority will particularly take into account the following:

- The design and layout of the premises;
- The training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system.
- Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;



- The likelihood of any crime, public order and anti-social behaviour issues if the licence is granted.
- The steps proposed by an applicant with regard to the licensing objectives and any licence conditions proposed by the applicant

## 11.0 Location

11.1 When considering the location of a premises, the Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, and any issues of crime and disorder.

11.2 This Licensing Authority will take into account, for the protection of children and vulnerable persons, the following when determining whether a premises location is suitable for a grant of a licence:

- The proximity of the premises to any recognised schools, centres or establishments for the education, training or care of young persons and/or vulnerable persons.
- The proximity of the premises to leisure centres used for sporting and similar activities by young persons and/or vulnerable persons,
- The proximity of the premises to any youth club or similar establishment, and
- The proximity of the premises to recognised community, welfare, health and similar establishments used specifically or to a large extent by young persons and/or vulnerable persons.

11.3 Where an area has, or is perceived to have, unacceptable levels of crime and/or, disorder, this Licensing Authority will consider carefully whether such an area is suitable for gambling premises and whether licence conditions may be appropriate or successful.

## 12.0 Licence Conditions

12.1 Any conditions attached by the Licensing Authority to any particular licence will be proportionate and will be:

- (a) relevant to the need to make the proposed building suitable as a gambling facility
- (b) directly related to the premises and the type of licence applied for;
- (c) fair and reasonable in relation to the scale and the type of premises, and
- (d) in the Licensing Authority's consideration be reasonable in all other respects.

12.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this Policy for each of the different licence types.

12.3 The Licensing Authority will also consider specific measures that may be required for buildings that are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

12.4 The Licensing Authority will also ensure that where category A to C gaming machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and at the entrance to and inside

any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

- 12.5 The above considerations will apply to premises including buildings where multiple premises licences are applicable.
- 12.6 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, with each licence relating to a specified area of the track. The Licensing Authority will consider the impact upon the licensing objective that refers to the protection of children. It will require that the entrances to each part of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter. The Licensing Authority will take into consideration any guidance issued by the Gambling Commission in this respect.
- 12.7 It is noted that there are conditions that the Licensing Authority cannot attach to premises licences, and these are stipulated in the Act or its statutory regulations.
- 12.8 Applicants may offer licence conditions to the Licensing authority as a part of their application. Examples of such conditions are: -
1. The premises shall be fitted out and operational within 6 months of the issue of the licence.
  2. The Licensee shall notify the Licensing Authority when the premises have been fitted out and are ready for operation, so that the Licensing Authority can inspect the premises. Such notification to the Licensing Authority shall be given no less than 10 days prior to the premises opening under the licence.
  3. There shall be a minimum of 2 staff (excluding back room staff) on duty at the premises at all times that it is open, whose duties are to include the age verification of persons entering the premises who appear to be under the age of 25 years.
  4. "Challenge 25":

- A. The Licensee shall have a "Challenge 25" policy whereby all customers who appear to be under the age of 25 are asked for proof of their age.
  - B. The Licensee shall prominently display notices advising customers of the "Challenge 25" policy.
  - C. The following proofs of age are the only ones to be accepted:
    - Proof of age cards bearing the "Pass" hologram symbol
    - UK Photo Driving licence
    - Passport
5. Staff Competence and Training:
- A. The Licensee shall keep a written record of all staff authorised to verify the age of customers, the record to contain the full name, home address, date of birth and national insurance number of each person so authorised. The staff record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.
  - B. The Licensee shall ensure that each member of staff authorised to verify the age of customers has received training on the law with regard to under age gambling and the procedure if an underage person enters the premises, within one month of the date that this condition appears on this licence. (Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence). Such training shall be agreed with Herefordshire Council Trading Standards Training and records shall be kept on the premises which shall be made available for inspection by the Licensing Officer, Trading Standards or the Police on demand
  - C. The Licensee shall ensure that each member of staff authorised to verify the age of customers is fully aware of his /her responsibilities in relation to verifying a customer's age and is able to effectively question customers and check evidence of proof of age.

6. Refusals Book:
  - A. The licensee to keep a register (Refusals Book) to contain details of time and date, description of underage persons entering the premises, and the name/signature of the sales person who verified that the person was under age.
  - B. The Refusals book to be examined on a regular basis by the Licensee and date and time of each examination to be endorsed in the book.
  - C. The Refusals Book to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.

7. CCTV:

CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits and outside areas.

A monitor shall be mounted on the wall at the premises where it is clearly visible to all members of the public. The monitor shall show the live CCTV footage being recorded.

