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Date: 23 September 2015

Dear Councillor,

Environmental and Development Services Committee

A Meeting of the **Environmental and Development Services Committee** will be held in the **Council Chamber**, on **Thursday, 01 October 2015 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**

Councillor Watson (Chairman), Councillor Muller (Vice-Chairman) and Councillors Mrs. Brown, Coe, Roberts, Mrs. Hall, MacPherson, Mrs. Patten and Stanton.

Labour Group

Councillors Chahal, Southerd, Taylor and Tilley.



AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutions appointed for the meeting
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by members of the public pursuant to Council Procedure Rule No.10.
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5** Reports of Overview and Scrutiny Committee
- 6** GAMBLING ACT 2005 - STATEMENT OF LICENSING POLICY **3 - 32**
- 7** KEY PERFORMANCE INDICATORS - LICENSING DEPARTMENT **33 - 35**
- 8** LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY **36 - 60**
- 9** WORK PROGRAMME 2015-16 **61 - 62**

Exclusion of the Public and Press:

- 10** The Chairman may therefore move:-
That in accordance with Section 100 (A) of the Local Government Act 1972 the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 11** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.



REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	1ST OCTOBER 2015	CATEGORY: DELEGATED/ RECOMMENDED
REPORT FROM:	CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	EMMA McHUGH (EXT: 5716) emma.mchugh@south-derbys.gov.uk	DOC:
SUBJECT:	GAMBLING ACT 2005 – STATEMENT OF LICENSING POLICY	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: EDS

1. Recommendations

- 1.1 That Members approve the Council's Gambling Act 2005 Statement of Licensing Policy ("the Policy").

2. Purpose of Report

- 2.1 To provide Members with the outcome of a consultation with interested parties.
- 2.2 To provide Members with the necessary information to be able to give full consideration to the recommendation contained in paragraph 1.1 of this report.

3. Detail

- 3.1 Section 349 of the Gambling Act 2005 ("the Act") requires the Licensing Authority to prepare and publish a statement of the principles every 3 years. The Licensing Authority's current Policy was published in January 2013.
- 3.2 As part of the Social Responsibility Code, from April 2016, operators will be required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each premises. To assist in the production of the local risk assessments, the Policy details what is expected of operators in providing gambling facilities. In addition, the Licensing Authority will produce a local area profile to assist operators in producing their local risk assessments. This will be a stand-alone document and will be in place for April 2016 and reviewed as required.

Consultation

- 3.3 The Act requires the Licensing Authority to consult with interested parties on any revision of the Policy. The consultation took place between 13th July 2015 and 4th September 2015. Copies of the Policy were sent to all Responsible Authorities, existing licensees and other major stakeholders. The Policy was also placed on the Council's website. A full list of the people consulted can be found at Appendix B of the draft Policy.

3.4 One response was received in relation to the Policy from Councilor Harrison. No other responses were received. The draft Policy is attached as **Appendix 1**.

4. Financial Implications

4.1 There are no financial implications to the Council.

4.2 Recommendation 1.1 will have no financial implications on existing licence holders.

5. Corporate Implications

5.1 These proposals will provide a clear framework for anyone wishing to start their own business which will contribute directly to the corporate vision to make South Derbyshire a better place to live, work, and visit, and to the theme of sustainable growth and opportunity.

5.2 These proposals will continue to demonstrate to members of the public that the Council takes the protection of local residents, children, and vulnerable adults from the potential harms of gambling activities seriously, which contributes to the theme of safety and security.

**SOUTH DERBYSHIRE DISTRICT
COUNCIL**

Gambling Act 2005

**STATEMENT OF LICENSING
POLICY**

Contents

Item	Page
Part A	
1. Licensing Objectives	3
2. Introduction	3
3. Declaration	4
4. Local Area Profile	4
5. Responsible Authorities	4
6. Interested Parties	5
7. Exchange of Information	6
8. Compliance and Enforcement	7
9. Licensing Authority's Functions	8
Part B - Premises licences	
1. General Principles	9
2. Conditions	10
3. Operators' Local Risk Assessments	10
4. Licensing Objectives	11
5. Adult Gaming Centres	13
6. (Licensed) Family Entertainment Centres	13
7. Casinos	14
8. Bingo Premises	14
9. Betting Premises	15
10. Tracks	15
11. Travelling Fairs	16
12. Provisional Statements	16
13. Reviews	17
Part C - Permits / Registrations, Temporary and Occasional Use Notices	
1. Unlicensed Family Entertainment Centre Gaming Machine Permits	18
2. (Alcohol) Licensed Premises Gaming Machine Permits	18
3. Prize Gaming Permits	19
4. Club Gaming and Club Machines Permits	19
5. Temporary Use Notices	20
6. Occasional Use Notices	21
7. Small Society Lotteries	22
Appendix A - Map of South Derbyshire District Council	25
Appendix B - Persons/ Bodies Consulted on Statement	26
Appendix C – Responsible Authorities Contact List	27

PART A

1. The Licensing Objectives

In exercising their functions under the Gambling Act 2005 (“the Act”), Licensing Authorities must have regard to the licensing objectives as set out in the Act. The licensing objectives are:

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

This Licensing Authority is aware that, as per Section 153, in making decisions it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

2. Introduction

South Derbyshire is situated in the County of Derbyshire which includes 8 other local authorities. South Derbyshire is a mixed urban and rural district covering approximately 338 square kilometres with a population of 94,900 (2011 estimate). The town of Swadlincote is the main focus for employment, shopping and services in South Derbyshire. Hilton and Melbourne are the District’s next largest centres of population. The District includes a number of villages and settlements, such as the historically significant Repton and Shardlow and larger villages like Hatton and Willington. A large part of the District has been included within the designated area of the National Forest. This major environmental initiative is creating a new and attractive landscape for work, recreation and wildlife.

These areas are shown in the map at Appendix A.

Licensing authorities are required by the Act to publish a statement of principles which they propose to apply when exercising their functions. This Statement of Licensing Policy (“Statement”) must be published at least every three years. The Statement must also be reviewed from “time-to-time” and any amended parts re-consulted upon. The Statement must be then re-published.

This Licensing Authority consulted widely upon this Statement before finalising. The Act requires that the following parties be consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Licensing Authority’s

- area;
- One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Licensing Authority's functions under the Act.

A list of those persons consulted is provided at Appendix B.

It should be noted that this Statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each case will be considered on its own merits and according to the statutory requirements of the Act.

This Statement details how this Licensing Authority will apply the principles detailed within the Act, how applications will be determined, the local area profile to assist applicants and existing licence holders in the completion of their own local risk assessments, and the documentation required for each different type of licence, permit or notification.

3. Declaration

In producing the final Statement, this Licensing Authority declares that it has had regard to the licensing objectives in the Act, the guidance issued by the Gambling Commission and any responses from those consulted on the Statement.

4. Local Area Profile

As part of the Social Responsibility Code, from April 2016, licensees will be required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises and have policies, procedures and control measures to mitigate those risks.

To assist in the production of the local risk assessments, this Licensing Authority has commenced an assessment of the local area in order to identify any risks that exist that would undermine the licensing objectives.

The local area profile will be available on the Council's website from March 2016 to assist applicants and licensees with their own local risk assessments.

5. Responsible Authorities

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to this Licensing Authority in relation to applications for, and in relation to, premises licences.

Responsible authorities under the Act are:

- Licensing Authority;
- Gambling Commission;
- Chief Officer of Police;
- Fire and Rescue Authority;

- Local Planning Authority;
- Environmental Pollution Department;
- Anybody designated in writing by this Licensing Authority as competent to advise about the protection of children from harm;
- HM Revenue and Customs.

In exercising its powers to designate a body which is competent to advise about the protection of children from harm, this Licensing Authority has applied the following principles:

- the need for the body to be responsible for the whole of this Licensing Authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

This Licensing Authority designates the Derbyshire Safeguarding Children Board for this purpose.

6. Interested parties

Interested parties can make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Act as persons who, in the opinion of this Licensing Authority:

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) have business interests that might be affected by the authorised activities, or
- c) represent persons who satisfy paragraph (a) or (b).

In determining whether a person is an interested party, the overriding principle is that each case will be decided upon its own merits and this Licensing Authority will not apply a rigid rule to its decision making. The factors that this Licensing Authority will take into account when determining what 'sufficiently close to the premises' means might include:

- The size of the premises;
- The nature of the premises;
- The nature of the activities at the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- The circumstances of the complainant.

The factors that this Licensing Authority will take into account in determining whether a person with business interests might be affected by the premises might include:

- The size of the premises;
- The 'catchment' area of the premises;
- Whether the person making the representation has business interests in that catchment area that might be affected.

This Licensing Authority considers that interested parties could include bodies such as trade associations, trade unions, residents' and tenants' associations. This Licensing Authority will interpret the types of organisations that may be considered to have business interests broadly to include for example partnerships, charities, faith groups and medical practices.

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. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these persons, however, this 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 has business interests that might be affected by the authorised activities. A letter from one of these persons requesting the representation is sufficient.

Any representation made in relation to a licence application must be relevant. This Licensing Authority will determine whether a representation is relevant or not. Representations are likely to be deemed relevant if they relate to one or more of the licensing objectives, this Statement or the Gambling Commission's Guidance or Codes of Practice.

The following examples are unlikely to be deemed to be a relevant representation that:

- there are already too many gambling premises in the locality (although it may be relevant if it points, as a result, to rising problems in crime, disorder, underage gambling or problem gambling);
- the proposed premises are likely to be a fire risk;
- the location of the premises is likely to lead to traffic congestion;
- the premises will cause crowds of people to congregate in one location leading to noise thereby causing a nuisance.

This Licensing Authority will not deem representations to be relevant if they are frivolous or vexatious. In deciding whether a representation is frivolous or vexatious, this Licensing Authority will consider:

- who is making the representation and whether there is a history of making irrelevant representations;
- whether it raises issues specifically to do with the premises that are subject of the application.

