

Selby District Council



Agenda

Meeting: **Executive**
Date: **Thursday 6 April 2017**
Time: **4.00pm**
Venue: **Committee Room**
To: **Councillors M Crane (Chair), J Mackman (Vice Chair),
C Lunn, C Metcalfe and R Musgrave.**

1. **Apologies for absence**

2. **Minutes**

The Executive is asked to approve the minutes of the meeting held on 2 March 2017 (pages 1 to 6 attached).

3. **Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

4. Counter Fraud Strategy and Associated Policies

Report E/16/48 presents the revised Counter Fraud Strategy and associated policies, which have been reviewed by the internal auditor to ensure that the Council has an effective framework for dealing with fraud. The Executive is asked to consider and approve the revised Counter Fraud Strategy and the associated policies (pages 7 to 34 attached).

5. Gambling Policy Refresh

Report E/16/49 provides the Executive with a draft Gambling Policy (Statement of Principles) that has been drafted following a consultation and ensures compliance with the Gambling Act 2005. The Executive is asked to consider the draft policy and recommend approval to Council (pages 35 to 73 attached).

Janet Waggott
Chief Executive

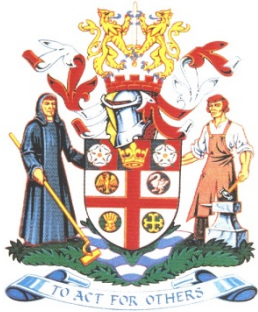
Dates of next meetings
Thursday 20 April 2017– Executive Briefing, 2pm
Thursday 11 May 2017 – Executive, 4pm

For enquiries relating to this agenda please contact Palbinder Mann, Democratic Services Manager on 01757 292207 or pmann@selby.gov.uk.

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Selby District Council



Minutes

Executive

Venue:	Committee Room, Civic Centre, Selby
Date:	Thursday 2 March 2017
Time:	4pm
Present:	Councillors M Crane (Chair), J Mackman, C Lunn, C Metcalfe and R Musgrave.
Also present:	Councillor Packham
Officers present:	Janet Waggott - Chief Executive, Julie Slatter – Director of Corporate Services and Commissioning, Dave Caulfield – Director of Economic Regeneration and Place, Gillian Marshall – Solicitor to the Council, Stuart Robinson – Head of Business Development and Improvement (for minute item 70), Keith Cadman – Head of Commissioning, Contracts and Procurement (for minute item 71), Jill Low – Principal Planning Officer (for minute item 72), Tom Ridley – Joint Interim Planning Policy Manager (for minute item 73), Mike James - Lead Officer, Communications, Palbinder Mann - Democratic Services Manager (for minute items 68 to 71) and Daniel Maguire – Democratic Services Officer (for minute items 71 to 73)
Public:	0
Press:	1

NOTE: Only minute number 71 to 73 are subject to call-in arrangements. The deadline for call-in is 5pm on Wednesday 15 March 2017. Decisions not called in may be implemented from Thursday 16 March 2017.

67. APOLOGIES FOR ABSENCE

There were no apologies for absence.

68. MINUTES

The Executive considered the minutes from the meeting held on 1 February 2017.

It was noted that the information requested on the income for Marsh Croft flooding and the Environmental Improvement Plan had not been provided to the Executive. It was agreed that this would be chased up.

RESOLVED:

To approve the minutes of the meeting held on 1 February 2017 for signature by the Chair.

69. DISCLOSURES OF INTEREST

There were no disclosures of interest.

70. CORPORATE PERFORMANCE REPORT – QUARTER 3 – 2016/17 (OCTOBER TO DECEMBER)

Councillor Mark Crane, Leader of the Council presented the report which outlined a progress update on the delivery of the Council's Corporate Plan 2015/20 as measured by a combination of difference factors.

The following discussion took place:

- It was felt that the number of key performance indicators could be reviewed to focus on those priorities where the Council could influence outcomes.
- It was queried whether the £89k figure of Council Tax debt recovered was allocated solely to the Council. It was explained that this figure reflected the amount collected in the district however the Council only kept a proportion of this amount with the rest being divided between the Fire Service, Police and North Yorkshire County Council.
- It was queried whether the Commercial Strategy referred to in the report would be reported to the Executive. It was agreed this would.
- In response to a query concerning the key performance indicator relating to complaints processing, it was stated

that the Management team recognised improvement was needed in this area and processes had been put in place to ensure there was improvement in the next quarter.