Equipment MUST be maintained in good working order , be correctly time and date stamped , recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.

The Licence Holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage in a recordable format on to any suitable media, to the Police/Local Authority on demand.

The Recording equipment and recording media shall be kept in a secure environment under the control of the Manager or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Police must be informed on contact number **0300 333 3000** immediately.

### **13.0. Numbers of Staff and Door Supervisors**

13.1 The Licensing Authority will consider on a case by case basis whether the numbers of staff proposed to be on duty at a premises at any one time are adequate in relation to the control of the premises and especially with regard to the monitoring of persons using the premises, age verification, the ejection of or refusal to serve persons, and the maintenance of good order on the premises.

13.2 When making an application for a licence, applicants are recommended to inform the Licensing Authority of the numbers of staff that will be on duty at the premises at any one time and the times that such numbers will be on duty.

13.3 The Licensing Authority will consider on a case by case basis whether there is a need for door supervisors to meet the licensing objectives of the protection of children and vulnerable persons from being harmed or exploited by gambling, and preventing the premises becoming a source of crime.

13.4 It is noted that door supervisors at bingo premises, who are directly employed by the casino or bingo premises operator, are not required to be licensed by the Security Industry Authority. The Licensing Authority's policy expectations for such door supervisors working at bingo premises are that the Licensing Authority will expect the door supervisors to have:

- a competency qualification of Level 2 for Door Supervision in the National Qualification Framework (NQF), or
- an equivalent qualification or training which would meet the criteria of the Security Industry Authority for the licensing of that person as a Door Supervisor by that Authority.

The above expectations are in recognition of the nature of the door supervisors' work in terms of searching individuals, dealing with potentially aggressive persons, young and vulnerable persons etc.

A book shall be kept at the premises, which is maintained with the following records:

- the identity (including their full name and address) of the door supervisor deployed;
- the time they commenced and finished duty; and
- all incidents that the door supervisors dealt with.

If there are any future changes in the licensing or approval/registration regime administered by the Security Industry Authority that affect door supervisors these will be taken into account by the Licensing Authority.

13.5 The term 'door supervisor' means any person:

- (a) guarding premises against unauthorised access or occupation, against outbreaks of disorder or against damage; or
- (b) guarding one or more individuals against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.

13.6 For premises other than bingo premises, the Licensing Authority may decide that supervision of entrances/exits/machines is appropriate for particular cases.



## **14.0 Protection of children and vulnerable persons –specific requirements for premises other than Betting Premises**

### **14.1 Adult Gaming Centres: -**

The Licensing Authority will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate measures/licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of the types of issues that measures/conditions should cover.

### **14.2 (Licensed) Family Entertainment Centres**

The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate measures/ licence conditions may cover issues such as:

- a) Proof of age schemes
- b) CCTV
- (c) The numbers of staff on duty at any one time.

- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. This Licensing Authority will refer to any Operating Licence conditions, current Guidance or Codes of Practice by the Gambling Commission as to the way in the area's containing category C or higher machines should be delineated and/or separated.

### 14.3 Bingo Premises

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Licensing Authority will require that:

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

Appropriate measures/licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of the types of issues that measures/conditions should cover. This Licensing Authority will take account of any current guidance from the Gambling Commission as to the suitability and layout of bingo premises.

## **15.0 Betting Premises**

**15.1** There are two different types of premises that require a betting licence. The licences for these premises are named as “Betting Premises Licence (In Respect Of Premises Other Than A Track)’ and ‘Betting Premises Licence (In Respect Of a Track)’.

### **15.2 Betting Premises Licence (In Respect Of Premises Other Than A Track)**

This type of licence allows premises (i.e. betting offices) to provide ‘off course’ betting i.e. betting that takes place other than at a track. There are also betting offices at tracks that have a separate premises licence from the track licence. Tracks and betting offices at tracks are discussed in the following section.

**15.3** This Licensing Authority may, when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at betting premises by imposing a licence condition. When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- the size of the premises,
- the number and location of the machines
- the number of counter positions available for person-to-person transactions, and
- the numbers of, and ability of staff to monitor the licensed premises and prevent persons under the age of 18 from entering the premises.

**15.4** The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. However appropriate measures / licence conditions may cover issues such as:

- a) Proof of age schemes
- b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors

- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.'

### 15.5 Betting Premises Licence (In Respect Of a Track)

General:

Tracks are sites (including football stadium, horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the "totalisator" or "tote"), and also general betting, often known as "fixed-odds" betting.