The above lists are by no means exhaustive and each representation will be decided on the facts.

7. Exchange of Information

This Licensing Authority will exchange information with the Gambling Commission under Section 29 and Section 30 of the Act providing that it:

- forms part of the register maintained under the Act;
- is in this Licensing Authority's possession in connection with a provision of the Act.

This Licensing Authority will exchange information with other persons or bodies under Section 350 of the Act for use in the exercise of functions under the Act.

This Licensing Authority will have regard to the Council's Data Protection Act Guidance in the exchange of information. Information can be assessed by data subjects by contacting the Council's FOI Officer.

This Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State.

With regards to representations received, the representation including the name and address will be forwarded to the applicant for consideration prior to a hearing to determine the application. The disclosure of the name and address is for the applicant to be satisfied that the person/body making the representation falls within the definition of an interested person. The report produced for the hearing will have the personal details of the person making a representation redacted as the report is a public document.

8. Compliance and Enforcement

The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with licences and permits issued by this Licensing Authority and any conditions attached to them, including compliance with relevant codes of practice, dealing with temporary permissions and small lottery registrations.

In ensuring compliance with the Act and undertaking enforcement action, this Licensing Authority will be:

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

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

This Licensing Authority will have regard to the Regulators' Code and will adopt a risk-rated approach to regulatory inspection to ensure compliance with the Act. This Licensing Authority will risk a premises based on previous compliance records and intelligence received from other responsible authorities and members of the public.

This Licensing Authority will promote efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on the business.

This Licensing Authority requires that the operators' local risk assessment is available during any inspection of the premises. As part of an inspection, this Licensing Authority would expect the operator to provide details of the number of self-exclusions and underage attempts to gamble.

This Licensing Authority will take appropriate action against any unlicensed operator or illegal gambling taking place within any premises within the District. This Licensing Authority would expect any operator to share data in relation to the source of any illegal gaming machines found on premises' and any data regarding potential illegal betting on any unlicensed premises i.e. betting intermediaries within an alcohol licensed premises.

This Licensing Authority shall comply with the Codes of Practices developed by the Crown Prosecution Service in the management of criminal cases.

Bearing in mind the principle of transparency, this Licensing Authority's Enforcement Policy is available on the Council's website.

9. Licensing Authority's Functions

This Licensing Authority will:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate Members' Clubs and Miners' Welfare institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission;
- Maintain registers of the permits, licences and registrations that are issued under these functions.

It should be noted that this Licensing Authority will not be involved in licensing remote gambling which is regulated by the Gambling Commission via operating licences.

PART B PREMISES LICENCES

1. General Principles

In determining an application for a premises licence, this Licensing Authority will only take into consideration relevant matters and will not take into consideration any irrelevant matters. This Licensing Authority will not consider if a premises is likely to obtain planning permission or building regulations approval for their proposal.

This Licensing Authority accepts the principle that moral objections to gambling are not a valid reason to reject applications for premises licences and also that an unmet demand is not a criterion for a licensing authority.

This Licensing Authority will request as much information as it requires to satisfy itself that all requirements set out in the Act are met. If an applicant can demonstrate how the licensing objectives concerns can be overcome, this Licensing Authority will take that into account when reaching a decision. Where concerns remain, this Licensing Authority may choose to attach appropriate conditions to the premises licence.

Each application will be decided on its own merits.

This Licensing Authority will take particular care in considering applications:

- For multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes; and
- Where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

In considering the above types of applications, this Licensing Authority will be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, the premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context, it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

This Licensing Authority will ask the following questions in making their decision when considering whether two or more proposed premises are truly separate:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This Licensing Authority will also consider the relevant access provisions for each type of premises licence.

2. Conditions

Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

In respect of premises which still have to be constructed or altered, an operator can apply for a premises licence rather than a provisional statement. In these circumstances, this Licensing Authority will first decide whether, as a matter of substance after applying the principles in Section 153 of the Act, the premises ought to be permitted to be used for gambling and secondly, in deciding whether or not to grant the application, this Licensing Authority will consider if 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.

Any conditions attached to a premises licence will be proportionate and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises (including the locality and any identified risks) and the type of licence applied for;
- Fairly and reasonably relate to the scale and type of premises;
- Reasonable in all other aspects.

Decision on conditions will be made on a case-by-case basis. However, there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc.

3. Operators' Local Risk Assessments

Any applicant applying for the grant or variation of a premises licence must include a local risk assessment in addition to their application. The local risk assessment must assess the local risks to the licensing objectives posed by the provision of the applicant's proposed gambling facilities at the premises. The applicant must have policies, procedures and control measures to mitigate the risks identified in the assessment. These policies and procedures must be submitted with the application.

This Licensing Authority would expect the local risk assessment to cover the following areas:

- The premises' building;
- Location of the premises;
- Protecting children;
- Protecting vulnerable people;
- Crime and disorder prevention.

This list is not exhaustive.

This Licensing Authority will require the operator to provide their local risk assessment where there are concerns in relation to the premises in order for the Licensing Authority to assess the measures in place to address the specific concerns.

This Licensing Authority would expect the local risk assessment to be reviewed following any significant changes in local circumstances i.e. new schools or hostels and any substantiated complaint in relation to the premises.

This Licensing Authority would expect the operator to work with the Licensing Authority to improve any areas of the local risk assessment that do not adequately mitigate the risks identified, have inadequate measures to reduce risks or fail to identify all of the local risks.

4. Licensing Objectives

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

Where an area is noted for particular problems with disorder or organised criminal activity, this Licensing Authority will consider carefully whether gambling premises should be located in this area and whether conditions may be appropriate to prevent those premises being associated with or used to support crime. Appropriate conditions may be a requirement for door supervisors.

This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way

This Licensing Authority does not expect to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences which are dealt with by the Gambling Commission.

If this Licensing Authority suspects that gambling is not being conducted in a fair and open way, the Licensing Authority will bring this to the attention of the Gambling Commission.

Protecting children and other vulnerable persons from being harmed or exploited by gambling

This Licensing Authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include:

- supervision of entrances / machines;
- segregation of areas;
- location of machines including cash terminals.

This Licensing Authority will consider if there are adequate staff levels in place to adequately supervise the premises in addition to the staffs' other duties.

This Licensing Authority will work with the operator to consider how any impediments to the supervision of premises might be most appropriately remedied. Remedies may include the positioning of staff or CCTV, the use of floor walkers and the relocation of the staff counter to enable a direct line of sight of the door. This Licensing Authority will consider the proportionality of changes to the physical layout in relation to other measures that could be put in place. However, if the operator fails to satisfy this Licensing Authority that the risks are sufficiently mitigated, it may be appropriate to place conditions on the premises licence or conduct a review of the premises licence.

As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it does, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This Licensing Authority will consider this licensing objective on a case-by-case basis.

This Licensing Authority will also ensure that where Category C or above 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.

This Licensing Authority is aware that tracks may be subject to one or more premises licence, provided each licence relates to a specified area of the track. This Licensing Authority will consider the impact upon this licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

With regards to test purchasing, this Licensing Authority will require the larger operators, who are required to carry out independent test purchasing, to share their results with this Licensing Authority at inspection and on request. With regards to smaller operators,

who are not required to carry out their own test purchasing, this Licensing Authority may require the operator to carry out independent test purchasing if it is appropriate to do so i.e. if the operator fails a test purchase.

5. Adult Gaming Centres

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy this Licensing Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entrances;
- Notices / signage;
- Specific opening hours;
- Self- exclusion schemes;
- 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 would expect an operator's local risk assessment to cover the measures listed above.

In addition to the above, the applicant must provide this Licensing Authority with details of their proposed gaming machine supplier. Checks will be carried out by this Licensing Authority to ensure that the proposed supplier is licensed with the Gambling Commission to supply gaming machines. This Licensing Authority will inform the Gambling Commission if there are any concerns over potential unlicensed suppliers.

6. (Licensed) Family Entertainment Centres

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy this Licensing Authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entrances;

- Notices / signage;
- Specific opening hours;
- Self- exclusion schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare;
- Measures / training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. The Licensing Authority would expect an operator's local risk assessment to cover the measures listed above.

This Licensing Authority will expect any applicant to provide details of how they will supervise the family entertainment centre. This Licensing Authority will expect the supervising staff to be fully trained in order to ensure that none of the licensing objectives are undermined i.e. the staff member should be able to adequately deal with any young or vulnerable person within the premises.

In addition to the above, the applicant must provide this Licensing Authority with details of their proposed gaming machine supplier. Checks will be carried out by this Licensing Authority to ensure that the proposed supplier is licensed with the Gambling Commission to supply gaming machines. This Licensing Authority will inform the Gambling Commission if there are any concerns over potential unlicensed suppliers.

7. Casinos

This Licensing Authority has not passed a 'no casino' resolution under the Act but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this statement with details of that resolution. Any such decision will be made by the Full Council.

8. Bingo premises

When considering any application for a bingo premises, this Licensing Authority will satisfy themselves that bingo can be played in the premises to which the application relates. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises licence from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

Gaming machines may be available for use in licensed bingo premises only on those days when sufficient facilities for playing bingo are also available for use.

Children and young people are allowed into bingo premises: however they are not permitted to participate in the bingo and if Category B or C machines are made available for use these must be separated from areas where children and young people are allowed. To ensure that children and young people do not have access to gaming machines, this Licensing Authority will ensure 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 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.

9. Betting premises

It is not permissible to offer gaming machines on premises which are licensed for betting but not to offer sufficient facilities for betting.

In considering whether to restrict the number of betting machines, this Licensing Authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people.

10. Tracks

Tracks are defined in the Act as 'a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.' Examples of a track are football, cricket and rugby grounds, a motor racing event and venues hosting darts, bowls or snooker tournaments. This list is by no means exhaustive as betting could take place at any venue where a sporting or competitive event is occurring.