The holders of a track premises licence do not need to have an operating licence issued by the Gambling Commission unless they themselves wish to offer betting facilities at the track. Under the legislation the licence allows anyone with an operating licence to offer 'on course' betting facilities at a licensed track.

Tracks are the only class of premises that may be subject to more than one premises licence, provided that each licence relates to a specified area of the track. There can be a 'main' premises licence and, in addition, 'subsidiary' premises licences for the parts of the track not covered by the main licence.

### 15.6 Children and Young Persons

Children and young persons are allowed to be present on a track licensed premises whilst betting is taking place, although they not allowed to enter areas of the track where gaming machines (other than category D machines) are provided. Therefore the Licensing Authority will carefully consider the impact of the licensing objective of

the protection of children and vulnerable persons in relation to each application for premises licences at a track.

We will expect applicants to demonstrate suitable measures to ensure that children do not have access to adult only gambling/gaming facilities.

Appropriate measures/ licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) The physical separation of, and clear distinction of areas
- (g) Location of entry
- (h) Notices/signage

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

#### 15.7 Betting machines (also known as Bet Receipt Terminals) at tracks

The potential space for betting machines at a track may be considerable, bringing with it significant problems in relation to:

- the proliferation of such machines,
- the ability of track staff to supervise the machines if they are scattered around the track ,and
- preventing persons under the age of 18 from being able to use the machines.

This Licensing Authority will, when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at a betting premises by attaching a licence condition to a betting premises licence. When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- the size of the premises,
- the number and location of the machines

- the number of counter positions available for person-to-person transactions, and
- the ability of staff to monitor the licensed premises and prevent persons under the age of 18 from using the machines.

### 15.8 Condition on rules being displayed at tracks

The Licensing Authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

### 15.9 Applications and plans for tracks

Applicants must comply with any relevant regulations or guidance issued by the Gambling Commission in relation to applications for tracks. Applicants must ensure that the Licensing Authority is made completely aware of what it is being asked to licence.

The information submitted with the application must include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). In the case of:

- dog tracks and horse racecourses,
- fixed and mobile pool betting facilities operated by the Tote or track operator, and
- other proposed gambling facilities,

the plans should make clear what is being sought for authorisation under the track betting premises licence. It must also be made clear what, if any, other areas are to be subject to a separate application for a different type of premises licence.

Unless there is a compelling reason to not do so, the Licensing Authority will require all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This will ensure that there is clarity

between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.



## **16.0 Travelling Fairs**

Travelling fairs (as defined in the Act) may provide an unlimited number of Category D gaming machines and equal chance prize gaming without the need for any authorisation from the Licensing Authority, provided that such facilities amount to no more than an ancillary amusement at the fair.

There is a 27-day per calendar year statutory limit for a piece of land being used as a fair, and this regardless of whether it is the same or different travelling fairs using the land. The Licensing Authority will work with its neighbouring authorities to ensure that land that crosses our boundaries are monitored so that the statutory limits are not exceeded.

## 17.0 Provisional Statements

Application for a provisional statement can be made for premises that an applicant expects to be constructed or to be altered, or expects to acquire the right to occupy. Representations can be made against an application for a provisional statement in the same manner as for a premises licence. The process for considering an application for a provisional statement is the same as that for premises licences (with the exceptions that an applicant need not have the right to occupy the premises and need not have an operating licence).

Once the premises have been constructed, altered or acquired by the holder of a provisional statement, they can put in an application for the necessary premises licence.

If a provisional statement has been granted, the Licensing Authority is constrained in the matters it can consider when an application for a premises licence is subsequently made in relation to the same premises.

No further representations from relevant authorities or interested parties can be taken into account in relation to the premises licence application unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

In addition, the Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- a) which could not have been raised by way of representations at the provisional licence stage, or
- b) which, in the authority's opinion, reflect a change in the operator's circumstances, or
- c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application.

Note: This must be a substantial change to the plan and the Licensing Authority will discuss any concerns they have with the applicant before making a decision.

Section 210 of the Act (which applies to premises licences and provisional statements) makes it clear that a licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

## 18.0 Reviews

A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review from interested party or responsible authority. A formal review of a premises licence may result in the Licensing Authority imposing additional conditions or revoking the licence.

### 18.1 Initiation of review by Licensing Authority

The Licensing Authority may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Whilst officers may be involved in the initial investigations of complaints leading to a review, or may (at their discretion) try informal mediation or dispute resolution techniques prior to a review being initiated, the review itself must be heard and determined by Licensing Committee or one of its Sub-Committees.

In relation to a class of premises, the Licensing Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, the Licensing Authority will most likely be acting as a result of specific concerns or complaints about particular types of premises, which would cause them to want, for example, to look at the default conditions that apply to that category of licence.

In relation to particular premises, the Licensing Authority may review any matter connected with the use made of the premises if it has reason to suspect that premises licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives them cause to believe that a review may be appropriate.

### 18.2 Application for review by responsible authorities and interested parties

Whilst, requests for a review of a premises licence can be made by interested parties or responsible authorities, it is for the Licensing Authority to decide whether the review is to be carried-out. However the Licensing Authority recognises that its decision to carry out a review must not amount to pre-judging the outcome of the review.

An application for a review may be (but need not be) rejected if the Licensing Authority thinks that the grounds on which the review is sought:

- are not relevant to the principles that must be applied by the Licensing Authority in accordance with section 153 of the Act.

Note: If the application raises issues that are not relevant to the current Gambling Commission guidance, current codes of practice, this Policy statement, or the licensing objectives, then we may reject it. In addition, if the application raises general objections to gambling as an activity, that is likely to be irrelevant to the principles in section 153, given that we are required to permit the use of premises for gambling in so far we think that permission is in accordance with the matters set out in that section.

Examples that are likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion;

- that the grounds are frivolous;
- that the grounds are vexatious;
- that the grounds “will certainly not” cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- are substantially the same as the grounds cited in a previous application for review relating to the same premises. In these circumstances we will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or
- are substantially the same as representations made at the time the application for a premises licence was considered. In these circumstances the Licensing Authority will take into account the period of time that has passed since the representations were made, but the underlying requirement is that the Licensing Authority should not review the licence on the basis of the same arguments considered on the grant of the premises licence.

The matters which will generally be considered relevant for any review are:

- (a) any relevant current code of practice issued by the Gambling Commission;
- (b) any relevant current guidance issued by the Gambling Commission;
- (c) the licensing objectives;
- (d) the Council's Statement of Gambling Licensing Policy, and
- (e) The Gambling Act 2005 and the Regulations made thereunder

## **PERMITS/TEMPORARY & OCCASIONAL USE NOTICES**

### **19.0 Unlicensed Family Entertainment Centre (FEC) Gaming Machine Permits (Statement of Principles on Permits)**

- 19.1 Unlicensed Family Entertainment Centres (FECs) normally cater for families, including unaccompanied children and young persons.
- 19.2 Unlicensed FECs can only provide category D machines under a gaming machine permit, and an unlimited number of such machines can be made available. Permits cannot be issued to vessels or vehicles.
- 19.3 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238 of the Gambling Act).
- 19.4 An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if West Mercia Police have been consulted on the application. The Licensing Authority will require applicants to demonstrate:
- a) a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - b) that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; ) and
  - c) that staff are trained to have a full understanding of the maximum stakes and prizes.
- 19.5 Whilst the Licensing Authority can grant or refuse an application, it cannot attach conditions to this type of permit.
- 19.6 The Licensing Authority will expect the applicant to show that they have 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 efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- a) criminal record checks for staff,
- b) appropriate measures / training for staff as regards suspected truant school children on the premises,
- c) appropriate measures/ training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on or around the premises.



## **20.0 (Alcohol) Licensed Premises Gaming Machine permits/automatic entitlement**

20.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. However the Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- (a) provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- (b) gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant current code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- (c) the premises are mainly used for gaming; or
- (d) an offence under the Gambling Act has been committed on the premises

20.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any current guidance issued by the Gambling Commission and such matters as it thinks relevant. This Council considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The applicant will be expected 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 gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons this applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

The Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to the permit.

20.3 Where the application is for 3 or more machines, the licensing officer is unable to consider such application until the following documents have been submitted:

- a) A clear and readable plan on a scale of at least 1:100. This should clearly show the location of the following:
  - The location of any bar(s)
  - The location of any existing gaming machines
  - The proposed position of the gaming machine subject to the application
  - Location of any CCTV cameras which cover or will cover the gaming machines (area covered by CCTV to shown on plan)
  - Location of a cash dispensing machine (if present)
- b) In addition to this there shall also been included include a written policy document showing how the codes of practice entitled 'Code of practice for gaming machines in clubs and premises with an alcohol licence' (or any substituted document) issued by the Gambling Commission will be addressed. A copy can be found on the [Gambling Commission website \(PDF\)](#)

We will not consider an application until the required documentation has been submitted.