This Licensing Authority will expect applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than Category D machines) are provided.

Factors which this Licensing Authority may consider include:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entrance;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes;
- 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 would expect an operator's local risk assessment to cover the

measures listed above.

Where the applicant holds a pool betting licence and is going to use the entitlement to four gaming machines, applicants should demonstrate that machines (other than category D machines) will be located in areas from which children are excluded.

In considering whether to restrict the number of betting machines, this Licensing Authority will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people.

The Act requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. Plans for tracks do not need to be in a particular scale but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. The proposed gambling facilities must be clearly indicated on the plan. A precise location will not be required; however the plan should indicate the main areas that betting might take place. The plans should also make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

11. Travelling Fairs

Where Category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair must be met.

This Licensing Authority will consider whether the applicant falls within the statutory definition of a travelling fair.

A site must not be used for fairs on more than 27 days per calendar year. The 27 day statutory maximum applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will monitor the use of land and maintain a record of the dates on which the land is used. In addition, this Licensing Authority will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

12. Provisional Statements

Applicants for premises licence must fulfil certain criteria. They must hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they must have the right to occupy the premises in respect of which their premises licence application is made. However, these restrictions do not apply in relation to an application for a provisional statement.

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

The Act provides for a person to make an application to this Licensing Authority for a provisional statement in respect of premises that he or she expects to:

- Be constructed;
- Be altered; or
- Acquire a right to occupy.

The process for considering an application for a provisional statement is the same as for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible Authorities and interested parties may make representations and there is a right of appeal.

Once the premises are constructed, altered or acquired, the holder of a provisional statement can return to this Licensing Authority and submit an application for the necessary premises licence.

13. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for this Licensing Authority to decide whether the review is to be allowed.

The request for the review will be subject to the consideration by this Licensing Authority as to whether the request:

- is relevant to the principles that must be applied by this Licensing Authority in accordance with the Act;
- is frivolous;
- is vexatious;
- 'will certainly not' cause this Licensing Authority to wish to alter, revoke, or suspend the licence
- is substantially the same as previous representations or requests for review.

This Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence.

In relation to a class of premises licence, this Licensing Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with the licence conditions.

In relation to a particular premises, this 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 this Licensing Authority cause to believe that a review may be appropriate. A formal review would normally be at the end of the process of ensuring compliance by the licence holder. If the licence holder does not meet the requirements then, after a formal review, this Licensing Authority may impose additional conditions or revoke the licence.

PART C

Permits, Registrations, Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre Gaming Machine Permits

The application will be in the form and manner as specified by this Licensing Authority. The application form must be accompanied by the relevant fee and a plan of the premises indicating the location of the gaming machines. The application must be served on the Licensing Authority only.

The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre. Applications for a permit cannot be made if a premises licence is in effect for the same premises.

This Licensing Authority considers that the applicant should 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 policies and procedures may include:

- staff training to ensure that staff have a full understanding of the maximum stakes and prizes permitted under the permit;
- appropriate measures and training for staff as regards suspected truant school children on the premises;
- measures and training covering how staff would deal with unsupervised very young children being on the premises; or
- children causing perceived problems on or around the premises.

The above policies and procedures must be submitted with the application and be available on request at inspection.

This Licensing Authority will expect any applicant to provide details of how they will supervise the family entertainment centre. This Licensing Authority will expect the supervising staff to be fully trained in order to ensure that none of the licensing objectives are undermined i.e. the staff members should be able to adequately deal with any young person or vulnerable person within the premises.

In addition to the above, the applicant must provide this Licensing Authority with details of their proposed gaming machine supplier. Checks will be carried out by this Licensing Authority to ensure that the proposed supplier is licensed with the Gambling Commission to supply gaming machines. This Licensing Authority will inform the Gambling Commission if there are any concerns over potential unlicensed suppliers.

2. (Alcohol) Licensed Premises Gaming Machine Permits

The application will be in the form and manner specified by this Licensing Authority. The application form must be accompanied by the relevant fee. The application must be served on this Licensing Authority only.

This Licensing Authority will consider each application on a case-by-case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling, and will expect the applicant to satisfy this Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

The permit holder must be capable of demonstrating compliance with the conditions detailed in the Code of Practice issued by the Gambling Commission and this Licensing Authority would expect the permit holder to implement the best practice set out in the Code of Practice. This Licensing Authority will ensure adherence to the Code of Practice through ad hoc risk rated inspections at the premises. This Licensing Authority may carry out test purchase exercises to ensure that the Code of Practice is being complied with.

3. Prize Gaming Permits

The application will be in the form and manner as specified by this Licensing Authority. The application form must be accompanied by the relevant fee. The application must be served on this Licensing Authority only.

The permit can only be applied for by a person who occupies or plans to occupy the premises and any individual applicant must be over 18 years of age.

This Licensing Authority will require the applicant to set out the types of gaming that they intend to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in regulations;
- that gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children from harm.

The above policies and procedures must be submitted with the application and be available on request at inspection.

In making its decision on an application for this permit, this Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

4. Club Gaming and Club Machine Permits

The application form must be accompanied by the relevant fee and the existing permit if the application is a renewal application. The application must be served on the Gambling Commission and the Police, in addition to the Licensing Authority, unless the applicant is applying under the fast track procedure. The application must be served on the Gambling Commission and Police within 7 days of submitting the application to the Licensing Authority.

If the applicant is not applying under the fast track procedure, the applicant must submit the following documents in addition to the application form to assist this Licensing Authority in determining whether the club meets the requirements of the Act:

- club rules and constitution;
- copy of the membership list;
- annual accounts for the past two years; and
- details of the committee members and proof of their election.

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A (no more than one), B4, C or D), equal chance gaming and games of chance.

Members Clubs, Miners' Welfare Institutes and Commercial Clubs may apply for a Club Machine Permit. A Club Machine Permit will only enable the premise to provide gaming machines (3 machines of categories B3A (no more than one), B4, C or D). Commercial clubs are not allowed to provide category B3A gaming machines.

This Licensing Authority may only refuse an application on the grounds that:

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

There is also a 'fast-track' procedure available under the Act 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, and the ground upon which this Licensing Authority can refuse a permit are that:

- (a) the club is established primarily for gaming, other than gaming prescribed under Schedule 12;
- (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

The permit holder must be capable of demonstrating compliance with the conditions detailed in the Code of Practice issued by the Gambling Commission and this Licensing Authority would expect the permit holder to implement the best practice set out in the Code of Practice. This Licensing Authority will ensure adherence to the Code of Practice through ad hoc risk rated inspections at the premises. This Licensing Authority may carry out test purchase exercises to ensure that the Code of Practice is being complied with.

5. Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no

premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.

This Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner.

With regards to Temporary Use Notices, the Act refers to a 'set of premises' and provides that a set of premises is the subject of a Temporary Use Notice if 'any part' of the premises is the subject of a notice. The reference to a 'set of premises' prevents one large premises from having a Temporary Use Notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises. In considering whether a place falls within the definition of "a set of premises", this Licensing Authority will consider the ownership and/or occupation and control of the premises.

The holder of a relevant operating licence must give notice to this Licensing Authority on the prescribed form with the relevant fee. The notice must be submitted to this Licensing Authority not less than 3 months and one day before the proposed event. The notice must be submitted with the relevant fee. The notice must also be served on:

- The Police;
- The Gambling Commission; and
- HMRC

The above responsible authorities must receive the notice within 7 days of the date of the notice.

On receipt of the notice, this Licensing Authority will acknowledge the notice as long as no objection notice is received within the 14 day representation period. If a relevant representation is received, this Licensing Authority will hold a hearing to consider the notice and representation(s). An applicant will be provided with more information of the hearing procedure at the time.

This Licensing Authority shall consider objecting 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.

6. Occasional Use Notices

Initially, the applicant is advised to contact this Licensing Authority who will advise whether they can authorise their planned provision of gambling facilities by way of an occasional use notice.

The notice must be served on this Licensing Authority and the Police by the person responsible for the administration of events on the track i.e. the event organiser or the occupier of the track. The notice must state the address and location details of the track, the proposed event, the date and time of the event and the details of the licensed operator.

Provided that the event will not exceed the statutory eight days in a calendar year and there are no issues with the proposed licensed operator, this Licensing Authority will acknowledge the notice on receipt.

This 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. This Licensing Authority will consider the definition of a 'track' and whether the applicant is permitted to serve the notice.

7. Small Society Lotteries

This Licensing Authority is responsible for the registration of small society lotteries. These are non-commercial societies as defined in the Act as being established and conducted:

- For charitable purposes;
- For the purpose of enabling participation in, or supporting, sport, athletics, or a cultural activity; or
- For any other non-commercial purposes other than that of private gain.

To apply for registration, the application form and relevant fee must be served on this Licensing Authority only. The promoter must apply to the licensing authority in whose area their principal office is located. In addition to the application form and fee, this Licensing Authority will require the applicant to submit their terms and conditions and their constitution to assist the Licensing Authority in establishing that they are a non-commercial society.

As the purpose of the small society lottery is to raise money for the small society, it is a requirement that a minimum proportion of the money raised by the lottery is used by the small society to achieve their goals. If a small society lottery does not comply with the following limits it will be in breach of the Act's provisions:

- At least 20% of the lottery proceeds must be applied to the purposes of the small society;
- No single prize may be worth more than £25,000;
- Rollovers are only permitted where the lottery is promoted by the same small society and the maximum single prize is £25,000;
- Every ticket must cost the same and payment must be taken before entry in the draw is permitted.

To check the limits, the promoter must submit a return after each lottery held; no more than 3 months after the date of the lottery draw. The return must be signed by two members of the society who are over 18 years of age, are appointed for that purpose by the society and be accompanied by a copy of their letter of appointment.