20.4 The holder of a permit must comply with any current Code of Practice issued by the Gambling Commission about the location and operation of the machine.

20.5 It is possible that some alcohol licensed premises may wish to for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as a Family Entertainment Centre or Adult Gaming Centre premises licence.

20.6 Any application for a permit (to allow more than 2 machines) cannot be dealt with under devolved powers and will be required to go before the council's Licensing Sub-Committee for determination.

## **21.0 Prize Gaming Permits**

- 21.1** The Licensing Authority requires that an applicant sets out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- (a) that they understand the limits to stakes and prizes that are set out in Regulations; and
  - (b) that the gaming offered is within the law.
- 21.2** In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any current Gambling Commission guidance.
- 21.3** There are statutory and mandatory conditions in the Gambling Act 2005 that the permit holder must comply with and the Licensing Authority cannot impose any additional conditions. The conditions in the Act are:
- (a) the limits on participation fees, as set out in regulations, must be complied with;
  - (b) all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
  - (c) the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if nonmonetary prize); and
  - (d) participation in the gaming must not entitle the player to take part in any other gambling.

## **22.0 Club Gaming Permits and Club Machines Permits**

**22.1** Members Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit or a Club Machines Permit. Commercial Clubs may apply for a club Machines Permit. The Club Gaming Permit will enable the premises to provide the number of categories B, C or D gaming machines set out in regulations, equal chance gaming and games of chance. A Club Gaming Machines Permit will enable the premises to provide the number of categories B, C or D gaming machines set out in regulations.

**22.2** The criteria for qualification as a Members Club, Miners' Welfare Institute or Commercial Club are set out in sections 266 to 268 of the Gambling Act 2005.

**22.3** The Licensing Authority may only refuse an application on the grounds that:

- (a) the applicant does not fulfil, as appropriate, the requirements for a members club or a miners' welfare institute or a commercial club and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years;
- or
- (e) an objection has been lodged by the Gambling Commission or the Police.

**22.4** It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police. The grounds on which the Licensing Authority may refuse an application under the process are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12 of the Act:

- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

## 23.0 Temporary Use Notices

23.1 The procedures for temporary use notices are stipulated in the Act and the Regulations made thereunder. There are a number of statutory limits as regards temporary use notices. The limits are set out in the Act as:

- (a) A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months, and
- (b) A set of premises may be the subject of more than one temporary use notice in a period of 12 months (provided that the aggregate of the periods for which the notices have effect does not exceed 21 days).

23.2 The purposes for which a temporary use notice may be used are restricted to providing facilities for equal chance gaming (other than machine gaming) where those participating in the gaming are taking part in a competition which is intended to produce a single overall winner. An example of this could be a poker competition. As with "premises" (see Part B, Premises Licences, Definition of "premises") the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", this Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises. This 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.

The Licensing Authority will also have regard to the licensing objectives and will object to notices if considers that the gambling should not take place, or only take place with modifications.

The principles that the Licensing Authority will apply in considering whether or not to issue a counter notice in relation to a temporary use notice are the same as those it will use in determining premises licence applications.

## **24.0 Occasional Use Notices**

- 24.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Although this Licensing Authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.
- 24.2 Occasional Use Notices will only be permitted at tracks where races or sporting events take place or will take place there.

## 25.0 Small Society Lotteries

25.1 The Licensing Authority will register and administer smaller non-commercial lotteries and applicants for lottery licences must apply to the Licensing Authority in the area where their principal office is located.

25.2 For new applications, the licensing authority shall require the promoter of the lottery to produce a 'basic' Disclosure Barring Service Certificate (DBS) disclosure dated no earlier than one calendar month on the day the application is received by the Licensing Authority.

25.3 The Licensing Authority may refuse an application for registration if in their opinion:

- The applicant is not a non-commercial society;
- A 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 the application for registration is false or misleading.

25.4 The Licensing Authority will adopt a risk based approach towards enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries
- failure to submit a return

25.5 All small society registrations expiry at the end of each calendar year and can be renewed in the month prior to expiry.

25.6 All renewals require payment of the renewal fee and application form.



25.7 Any renewal application received after expiry will be refused and will require a new application together with the appropriate fee and application.

## 26.0 Casinos

26.1 On 27<sup>th</sup> July 2007 at a meeting of the Full Council a Resolution was passed under Section 166 of the Gambling Act 2005 not to issue casino premises licences. Details of the Proposal and Minutes can be found at: -

<http://councillors.herefordshire.gov.uk/documents/s11792/Council%20report%20no%20casinos.pdf>

**Adult Gaming Centres**

Persons operating an adult gaming centre (AGC) must hold a gaming machines general operating licence from the Commission and have an AGC premises licence from the Licensing Authority. They will be able to make category B, C and D gaming machines available to their customers.