This Licensing Authority requires that tickets must not be sold in a street where a street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls). Tickets may be sold in a street from a kiosk, in a shop or door-to-door.

The small society must keep written records of all unsold and returned tickets for a period of one year from the date of the lottery draw.

This Licensing Authority will adopt a risk based approach towards its processing and enforcement responsibilities for small society lotteries in accordance with the principles contained in the Gambling Commission's Guidance. This Licensing Authority considers that the following list, although not exclusive, could affect the risk status of the operator:

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

FURTHER INFORMATION

Anybody wishing to contact the Licensing Authority with regard to this Statement, the Act or the application process can do so as follows:

In writing South Derbyshire District Council
 Licensing Department
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

By email licensing@south-derbys.gov.uk

By telephone 01283 595 716/890

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Appendix A - Map of Area South Derbyshire District Council



Appendix B - Persons / Bodies Consulted on Statement

Elected Members, South Derbyshire District Council
Town and Parish Councils in South Derbyshire

Responsible Authorities

Derbyshire Constabulary
Derbyshire Fire and Rescue Service
Derbyshire Area Children Protection Committee (ACPC) / Safeguarding Board (SB)
South Derbyshire District Council Pollution Control Team
Gambling Commission
HM Revenue and Customs
South Derbyshire District Council Planning
South Derbyshire District Council Licensing Authority

Others

Development and Building Control Manager, South Derbyshire District Council
Legal and Democratic Services of South Derbyshire District Council
Environmental Health Manager
Gam Care
British Amusement Catering Trade Association (BACTA)
Gambling Anonymous
Responsible Gambling Trust
Salvation Army
Racecourse Association
British Holiday and Home Parks Association
Bingo Association
British Beer and Pub Association
Working Men's Club & Institute Union
Greyhound Board of Great Britain
Association of British Bookmakers
Lotteries Council
Hospice Lotteries Association
National Casino Forum
Representatives of the holders of the various licences for premises in the District who will be affected by this policy

Appendix C - Responsible Authorities Contact List

<p style="text-align: center;"><u>Licensing Authority</u></p> <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>licensing@south-derbys.gov.uk</p>	<p style="text-align: center;"><u>Police</u></p> <p>Derbyshire Constabulary Licensing Section Derby Divisional HQ St. Mary's Wharf Prime Park Way Chester Green Derby DE1 3AB</p> <p>derby.licensing@derbyshire.pnn.police.uk</p>
<p style="text-align: center;"><u>Fire And Rescue</u></p> <p>Derbyshire Fire & Rescue Service South Area Office Ascot Drive Community Fire Station Ascot Drive Derby DE24 8GZ</p> <p>SouthAreaAdmin@derbys-fire.gov.uk</p>	<p style="text-align: center;"><u>Gambling Commission</u></p> <p>Victoria Square House Victoria Square Birmingham B2 4BP</p> <p>info@gamblingcommission.gov.uk</p>
<p style="text-align: center;"><u>Planning</u></p> <p>Head of Planning Services Planning Service South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>planning@south-derbys.gov.uk</p>	<p style="text-align: center;"><u>Environmental Health - Pollution</u></p> <p>Environmental Health Division South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>environmental.health@south-derbys.gov.uk</p>
<p style="text-align: center;"><u>Customs & Excise</u></p> <p>HM Revenue & Customs National Registration Unit Port Cullis House 21 India Street Glasgow G2 4PZ</p> <p>nrubetting&gaming@hmrc.gsi.gov.uk</p>	<p style="text-align: center;"><u>Derbyshire Safeguarding Children Board</u></p> <p>Chatsworth Hall Chesterfield Road Matlock Derbyshire DE4 3FW</p> <p>trading.standards@derbyshire.gov.uk</p>

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REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 7
DATE OF MEETING:	1ST OCTOBER 2015	CATEGORY: DELEGATED/ RECOMMENDED
REPORT FROM:	CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	EMMA McHUGH (EXT: 5716) emma.mchugh@south-derbys.gov.uk	DOC:
SUBJECT:	KEY PERFORMANCE INDICATORS – LICENSING DEPARTMENT	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: EDS

1. Recommendations

1.1 That Members note the performance of the Licensing Department in relation to the Key Performance Indicators

2. Purpose of Report

2.1 To provide Members with an update on the Licensing Department and the Key Performance Indicators

3. Detail

3.1 As part of the audit of the Licensing Department held in 2014, service standards were put in place with regards to target times for the processing of complete applications and dealing with any complaints received by the Department.

3.4 The Licensing Department will provide a quarterly update as to the Department's performance against the service standards. The results for the quarter from May 2015 to July 2015 are:

Private Hire Licensing

Private Hire Vehicles – application to license a vehicle as a private hire vehicle includes depot test, insurance, MOT, logbook and road tax (5 days)	98%
Private Hire Drivers – application to license a 'fit and proper' individual as a private hire driver includes criminal record check, knowledge test, medical, eye test, driving history check and DVSA practical driving test (10 days)	97%
Private Hire Operators – application to license company or individual(s) to	

accept bookings and to give bookings to licensed drivers and vehicles includes insurance and planning permission check (5 days)	100%
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Licensing Act 2003

<p>Personal licence – application to license individual to authorise the sale of alcohol and to act as designate premises supervisor (10 days).</p> <p>Due to changes to the legislation in April 2015, where a personal licence now lasts indefinitely, the Licensing Department received a large volume of applications in a short period of time</p>	71%
Grant of premises licence – application to authorise licensable activities at a premises including sale of alcohol, regulated entertainment and/or late night refreshment (15 days after grant)	100%
Variation of designated premises supervisor – application to change the individual who authorises the sale of alcohol on a premises licence (15 days after grant)	100%
Transfer of premises licence holder – application to transfer the premises licence from one person/company to another (15 days after grant)	100%
Variation of premises licence – application to vary the premises licence to change the permitted licensable activities and/or times (15 days after grant)	100%
Minor variation of premises licence – application to make minor changes to a premises licence i.e. change of plan (15 days after grant)	100%
Temporary event notice – notice to authorise licensable activities for a limited period (1 day)	100%

Enforcement

Acknowledgement of complaint within 2 days	100%
Letter detailing works required within 10 days	100%
Notify complainant of outcome of investigation within 10 days	100%

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4. Financial Implications

4.1 There are no financial implications to the Council.

5. Corporate Implications

5.1 The service standards demonstrate that we support local businesses whilst protecting local residents which contribute directly to the corporate vision to make South Derbyshire a better place to live, work, and visit, and to the theme of sustainable growth and opportunity and safety and security.

REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 8
DATE OF MEETING:	1 ST OCTOBER 2015	CATEGORY: DELEGATED/ RECOMMENDED
REPORT FROM:	CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	EMMA McHUGH (EXT: 5716) emma.mchugh@south-derbys.gov.uk	DOC:
SUBJECT:	LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: EDS

1. Recommendations

1.1 That Members approve the Council's Licensing Act 2003 Statement of Licensing Policy ("the Policy").

2. Purpose of Report

2.1 To provide Members with the outcome of a consultation with interested parties.

2.2 To provide Members with the necessary information to be able to give full consideration to the recommendation contained in paragraph 1.1 of this report.

3. Detail

3.1 Section 5 of the Licensing Act 2003 ("the Act") requires the Licensing Authority to prepare and publish a statement of its licensing policy every 5 years. The Licensing Authority's current Policy was published in January 2011.

3.2 The Policy has been updated to reflect the changes to the Act since 2011.

Consultation

3.3 The Act requires the Licensing Authority to consult with relevant parties on any revision of the Policy. The consultation took place between 13th July 2015 and 4th September 2015. Copies of the Policy were sent to all Responsible Authorities, existing licensees and other major stakeholders. The Policy was also placed on the Council's website.

3.4 One response was received in relation to the Policy from Councillor Harrison. No other responses were received. The draft Policy is attached as **Appendix 1**.

4. Financial Implications

4.1 There are no financial implications to the Council.

4.2 Recommendation 1.1 will have no financial implications on existing licence holders.

5. Corporate Implications

5.1 These proposals will provide a clear framework for anyone wishing to start their own business which will contribute directly to the corporate vision to make South Derbyshire a better place to live, work, and visit, and to the theme of sustainable growth and opportunity.

5.2 These proposals will continue to demonstrate to members of the public that the Council takes the protection of local residents, children, and vulnerable adults from the potential harms of licensable activities seriously, which contributes to the theme of safety and security.



**South
Derbyshire**
District Council

Licensing Act 2003

Statement of Licensing Policy

Contents of Policy

Reference	Detail	Page
1.	Introduction	3
2.	Aim of the Policy	4
3.	Purpose of the Policy	4
4.	Application Process	5
5.	Right to make Representations and Consultations	6
6.	Cumulative Impact	7
7.	Licensing Hours	9
8.	Use of Standard Conditions	9
9.	Prevention of Crime and Disorder	9
10.	Public Safety	10
11.	Prevention of Public Nuisance	11
12.	Protection of Children from Harm	12
13.	Temporary Event Notices (TEN)	13
14.	Integrating Strategies	14
15.	Promotion of Equality	15
16.	Enforcement	15
17.	Designated Premises Supervisors and Personal Licence Holders	16
18.	Review of Premises Licence or Club Premises Certificates	16
19.	Fees	17
20.	Sexual Entertainment	17
21.	Early Morning Restriction Orders (EMRO)	17
22.	Administration and Delegation of Functions	18
23.	Contact Details	18
Appendix A	Map of the District	19
Appendix B	Licensing Scheme of Delegation	20
Appendix C	Responsible Authority Contact List	22

1. Introduction

1.1 South Derbyshire District Council is the Licensing Authority under the Licensing Act 2003 (“the Act”). The Licensing Authority makes this Statement of Licensing Policy (“the Policy”) in accordance with Section 5 of the Act. It explains how the Licensing Authority will carry out its role under the Act.

1.2 In carrying out its functions, this Licensing Authority will have regard to the Section 182 Guidance issued by the Secretary of State and the Policy. This Licensing Authority will carry out its functions with a view to actively promoting the four licensing objectives:

- Prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance; and
- Protection of children from harm.

Each licensing objective is of equal importance. The promotion of the licensing objectives is of paramount consideration at all times for this Licensing Authority carrying out their functions.

1.3 South Derbyshire is situated in the County of Derbyshire which includes 8 other local authorities. South Derbyshire is a mixed urban and rural district covering approximately 338 square kilometres with a population of 94,900 (2011 estimate). The town of Swadlincote is the main focus for employment, shopping and services in South Derbyshire. Hilton and Melbourne are the District’s next largest centres of population. The District includes a number of villages and settlements, such as the historically significant Repton and Shardlow and larger villages like Hatton and Willington.

1.4 A large part of the District has been included within the designated area of the National Forest. This major environmental initiative is creating a new and attractive landscape for work, recreation and wildlife. A map of the District is attached as Appendix A.

1.5 In producing the Policy, this Licensing Authority is required to consult with the following persons:

- The Chief Officer of Police;
- The Fire and Rescue Authority;
- Local Authority’s Director of Public Health in England;
- Other Responsible Authorities;
- Bodies/persons representative of local premises licence holders;
- Bodies/persons representative of local club premises certificate holders;
- Bodies/persons representative of local personal licence holders;
- Bodies/persons representative of businesses and residents in the area.

1.6 This Licensing Authority carried out an 8 week consultation period with the above persons. In addition, the Policy was placed on the Council’s website for consultation. The views of all persons have been given appropriate weight and all comments considered in an objective and reasoned way.

1.7 The Policy comes into effect on 7th January 2016 until 7th January 2021. During this period, this Licensing Authority will keep the Policy under review and make any changes as it thinks appropriate following consultation with the above persons.

2. Aim of the Policy

2.1 In addition to the four licensing objectives, this Licensing Authority will seek to promote the following aims and objectives so long as they do not conflict with the four statutory licensing objectives:

- secure the safety and amenity of our communities;
- facilitate a safe and sustainable licensed trade that contributes to the economy and vibrancy of the District through minimising the regulatory burden on businesses, encouraging innovation and supporting responsible premises;
- reflect the needs of the community in relation to its cultural needs and diversity by supporting licensable activities, including live music, dancing, theatre and the other cultural experiences offered by such activities;
- effectively manage the night time economy and take action against those premises that are causing problems.

2.2 To achieve these aims, this Licensing Authority is committed to promoting best practice and to working in partnership with Derbyshire Constabulary, Derbyshire Fire and Rescue Service, other Responsible Authorities, local licensing authorities, local agencies, the licensed trade, other local businesses and local communities to promote the objectives as set out in the Policy.

3. Purpose of the Policy

3.1 The Policy is concerned with the administration of the licensing functions required of this Licensing Authority under the Act. The Act regulates the following licensable activities:

- The sale by retail of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- Regulated entertainment;
- Late night refreshment.

3.2 The above licensable activities are authorised by premises licence, club premises certificate and/or temporary event notices. In addition, this Licensing Authority is responsible for personal licences.

3.3 With the introduction of the Live Music Act 2012 and the deregulation of what is classed as regulated entertainment, this Licensing Authority will determine what is regulated entertainment on a case-by-case basis based on the information provided by the applicant or existing licence holder. Any applicant or existing licence holder is advised to contact this Licensing Authority for further advice in order to discuss their proposed event/activities.

3.4 The Policy is designed to provide guidance for all parties involved or affected by the above licensable activities with the District. This includes:

- Applicants;
- Licence holders;
- Organisations or individuals planning events;
- Statutory agencies;
- Residents and business in the neighbourhood;
- Licensing decision makers.

- 3.5 As this Licensing Authority does not operate in a vacuum, there will be a high degree of overlap between licensing and other areas of regulation such as planning, building control, noise nuisance and health and safety, etc. However, this Licensing Authority can only deal with licensing issues and will not duplicate the requirements of other legislation. This Licensing Authority will not attach conditions to any premises licence or club premises certificate which are already provided for in other legislation. However this Licensing Authority would consider attaching appropriate conditions, for the promotion of the licensing objectives, if other legislation does not cover the unique circumstances of the proposed licensable activities.
- 3.6 This Licensing Authority recognises that the Act is not a mechanism for the control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business, which holds the licence, certificate or notice. However, licensing is a key aspect for the successful control and management of the leisure and night-time economy in town centres therefore this Licensing Authority would expect all licensees to be responsible for minimising the impact of their activities and the behaviour of their patrons on others within the vicinity of the premises.
- 3.7 The Policy will not undermine the right of any individual to apply for a variety of permissions and to have any such application considered on its individual merits, nor will it override the right of any person to make a representation on an application or seek review of a licence where provision has been made for them to do so in the Act.

4. Application Process

- 4.1 Applicants should set out the steps they intend to take to promote the licensing objectives in their operating schedule on the application form. This Licensing Authority would expect an applicant to carry out a full risk assessment of the premises and proposed licensable activities in producing the operating schedule. Any steps identified in the operating schedule will become a condition on the licence or certificate if granted.
- 4.2 Applicants are urged to discuss their proposals with this Licensing Authority and the Responsible Authorities prior to submitting an application. This will enable them to seek advice when formulating their operating schedule and may avoid the need for a hearing in response to relevant representations from a Responsible Authority.
- 4.3 Under the Act, the applicant is responsible for submitting a copy of the application on the Responsible Authorities unless the application is submitted online. If the application is submitted online, this Licensing Authority will forward a copy of the application to the Responsible Authorities.
- 4.4 Unless relevant representations are received from Responsible Authorities or other persons, there is no provision for this Licensing Authority to impose conditions on a licence and/or certificate other than in accordance with the operating schedule and relevant mandatory conditions. If no representations are made in respect of an application, this Licensing Authority is obliged to issue the licence and/or certificate on the terms sought.
- 4.5 Applications will not be valid unless properly made in accordance with the Act.
- 4.6 As part of the application procedure for a new or variation premises licence or club premises certificate, this Licensing Authority requires the applicant to provide a copy of the newspaper notice, to include the name of the newspaper and the date the notice appeared, in order to satisfy this Licensing Authority that the requirements of the Act have been complied with.

4.7 In addition, this Licensing Authority will check the notice displayed at the premises during the 28 days representation period. If the notice is not displayed at the time of the check, this Licensing Authority will notify the applicant and will commence the 28 days representation period from the day after the notice was displayed. A further check will be then carried out to ensure that the notice is displayed.

5. Right to Make Representations and Consultation

5.1 Responsible Authorities are public bodies that must be notified of applications and are entitled to make representations in relation to the application for the grant, variation or review of a premises licence or club premises certificate.

5.2 Responsible Authorities include:

- This Licensing Authority;
- The Chief Officer of Police;
- Fire and Rescue Authority;
- Health and Safety Enforcing Authority under the Health and Safety at Work etc. 1974;
- Environmental Health;
- Planning Authority;
- Body representing those who are responsible for matters relating to the protection of children from harm;
- Local Authority's Director of Public Health in England;
- Trading Standards.

5.3 There may be additional Responsible Authorities that must be served notice of the application e.g. vessels. The applicant is advised to contact this Licensing Authority for further advice.

5.4 This Licensing Authority designates the Derbyshire Safeguarding Children Board as the body representing those who are responsible for matters relating to the protection of children from harm.

5.5 This Licensing Authority can act as a Responsible Authority in its own right. This Licensing Authority will determine when it is appropriate to act in its capacity as a Responsible Authority. This decision will be made with a view to promoting the licensing objectives and having regard to this Policy and the Guidance issued under Section 182.

5.6 This Licensing Authority will not act as a Responsible Authority on behalf of other parties i.e. local residents, local councillors or community groups. Such parties can make representations in their own right. However, if these parties have failed to act and this Licensing Authority is aware of relevant grounds to make a representation, it may choose to act in its capacity of a Responsible Authority.

5.7 This Licensing Authority will expect other Responsible Authorities to intervene where the basis for the intervention falls within the remit of that other Responsible Authority e.g. the Police should make representations on issues that undermine the crime and disorder licensing objective. This Licensing Authority will work with other Responsible Authorities to provide relevant intelligence that may provide more information in relation to their own evidence.

5.8 In acting in its role as Licensing Authority and Responsible Authority, this Licensing Authority will ensure that there is a clear separation of responsibilities to ensure procedural fairness and

eliminate conflicts of interest. The Officer advising the Licensing and Appeal Sub-Committee will be a different Officer to the Officer who is acting as the Responsible Authority.

- 5.9 In addition to Responsible Authorities, any other persons which include any individual, body or business is entitled to make a representation in relation to an application to grant, full variation, minor variation or review of a premises licence or club premises certificate regardless of their geographical proximity to the premises. Any other person may seek the review of a premises licence or club premises certificate in their own right.
- 5.10 In accordance with the Act for premises licenses and a club premises certificate, this Licensing Authority must consider relevant representations as part of the licensing process. A representation is 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. In addition, a representation must not be frivolous or vexatious. The Licensing Authority will decide if a representation is frivolous or vexatious on the basis of what might ordinarily be considered to be frivolous or vexatious.
- 5.11 This Licensing Authority will notify the person making the representation of the decision that a representation is not relevant as soon as practicably possible in order to provide that person with the opportunity to make a relevant representation before the end of the 28 days representation period. This will depend when the initial representation was received as there may not be the chance to provide an opportunity to make a relevant representation if the representation was received towards the end of the representation period.
- 5.12 This Licensing Authority is required to provide the applicant with copies of any relevant representations that have been made. This will include the name and address of the person making representations. This Licensing Authority will only consider withholding some or all of the person's personal details if the circumstances justify the action i.e. a genuine and well-founded fear of intimidation. The personal details of any person making a representation will be redacted in the report that is prepared for the Licensing and Appeals Sub-Committee held to determine the application.