**Alcohol licensed premises gaming machine permits**

The Licensing Authority can issue such permits for any number of category C or D machines in licensed premises. There is an automatic entitlement for alcohol on-licence holders to make available 2 gaming machines of category C or D for use in alcohol licensed premises.

**Applications**

Applications for licences and permits.

**Authorisations**

This Policy relates to all authorisations, permits, licences etc, which the Licensing Authority is responsible for under the Gambling Act 2005.

**Betting Machines**

A machine designed or adapted for the use to bet on future real events (not Gaming Machine).

**Bingo**

A game of equal chance. Whilst there is no statutory definition of Bingo, generally there are two different types of bingo:

- cash bingo, where the stakes paid made up the cash prizes that were won; or
- prize bingo, where various forms of prizes were won, not directly related to the stakes paid.

Premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms. Adult gaming centres, both licensed and unlicensed family entertainment centres, travelling fairs, and any premises with a prize gaming permit, will be able to offer prize gaming, which includes prize bingo.

### **Casino**

An arrangement whereby people are given an opportunity to participate in one or more casino games.

### **Children/Child**

Individual who is less than 16 years old.

### **Club Gaming**

Permit to enable commercial and non-commercial clubs. Machine Permit to provide at their premises the number of gaming machines (Category B, C or D) as set out in the regulations.

### **Club Gaming Permit**

Permits to enable members' clubs and miners' welfare institutes (but not a commercial club) to provide at their premises the number of gaming machines (Category B, C or D), equal chance gaming and games of chance as set out in the regulations.

### **Code of Practice**

Means any relevant current code of practice under section 24 of the Gambling Act 2005.

### **Default Conditions**

Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

### **Disorder**

Disorder includes anti-social behaviour (see number A2.3 of the Policy).

### **Equal Chance Gaming**

Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.

### **FECs**

Family entertainment centres.

### **Occasional use notices**

Where there is betting on a track on up to eight days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse race course, dock track and temporary tracks for races or sporting events.

### **Operating licence**

Authorised individuals or companies to provide facilities for certain types of remote or non-remote gambling. These licences are issued by the Gambling Commission and generally cover the principal commercial forms of gambling operating. A single licence cannot authorise both remote and non remote activities; separate operating licences are needed for this. Conditions may be attached.

### **Personal licence**

Except for small scale operations, for each operating licence, at least one person who holds a specified management office must hold a personal licence. These licences are issued by the Gambling Commission with the aim of ensuring that individuals who control facilities for gambling or are able to influence the outcome of gambling are suitable to carry out those functions. These licences are not transferable and cannot be held by companies but companies are likely to want their key staff to hold a personal licence.

## **Premises**

Premises is defined in the Act as “any place”. A single premises (with the exception of a “track”) may not have more than one premises licence at any time.

## **Premises Licence**

Authorises the provision of facilities for gambling on premises for bingo, betting including tracks, adult gaming centres and family entertainment centres. These licences will be valid for the life of the premises, subject to any review. The licence will lapse if the annual fee is not paid. These licences are transferable to someone else holding a valid operating licence.

## **Prize gaming permits**

This permit allows the provision of facilities for gaming and prizes on specified premises. “Prize gaming” refers to gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

## **Temporary use notices**

These licences authorise the person or company holding a relevant operating licence to use the premises temporarily for providing facilities for gambling where there is no premises licence. Such premises may include hotels, conference centres and sporting venues.

## **Unlicensed family entertainment centre gaming machine permits**

These allow the use of category D gaming machines in these premises to a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre. An application for this permit cannot be made where a premises licence is in effect on the same premises.

## **Vulnerable persons**

See section A2.5(b) of this Policy concerning the ‘definition’ of vulnerable persons

## **Young person**

Persons who are 16 to 18 years old.

## Contact Details

Telephone:- 01432 261761

e-mail:- [licensing@herefordshire.gov.uk](mailto:licensing@herefordshire.gov.uk)

Address:- 8 St Owens Street, Hereford, HR1 2PJ







<b>Meeting:</b>	<b>General scrutiny committee</b>
<b>Meeting date:</b>	<b>Tuesday 23 July 2019</b>
<b>Title of report:</b>	<b>Work programme</b>
<b>Report by:</b>	<b>Governance services</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

Countywide

## Purpose and summary

To review the committee's work programme.