6. Cumulative Impact

- 6.1 In certain situations, the number, type and density of premises selling alcohol may be associated with serious problems of nuisance and disorder. Where a significant number of licensed premises concentrated in one area are having a negative impact on the licensing objective, this Licensing Authority may consider that an area has become saturated. In these circumstances, where evidence is brought to the attention of this Licensing Authority which supports the need for a special policy, it will consider the evidence and, if satisfied, where appropriate and necessary, will include an approach to cumulative impact in the Policy.
- 6.2 This Licensing Authority has received no evidence that would make it consider that the adoption of a saturation policy is currently necessary for South Derbyshire.
- 6.3 This Licensing Authority will review the requirement for a saturation policy in line with the 5 year review of the Policy. However, this does not prevent any Responsible Authority presenting evidence to this Licensing Authority at any time to request the consideration of adopting a saturation policy.
- 6.4 If any evidence is received, this Licensing Authority will take the following steps in considering whether to adopt a saturation policy within the Policy:

- identification of concern about crime and disorder, public safety, public nuisance or protection of children from harm;
- consider whether it can be demonstrated that crime and disorder or nuisance are occurring or whether there are activities which pose a threat to public safety or the protection of children from harm;
- if such problems are occurring, identify whether these problems are being caused by the customers of licensed premises or that the risk of cumulative impact is imminent;
- identify the boundaries of the area where problems are occurring;
- consult with those specified by Section 5(3) of the Act and, subject to the outcome of the consultation, include and publish details of the saturation policy in the Policy.

6.5 The absence of a saturation policy does not prevent any Responsible Authority or other persons making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

6.6 This Licensing Authority regards the adoption of a saturation policy as being exceptional. Many other mechanisms exist outside the licensing regime that are available to address such issues. For example:

- planning controls;
- positive measures to create a safe and clean town and village centres environment in partnership with local businesses, transport operators and other departments of the Council;
- the provision of CCTV surveillance in town and village centres, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of the Council to designate parts of the District as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution for the offence of selling alcohol to people who are drunk (or allowing such a sale);
- the power of Derbyshire Constabulary to instantly close down, for up to 24 hours (extendable to 48 hours), any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- the power of the Police, other Responsible Authorities or other persons to seek a review of a licence or certificate;
- raising a contribution to policing the late night economy through a late night levy;
- early morning alcohol restriction orders.

6.6 This Licensing Authority does not intend to use alternative measures such as fixed closing times, staggered closing times and zoning within the area. Each case will be decided on its own merits based on the representations received. Each decision made will be made in accordance with what is appropriate to promote the licensing objectives.

6.7 There can be confusion between the 'need' for premises and the 'cumulative impact' of premises on the licensing objectives. 'Need' concerns the commercial demand for a premises. This Licensing Authority will not consider the question of 'need' in determining an application as it falls outside of the remit of the licensing regime.

7. Licensing Hours

- 7.1 This Licensing Authority will determine licensing hours on the individual merits of each application, but the presumption will be to grant the hours requested unless there are specific objections to those hours raised by Responsible Authorities or any other persons on the basis of the licensing objectives. If such objections are raised, the hours will be decided at a hearing of the Licensing and Appeals Sub Committee. This Licensing Authority recognises that longer licensing hours for the sale of alcohol can avoid large numbers of people leaving premises at the same time. This in turn can reduce the friction at late night fast food outlets, provision of private hire vehicles and other sources of transport, which can lead to disorder and disturbance. This Licensing Authority will not impose conditions known as zoning that artificially fixes opening hours for any premises or area of the District.
- 7.2 This Licensing Authority may impose stricter conditions with regard to noise control in areas, which have denser residential accommodation, although this will not prejudice consideration of individual applications where the licensing objectives are observed.
- 7.3 With regard to shops, stores and supermarkets, this Licensing Authority will allow the sale of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless to do so would undermine the licensing objectives.

8. Use of Standardised Conditions

- 8.1 Conditions (other than mandatory conditions and those attached in accordance with the operating schedule) may only be attached to a premises licence or club premise certificate if relevant representations are received and it is satisfied, as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the licensing objectives. Any such conditions will be tailored to the individual style and characteristics of the premises and events concerned.
- 8.2 Standardised or blanket conditions will be avoided. However, this Licensing Authority may draw from the Licensing Authority's Pool of Model Conditions on the Council's website to ensure that all conditions attached are clear, enforceable and expressed in plain language capable of being understood by those expected to comply with them.
- 8.3 Applicants are recommended to identify key issues in their operating schedules so to reduce the likelihood of representations from Responsible Authorities and/or other persons.

9. Prevention of Crime and Disorder

- 9.1 This Licensing Authority is committed to reducing crime and disorder across the District through its statutory duty under the Crime and Disorder Act 1998. In addition, this Licensing Authority is committed to further improving quality of life for the people of South Derbyshire by continuing to reduce crime and the fear of crime.
- 9.2 This Licensing Authority will expect applicants to detail in their operating schedule the reasonable steps that they propose to take to deter and prevent crime and disorder.
- 9.3 This Licensing Authority will work in partnership with local Pub Watch schemes operating in the District in order to support licence holders to actively prevent crime and disorder issues and to form strategies to reduce current levels. Examples of strategies would address matters such as underage sales, problems associated with drunken behaviour of groups or individuals, prevention of the use of drugs, along with violent and anti-social behaviour.

- 9.4 As the lead body on crime and disorder, this Licensing Authority works very closely with Derbyshire Constabulary on tackling problem premises as well as working together to provide advice and guidance to all licensed premises. In addition to this, this Licensing Authority is an active member of the South Derbyshire Violence, Alcohol Harm and Licensing Group set up in order to tackle problem premises through joint working with all other relevant agencies.
- 9.5 This Licensing Authority recommends that applicants consider the following when preparing their operating schedule:
- The capability of the person who is in charge to run the premises;
 - The applicant's intention to engage with recognised local liaison groups, such as Pub Watch, other groups/organisations such as the Council, the Parish Council, Derbyshire Constabulary, the Community Safety Partnership and other agencies working to promote the licensing objectives in the District. Applicants might make clear their intention to adopt reasonable safeguards promoted by the recognised groups/organisations;
 - Acknowledgement and implementation of the Code of Practice produced by the Portman Group, which seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older;
 - Provision of CCTV and recording equipment for inside and outside the premises;
 - Radio network communication;
 - Search facilities;
 - Use of safety and shatter-resistant glasses and receptacles;
 - Drug prevention policy;
 - Signage and crime prevention notices;
 - Door supervision;
 - Recording of incidents;
 - Capacity limits;
 - Staff training;
 - Any other relevant matter(s)
- 9.6 Even though this is not an exhaustive list of measures, applicants should only consider those measures they feel are appropriate to their premises and locality. Conditions (other than mandatory conditions) will only be attached to a licence which are consistent with their operating schedule, unless representations are received and additional conditions are considered appropriate to promote the licensing objectives.
- 9.7 A written proof of age policy implemented at the premises and responsible pricing policies are extremely important in promoting this licensing objective. Both are covered by the mandatory conditions that are attached to any licence therefore an applicant would not be expected to include these measures in their operating schedule.
- 9.8 There are a number of offences within the Act and other legislation that relate to crime and disorder. This Licensing Authority expects licensees to be familiar with these offences and to take action to prevent any offences occurring. These offences stand in their own right and will not be duplicated as conditions on any licence.

10. Public Safety

- 10.1 Members of the public have the right to expect when visiting licensed premises that due consideration has been taken with respect to their physical safety. Licensees must be able to demonstrate that they

have considered and put into effect measures to protect members of the public and the commercial interests of neighbouring premises.

- 10.2 This Licensing Authority would expect any applicant to consider the following points to promote this licensing objective by ensuring:
- Appropriate access for emergency services;
 - Good communication with local authorities and the emergency services;
 - The presence of trained first aiders on the premises and appropriate first aid kits;
 - The safety of people when leaving the premises i.e. providing information for local taxi companies and adequate lighting on paths and car parks, etc.;
 - Appropriate and frequent waste disposal;
 - Appropriate limits on the maximum capacity of the premises;
 - Consideration of the use of CCTV in and around the premises;
 - Any other relevant matter(s).
- 10.3 The list is not exhaustive and the measures may not apply in all cases. It is the responsibility of the applicant and licence holder to implement measures to promote this licensing objective based on their individual premises and locality.
- 10.4 Due to the Regulatory Reform (Fire Safety) Order 2005, no conditions relating to fire safety can be attached to any licence even if deemed appropriate. The Order requires the person responsible for the control of the premises to comply with the Order and to carry out a written fire risk assessment for the premises. This Licensing Authority would expect applicants and licence holders to comply with this Order and implement any measures identified in the risk assessment.
- 10.5 Applicants and licence holders should be aware of the mandatory condition, attached to all on alcohol licensed premises, that requires free potable water is supplied to customers.
- 11. Prevention of Public Nuisance**
- 11.1 The applicant/licence holder will only be expected to prevent public nuisance that is under their direct control. However for the effective management of the night time economy, this Licensing Authority will expect applicants/licence holders to be responsible for minimising the impact of their activities and behaviour of their patrons on people living and working within the area of their premises.
- 11.2 In considering the promotion of this licensing objective, this Licensing Authority will focus on the effect of the licensable activities at the specific premises on person living and working (including those carry on a business) in the areas around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise, nuisance, light pollution, noxious smells and litter.
- 11.2 In order to promote this licensing objective, the applicant should consider the following as part of their application and ongoing promotion of the licensing objectives:
- Prevent noise and vibration escaping from the premises, such measures may include sound proofing, air conditioning, acoustic lobbies and noise limiters;
 - Keeping doors and windows closed after a certain time;
 - Not permitting people to be in the beer garden after a certain time;

- Prevent disturbance by customers arriving at, or leaving the premises, which is usually of greater significance later into the evening and in the early morning. Operating schedules may need to address the potential disturbance caused by queuing;
- Prevent potential litter problems in the area of the premises caused by their business activity. These could include the distribution of flyers, fly posting, food packaging left by customers from late night refreshment premises;
- The generation of odour, for example from the preparation of food;
- Measures to control light pollution;
- Any other relevant matter(s).