## Recommendation(s)

**THAT:**

- (a) the draft work programme as set out at appendix 1 to the report be approved, subject to any amendments the committee wishes to make;**
- (b) the committee determines any other matter in relation to the appointment of task and finish groups their chairmanship and any special responsibility allowance or the undertaking of a spotlight review; and**
- (c) the Statutory Scrutiny Officer be authorised, following consultation with the chairperson and vice-chairperson, to add items to the work programme where it is necessary to ensure their timely consideration where there is no scheduled meeting to approve their inclusion.**

## Alternative options

- 1 It is for the committee to determine its work programme to reflect the priorities facing Herefordshire. The committee needs to be selective and ensure that the work programme is focused, realistic and deliverable within existing resources.

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Further information on the subject of this report is available from  
Governance Services on Tel (01432) 260239

## **Key considerations**

### **Draft work programme**

- 2 The work programme needs to focus on the key issues of concern and be manageable. It must also be ready to accommodate urgent items or matters that have been called-in.
- 3 Should committee members become aware of any issue they think should be considered by the Committee they are invited to discuss the matter with the Chairman and the statutory scrutiny officer.
- 4 The draft work programme prepared following a workshop and further informal meeting of committee members is attached at appendix 1.
- 5 It is proposed that the statutory scrutiny officer be authorised, following consultation with the chairperson and vice-chairperson, to add items to the work programme where it is necessary to ensure their timely consideration where there is no scheduled meeting to approve their inclusion

### **Constitutional Matters**

#### **Task and Finish Groups**

- 6 A scrutiny committee may appoint a task and finish group for any scrutiny activity within the committee's agreed work programme. A committee may determine to undertake a task and finish activity itself as a spotlight review where such an activity may be undertaken in a single session; the procedure rules relating to task and finish groups will apply in these circumstances.
- 7 The relevant scrutiny committee will approve the scope of the activity to be undertaken, the membership, chairman, timeframe, desired outcomes and what will not be included in the work. A task and finish group will be composed of a least 2 members of the committee, other councillors (nominees to be sought from group leaders with un-affiliated members also invited to express their interest in sitting on the group) and may include, as appropriate, co-opted people with specialist knowledge or expertise to support the task. In appointing a chairman of a task and finish group the committee will also determine, having regard to the advice of the council's monitoring officer and statutory scrutiny officer, whether the scope of the activity is such as to attract a special responsibility allowance.
- 8 The Committee is asked to determine any matters relating to the appointment of a task and finish group and the chairmanship and any special responsibility allowance or undertaking a spotlight review including co-option (see below).

#### **Co-option**

- 9 A scrutiny committee may co-opt a maximum of two non-voting people as and when required, for example for a particular meeting or to join a task and finish group. Any

such co-optees will be agreed by the committee having reference to the agreed workplan and/or task and finish group membership.

- 10 The Committee is asked to consider whether it wishes to exercise this power in respect of any matters in the work programme.

#### **Tracking of recommendations made by the committee**

- 11 A schedule of recommendations and action in response will be produced and appended to this report for future meetings.

#### **Forward plan**

- 12 The constitution states that scrutiny committees should consider the forward plan as the chief source of information regarding forthcoming key decisions. Forthcoming decisions can be viewed under the forthcoming decisions link on the council's website:

<http://councillors.herefordshire.gov.uk/mgdelegateddecisions.aspx?XR=0&DAYS=28&RP=0&K=0&DM=0&HD=0&DS=1&META=mgdelegateddecisions&V=0>

### **Community impact**

- 13 The topics selected for scrutiny should have regard to what matters to residents.

### **Equality duty**

- 14 The topics selected need to have regard for equality and human rights issues.

### **Resource implications**

- 15 The costs of the work of the committee will have to be met within existing resources. It should be noted the costs of running scrutiny will be subject to an assessment to support appropriate processes.

### **Legal implications**

- 16 The council is required to deliver an overview and scrutiny function.

### **Risk management**

- 17 There is a reputational risk to the council if the overview and scrutiny function does not operate effectively. The arrangements for the development of the work programme should help mitigate this risk.

### **Consultees**

- 18 The Chairman and Statutory scrutiny officer meet on a regular basis to review the work programme.

### **Appendices**

Appendix 1 – draft work programme

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Further information on the subject of this report is available from  
Governance Services on Tel (01432) 260239

## Background papers

- None identified.