11.3 The list is not exhaustive and the measures may not apply in all cases. It is the responsibility of the applicant and licence holder to implement measures to promote this licensing objective based on their individual premises and locality.

11.4 Any conditions appropriate to promote this licensing objective will be tailored to the type, nature and characteristics of the specific premises and its licensable activities.

12. Protection of Children From Harm

12.1 Protecting from children from harm is one of the fundamental licensing objectives. This Licensing Authority will endeavour to ensure that issues relating to the protection of children are fully taken into consideration by all parties involved in the licensing system.

12.2 The protection from children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives. This Licensing Authority will also consider the need to protect children from sexual exploitation when undertaking licensing functions.

12.3 The Safeguarding Children Board is the lead authority for child protection issues in relation to applications, licences and notices issued under the Act. The Police and Trading Standards are also expected to be responsible for protecting children from harm under the Act. Unless a relevant representation is made, this Licensing Authority cannot go beyond what the applicant proposes in their operating schedule. This Licensing Authority will therefore expect one of the Responsible Authorities to make representations in relation to any application where they have any concern for the welfare or protection of children.

12.4 This Licensing Authority recognises the great variety of premises for which licences may be sought, for instance theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. This Licensing Authority will not impose conditions that restrict access to children to any type of premises unless it is considered appropriate to protect them from physical, moral or psychological harm where relevant representations are received.

12.5 This Licensing Authority would strongly consider conditions restricting the access of children to premises in circumstances where:

- entertainment or services of an adult or sexual nature are commonly provided;
- in some cases, the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises;
- there have been convictions of members of the current staff at the premises for serving alcohol to minors or in premises with a reputation for underage drinking;
- there is a known association with drug taking or dealing;
- it is known that unaccompanied children have been allowed access.

- 12.6 It would be unusual for this Licensing Authority to completely prohibit access of children to any premises. This Licensing Authority may use the following options in order to protect children from harm:
- restrictions on the hours when children may be present;
 - age limitations;
 - limitations or exclusions when certain activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - requirements for an accompanying adult;
 - full exclusion of people under 18 years old from the premises when certain licensable activities are taking place.
- 12.7 This Licensing Authority will not impose any condition which requires the admission of children to any premises.
- 12.8 Where this Licensing Authority imposes no restriction on access by children, it is for the discretion of the licence holder to ensure the licensing objectives and the offence provisions under the Act are observed.
- 12.9 This Licensing Authority will liaise with Derbyshire Constabulary and Derbyshire County Council's Trading Standards about the extent of unlawful sale and consumption of alcohol to minors and, as appropriate, will be involved in strategies to control or prevent these unlawful activities and to pursue prosecutions.
- 12.10 This Licensing Authority will expect the licensee to have a Child Protection Policy in place for any licensable events that have a significant number of unaccompanied children. The policy should include the requirement for suitable checks to be carried out on staff before they take up employment. In addition, the licensee should ensure that there will be an adequate number of adult staff present to control the access, egress and safety in and around the premises. The number of staff required should be assessed by the licence holder, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor. It is recommended that any premises which have internet access facilities should have adequate control settings in place so that web sites which are not suitable for use by children are permanently blocked.
- 12.12 In the case of premises showing films, this Licensing Authority expects licence holders to have arrangements for ensuring compliance with the mandatory film condition which restricts children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or other approved body.

13. Temporary Events Notices (TEN)

- 13.1 The Act allows licensable activities to be carried out in specific circumstances on a temporary basis. A TEN will relate to small scale events with a capacity less than 499 people and that lasts no longer than 168 hours. Other limits on a TEN will apply. A standard TEN must be given to this Licensing Authority and a copy served on the Derbyshire Constabulary and the Environmental Health Department, at least 10 clear working days before the temporary event can take place. The clear working days requirement does not include the day the TEN was submitted to the Licensing Authority and the day of the event. Working day means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday.

- 13.2 If the TEN is served electronically, it is the responsibility of this Licensing Authority to serve a copy on Derbyshire Constabulary and the Council's Environmental Health Department.
- 13.3 Derbyshire Constabulary and/or the Council's Environmental Health Department may submit an objection notice to the TEN if they are satisfied that any of the four licensing objectives may be undermined if the event took place.
- 13.4 If an objection notice is received then the TEN will be referred to the Licensing and Appeals Sub-Committee for consideration unless a modification to the TEN has been agreed by the applicant and Derbyshire Constabulary and/or the Council's Environmental Health Department. If a Sub-Committee is held then the Members may decide to allow the event to take place but may impose one or more of the existing licence conditions on the TEN if it considers that this is appropriate to the promotion of the licensing objectives. The attaching of conditions is only permitted if the premises to which the TEN relates has a premises licence or club premises certificate in place. Alternatively, the Sub-Committee may decide that the event would undermine the licensing objectives and, therefore, should not take place. In this instance, a counter notice would be served on the premises user.
- 13.5 Whilst this Licensing Authority recognises the minimum notice period given for the submission of a TEN, it recommends that the TEN is submitted at least two months prior to the date of the event. This will allow time for the premises user to act appropriately should an objection from Derbyshire Constabulary and/or the Council's Environmental Health Department lead to a serving of a counter notice by this Licensing Authority.
- 13.6 A late TEN can be given up to 5 clear working days but no earlier than 9 working days before the event is due to take place. Clear and working days have the same meaning as for a standard TEN. The number of late TENs served in a calendar year is limited.
- 13.7 A late TEN given less than 5 working days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 13.8 The late TEN must be served in the same manner as a standard TEN. However, if an objection notice is received from Derbyshire Constabulary and/or the Council's Environmental Health Department then a counter notice will be served by this Licensing Authority and the activities at the event will not be authorised. There is a no scope for a hearing, the application of existing conditions or modifying the TEN.
- 13.9 This Licensing Authority would only otherwise intervene if the statutory limits on a TEN would be exceeded.
- 13.10 This Licensing Authority's Officers may visit events held under a TEN on the basis of potential risk or impact.

14. Integrating Strategies

- 14.1 This Licensing Authority will ensure its licensing function promotes the licensing objectives through its decision making process and by appropriate use of its powers, observance of its responsibilities and through liaison and partnership work.
- 14.2 This Licensing Authority will support the Council's priorities and, in particular, improving the health and well-being of residents, reducing crime, anti-social behaviour and fear, and tourism.

14.3 This Licensing Authority will seek to achieve integration with the following strategies, so far as it can, and will consult with the appropriate organisations to achieve this:

- South Derbyshire Partnership Strategy and local crime prevention strategies;
- Violence, Alcohol Harm and Licensing Action Plan;
- Local Plan;
- National Forest Destination Development Plan;
- Joint Strategic Needs Assessment produced by the Health and Well Being Board.

14.4 This Licensing Authority will ensure that planning permission, building control approvals and licensing regimes are separated to avoid duplication and inefficiency. Applications for licences will not be a re-run of the planning application and licensing decisions will not cut across decisions taken by the Planning Committee or permissions granted on appeal. This Licensing Authority will not refuse any licence application because the premises do not have planning permission.

15. Promotion of Equality

15.1 This Licensing Authority recognises that the Equality Act 2010 places an obligation on all public authorities to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, sex and sexual orientation.

16. Enforcement

16.1 The main enforcement and compliance role for the Licensing Authority in terms of the Act is to ensure compliance with licences and notices issued by this Licensing Authority and any conditions attached to them. In addition, this Licensing Authority will take the appropriate action against any unlicensed licensable activities within the District.

16.2 In determining the most appropriate course of action to secure the licensing objectives, this Licensing Authority will take into account the Act, other separate legislation and other enforcement bodies' powers.

16.3 The Responsible Authorities and Licensing Authorities have agreed an Enforcement Protocol; copies of the protocol can be obtained from South Derbyshire District Council. In addition, this Licensing Authority has an Enforcement Policy that will be complied with in relation to any compliance and enforcement action.

16.4 This Licensing Authority will have regard to the Regulators' Code and will adopt a risk rated approach to regulatory inspection to ensure compliance with the Act. This Licensing Authority will risk a premises based on previous compliance records and intelligence received from other Responsible Authorities and members of the public. This Licensing Authority will inspect premises where a complaint has been received, there has been a change of premises licence holder and/or designated premises supervisor and on risk-based targeted initiatives.

16.5 This Licensing Authority will promote efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on business.

16.6 This Licensing Authority will refer complaints, as required, about licensed premises, club premises, temporary events or licensed individuals to its own appropriate service teams such as Health and Safety or Pollution Control. It may also refer them to other agencies such as

Derbyshire Constabulary or the Derbyshire Fire and Rescue Service for their consideration, in accordance with any enforcement protocols.

17. Designated Premises Supervisor and Personal Licence Holders

- 17.1 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment.
- 17.2 This Licensing Authority accepts that not every person selling alcohol at a premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder. Premises at which alcohol is sold or supplied should ensure that adequate risk assessments have been undertaken in order to ensure that there are adequate arrangements and numbers of personal licence holders.
- 17.3 This Licensing Authority recognises the responsibility of personal licence holders, particularly the Designated Premises Supervisor in overseeing the day-to-day sale of alcohol. This Licensing Authority expects there to be clear control in the absence of the Designated Premises Supervisor.