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Meeting/items	Purpose	Comment	Notes
<b>23 July 2019</b>			
Gambling Policy			
Work Programme			
<b>23 September 2019</b>			
•			
Additional meeting?			
<ul style="list-style-type: none"> <li>• Climate Emergency and Sustainable Transport</li> <li>• To explore Planned and implemented sustainable transport measures, approach to climate change and carbon management and impact on the built environment</li> </ul>	To set out current baseline.		
Additional Meeting			
Public Realm Service Provision (Council contract arrangements with Balfour Beatty Living Places)– and stakeholder communication			How do Councils communicate effectively with the public, explaining service levels, costs and delivery that can be expected under the contract, performance measures in place, and evidence that the contract is delivering to the required standard within the agreed framework. Consider results of customer satisfaction performance data

			Ways of improving feedback to the public – so that they know when they can expect work that has been requested and can track delivery.
29 November 2019			
• Budget			
•			
•			
27 January 2019			
•			
•			
23 March 2019			
•			
Noted that flexibility needs to be retained within the work programme to consider Pre-Decision Call in items/post Decision call-in.			
TBC			
Unscheduled			
Police and Crime Commissioner	Need to specify what is to be considered		Performance indicator - killed and seriously injured on roads is one possible topic.
• Carbon management Plan	Consideration of policy options and available	Seek clarification from Executive as to work they intend to undertake themselves and any role for	(Cabinet member response to public question Council February 2019: To inform the development of this plan, and ensure that we have explored the options open to us to help in the global action needed to address climate

	practical actions.	scrutiny they would wish scrutiny to consider taking on.	change, I will be asking the General Scrutiny Committee to build into their work programme for 2019/20 consideration of the policy options and practical actions available to us.
Climate Change	Consideration of executive action plan, covering all relevant council strategies, (plan via Scrutiny to Cabinet by the end of 2019.)	Seek clarification from Executive as to work they intend to undertake themselves and any role for scrutiny they would wish scrutiny to consider taking on.	<p><b>Council Motion March 2019</b></p> <p><b>This Council declares its recognition of the climate emergency and calls on the executive to:</b></p> <p>a) <b>Commit to an accelerated reduction of the Council’s carbon emissions, with the aspirations to be carbon neutral by 2030; and to change its energy supply to 100% renewable source;</b></p> <p>b) <b>Produce a successor to the current Carbon Management Plan (2019-2023) within the early months of the new council;</b></p> <p>c) <b>Work with partners to produce an action plan, covering all relevant council strategies, and to submit this plan via Scrutiny to Cabinet by the end of 2019;</b></p> <p>d) <b>Call upon our ‘Re-Energise’ partners to match or better the council’s commitment; to publicise their response and to lead on working with the public to promote and encourage carbon reduction in all aspects of the county’s life;</b></p> <p>e) <b>Provide the necessary resource for officers to deliver on the council’s carbon reduction commitments, and to monitor and report annually on the county position; and</b></p>

			f) The council requests the executive to arrange a full day interactive seminar for all councillors as soon as possible to be briefed on and discuss the options that might be open to Herefordshire Council to expedite its carbon footprint reduction aspiration
<ul style="list-style-type: none"> <li>Waste Disposal</li> </ul>	Waste Disposal Contract review in preparation for end of current contract in 2023	Timescale dependent upon commissioning programme	
Budget and Policy Framework items to be scheduled			
<ul style="list-style-type: none"> <li>Travellers Sites Development Plan Document</li> </ul>			
<ul style="list-style-type: none"> <li>Minerals and Waste Plan</li> </ul>			
<ul style="list-style-type: none"> <li>Hereford Area Plan</li> </ul>			
<ul style="list-style-type: none"> <li>Rural Areas Development Plan Document</li> </ul>			
<ul style="list-style-type: none"> <li>Core Strategy</li> </ul>			
<ul style="list-style-type: none"> <li></li> </ul>			
<ul style="list-style-type: none"> <li>Corporate peer challenge</li> </ul>		GSC considered on 6 March. Recommended: a review of progress in response to the corporate peer review is	The planned return by the LGA team is end of Oct.



		included for consideration in work programming for the Committee in June 2019.	
Marches Local Enterprise Partnership			GSC 8 October 2019  <b>the Director of the LEP be invited to discuss with the Statutory Scrutiny Officer when it might be timely for the Committee to give consideration to progress on the strategic economic plan or other Marches LEP matters</b>

Briefing notes	
Executive Response	
<ul style="list-style-type: none"> <li>Task and Finish Group - Highways Maintenance – Pothole Repairs (expected to be circulated as briefing note for information)</li> </ul>	
Standing Panel – Minerals and Waste	