18. Review of a Premises Licence or Club Premises Certificate

- 18.1 There is a process for reviewing licences if problems were to persist at licensed premises. This Licensing Authority recognises that it is important to work in partnership with other Responsible Authorities, the licensee and persons affected by the premises to resolve any issues at the premises. Therefore, prior to the commencement of the review process, this Licensing Authority will try to give the licensee early warning of any concerns identified at the premises. This Licensing Authority may act as a mediator in the discussions, if necessary. If this is not appropriate or unsuccessful, any Responsible Authority or other persons may apply to review a premises licence/club premises certificate.
- 18.2 The reasons for the review of a licence must relate to one or more of the licensing objectives. Any person wishing to review a licence is advised to contact this Licensing Authority to discuss the problems being caused by the premises in order for other options to be explored before a review is applied for. Further advice about how to apply for a review can be found on the Council's website.
- 18.3 Where the crime prevention licensing objective is being undermined it is expected that revocation of the licence – even in the first instance – will be seriously considered.
- 18.4 Any review application will be heard by the Licensing and Appeals Sub-Committee who may take any of the following steps:
- Modify the conditions of the licence/certificate;
 - Exclude a licensable activity from the scope of the licence;
 - Remove the Designated Premises Supervisor;
 - Suspend the licence/certificate for a period not exceeding 3 months;
 - Revoke the licence/certificate;
 - Take no action in relation to the licence/certificate;
 - Issue a warning as to further conduct.

19. Fees

- 19.1 This Licensing Authority will send out invoices to all licensed premises one month prior to the due date of the annual fee.
- 19.2 If payment has not been received by the due date, this Licensing Authority must suspend the licence until the annual fee has been paid. This will mean that no licensable activities can take place on the premises whilst the licence is suspended.
- 19.3 If the annual fee has not been paid, this Licensing Authority will attempt to contact the licence holder and this Licensing Authority would expect the licence holder to make payment immediately. If payment is not received or this Licensing Authority is not able to contact the licence holder, a suspension notice will be sent to the premises licence holder at the premises address or the correspondence address on file. The suspension notice will state the date that the suspension will take effect which will be 4 days from the date of the letter to comply with the Act and to ensure the receipt of the letter.
- 19.4 If payment is received before the date on the letter, the suspension will not take effect. If payment is not received, the licence will be suspended and the Police will be notified about the suspension. This Licensing Authority will visit the premises on the date of the suspension to ensure that no licensable activities are being provided at the premises. If licensable activities are being provided whilst the suspension is in place then the appropriate enforcement action will be taken against the licence holder and/or any other person.
- 19.5 The suspension will be lifted on receipt of the annual fee. This Licensing Authority will notify the Police that the suspension has been lifted.

20. Sexual Entertainment

- 20.1 Under the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”), sex establishments, including sexual entertainment venues, must be licensed by this Licensing Authority. Sexual entertainment venues may apply to premises licensed under this Act. This Licensing Authority does not currently have a policy in place regarding sex establishments but a policy is due to be implemented in 2016.
- 20.2 Once the Sex Establishment Policy has been adopted, conditions will be attached to any sex establishment licence. These conditions may be similar to conditions attached to a premises licence and/or club premises certificate. If this is the case, the most onerous conditions will have to be complied with by the licence holder.
- 20.3 There is an exemption under the 1982 Act that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. However, if any sexual entertainment event undermines any of the licensing objectives then the premises licence may be reviewed and conditions may be attached, if appropriate, to control the sexual entertainment events.

21. Early Morning Restriction Orders (EMRO)

- 21.1 Under the Act, this Licensing Authority has the power to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area by way of an EMRO but only if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

21.2 This Licensing Authority does not think it is appropriate at this stage to introduce an EMRO for the whole or part of the District. If this Licensing Authority has or receives any evidence that indicates that an EMRO would be appropriate, a consultation would take place before any EMRO is introduced.

22. Administration and Delegation of Functions

22.1 This Licensing Authority recognises many of the decisions and functions under the Act are purely administrative in nature. In the interest of speed, efficiency and cost-effectiveness, the delegation set out in the Council's Constitution sets out various duties of its Licensing Sub-Committee and officials. A copy of the delegation can be found at Appendix B.

22.2 In addition to the table of delegated functions, this Licensing Authority has delegated the following to Officers:

- Power to suspend a premises licence or club premises certificate for non-payment of annual fees;
- Power to specify the date on which the suspension takes effect;
- Power to make representations as a Responsible Authority.

23. Contact Details

23.1 This Licensing Authority can only offer advice on the process for and progress of applications and as to whether particular activities are required to be licensed. If applicants require detailed advice on the requirements of the legislation and information as to how it may affect their premises, they may wish to seek their own independent legal advice.

23.2 Applications can be found on the Council's website along with Guidance Notes on the Application Procedure. Online applications and payments are also available on the Council's website. Contact details for this Licensing Authority and all other Responsible Authorities can be found in Appendix C.

23.3 This Licensing Authority recommends potential applicants for new or existing premises to contact the Licensing Department to discuss their application prior to submission in order to resolve potential problems and avoid unnecessary hearings. The applicant may also wish to contact the other Responsible Authorities to discuss their application.

Appendix A Map of the District



Appendix B
Licensing Scheme of Delegation

Matter to be dealt with	Sub-Committee	Officers
Application for personal licence	If a representation from Derbyshire Constabulary	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no representation made
Application to vary designated premises supervisor	If a representation from Derbyshire Constabulary	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a representation from Derbyshire Constabulary	All other cases
Application for interim authorities	If a representation from Derbyshire Constabulary	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious or repetitious		All cases
Decision to object when the Licensing Authority is a consultee and not the relevant authority	All cases	

considering the application		
Determination of an objection to a temporary event notice	All cases	
Determination of an application to vary the premises licence at a community premises to include the alternative licence condition	If a representation from Derbyshire Constabulary	All other cases
Decision whether to consult other Responsible Authorities on a minor variation application		All cases
Determination of a minor variation application		All cases

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Appendix C
Responsible Authority Contact List

<p style="text-align: center;"><u>Licensing Authority</u></p> <p style="text-align: center;">South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p style="text-align: center;">licensing@south-derbys.gov.uk</p>	<p style="text-align: center;"><u>Police</u></p> <p style="text-align: center;">Derbyshire Constabulary Licensing Section Derby Divisional HQ St. Mary's Wharf Prime Park Way Chester Green Derby DE1 3AB</p> <p style="text-align: center;">derby.licensing@derbyshire.pnn.police.uk</p>
<p style="text-align: center;"><u>Fire And Rescue</u></p> <p style="text-align: center;">Derbyshire Fire & Rescue Service South Area Office Ascot Drive Community Fire Station Ascot Drive Derby DE24 8GZ</p> <p style="text-align: center;">SouthAreaAdmin@derbys-fire.gov.uk</p>	<p style="text-align: center;"><u>Health & Safety Enforcement</u></p> <p style="text-align: center;">South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p style="text-align: center;">commercial.team@south-derbys.gov.uk</p>
<p style="text-align: center;"><u>Planning</u></p> <p style="text-align: center;">Head of Planning Services South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p style="text-align: center;">planning@south-derbys.gov.uk</p>	<p style="text-align: center;"><u>Environmental Health</u></p> <p style="text-align: center;">Environmental Health Division South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p style="text-align: center;">environmental.health@south-derbys.gov.uk</p>
<p><u>Derbyshire Safeguarding Children Board</u> <u>Derbyshire Trading Standards Service</u> <u>Derbyshire Public Health</u></p> <p style="text-align: center;">Chatsworth Hall Chesterfield Road Matlock Derbyshire DE4 3FW</p> <p style="text-align: center;">trading.standards@derbyshire.gov.uk</p>	

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REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 9
DATE OF MEETING:	1ST OCTOBER 2015	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	STUART BATCHELOR (Ext. 5820)	DOC:
SUBJECT:	WORK PROGRAMME 2015/16	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: N/A

1.0 Recommendations

1.1 That the Committee considers and approves the updated work programme.

2.0 Purpose of Report

2.1 The Committee is asked to consider the updated work programme.

3.0 Detail

3.1 Attached at Annexe 'A' is an updated work programme document. The Committee is asked to consider and review the content of this document.

4.0 Financial Implications

4.1 None arising directly from this report.

5.0 Background Papers

5.1 Work Programme.

**Environmental & Development Services Committee – 1st October 2015
Work Programme 2015/16**

Work Programme Area	Date of Committee meetings	Anticipated completion date	Submitted to Council target date	Contact Officer (Contact details)
Adoption of the Reviewed Licensing Act 2003 Statement of Licensing Policy	1 st October 2015	January 2016	5 th November 2015	Emma McHugh Senior Licensing Officer (01283 595716)
Adoption of the Reviewed Gambling Act 2005 Statement of Licensing Policy	1 st October 2015	January 2016	5 th November 2015	Emma McHugh Senior Licensing Officer (01283 595716)
Licensing – Key Performance Indicators Update	1 st October 2015	Ongoing		Emma McHugh Senior Licensing Officer (01283 595716)
Adoption of Street Trading Policy	19 th November 2015	June 2016		Emma McHugh Senior Licensing Officer (01283 595716)
Proposed Revisions to the South Derbyshire Off Street Parking Order	19 th November 2015			Matt Holford Environmental Health Manager (01283 595856)
Economic Development Strategy	19 th November 2015			Mike Roylance Economic Development Manager (01283 595 725)
Economic Development Strategy	19 th November 2015			Mike Roylance Economic Development Manager (01283 595 725)
Economic Development Strategy	28 January 2016			Mike Roylance Economic Development Manager (01283 595 725)
Economic Development Strategy	28 January 2016			Mike Roylance Economic Development Manager (01283 595 725)
Public Spaces Protection Order – Consultation Feedback and Decision	7 th April 2016			Matt Holford Environmental Health Manager (01283 595856)