- Concern was raised at the key performance indicator relating to bringing empty properties back into use being very short of the target. It was explained that an updated strategy on empty homes would be considered by the Executive in the near future. The Executive were informed that the City of York Council Empty Property Officer has been offering specialist support to Selby District Council since September 2015. It was explained that as a result of this work 148 previously empty properties have been identified as re-occupied, however only a handful (5) could be classed as reoccupied due to the specific intervention of the local authority. It was noted that the Council did have power to take over a property however the initial process was to liaise with the owners to get the properties voluntarily back into use.
- It was noted that there had been a rise in employee sickness and it was queried whether this had been a result of the Council restructure. The Chief Executive explained that there had been a limited impact on morale as part of the restructure however it was ensured that employees had received regular communication throughout the whole process. It was added that the increase in sickness could also be linked to the usual seasonal illnesses.

RESOLVED:

To note and approve the report.

REASON FOR THE DECISION

The reporting of performance data enables the Council to demonstrate progress on delivering the Corporate Plan Priorities to make Selby District a great place.

71. ENVIRONMENTAL SERVICES CONTRACT EXTENSION

Councillor Richard Musgrave, Lead Executive Member for Housing, Leisure, Health and Culture presented the report which provided an update on discussions with the Environmental Services contract provider.

Concern was raised at the lack of a waste transfer site in the district and the annual costs the Council paid as a result. It was felt that a discussion was needed with North Yorkshire County Council on resolving this issue. The Head of Commissioning, Contracts

and Procurement explained that discussions had taken place with the County Council and a site had been identified as one which could host such a facility. It was explained however that following discussions on infrastructure and the costs relating to building the facility, it had been felt that it would not be cost effective to proceed with the development. However if the business case was considered as part of a wider discussion considering potential regeneration opportunities it may be feasible.

It was noted that this work could be picked up as part of the Economic Development Strategy and Selby Station Masterplan.

RESOLVED:

- i) To extend the Environmental Services Contract with Amey Plc for seven years from 1st April 2017 on the terms agreed within the variation.**
- ii) To reflect the revised estimated cost increases within the Councils budget proposals and medium term financial plan.**

REASON FOR THE DECISION

To ensure service continuity and quality is maintained for residents and businesses within the District whilst also providing a mechanism for managing cost increases in line with property growth.

72. EGGBOROUGH COMBINED CYCLE GAS TURBINE (CCGT) POWER STATION – NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT (NSIP)

It was noted that there was an error on the report and that the correct Executive member for this item was Councillor John Mackman and not Councillor Chris Metcalfe.

Councillor John Mackman, Lead Executive Member for Place Shaping presented the report which outlined a Nationally Significant Infrastructure Project (NSIP) relating to a proposed gas-fired power station on the site of the existing coal-fired power station at Eggborough.

The Executive was advised that the project was for the development of a gas-fired power station, which would replace the existing coal-fired power station. It was explained that the project

would be considered by the Planning Inspector with a final decision by the Secretary of State, and that Selby District Council was a statutory consultee.

The Executive was informed that the timescales for the Council to respond to the consultation would be strict. It was explained therefore to ensure that the Council's representations were made in time, it would be necessary to delegate authority to the Director of Economic Regeneration and Place in consultation with the Lead Executive Member for Place Shaping to agree the Local Impact report, the Statement of Common Ground and any other representations from the Council.

The Principal Planning Officer confirmed that the footprint and stack dimensions provided in the report were indicative and represented the maximum dimensions.

RESOLVED:

To make the following recommendations to Council:

- i) To note the contents of the report and to support this NSIP Development Consent Order in principle, subject to agreement in relation to specific and localised matters of detail.**
- ii) To delegate authority to the Director of Economic Regeneration and Place in consultation with the Executive Member for Place Shaping to agree the Local Impact Report, Statement of Common Ground, any further representations by the District Council and the post decision monitoring of planning conditions and enforcement of the Development Consent Order.**

REASON FOR THE DECISION

Timescales for commenting on the DCO Application once it is submitted will be very tight and appropriate delegation arrangements need to be in place so that the Council is able to meet the deadlines which are set by the Planning Inspectorate.

73. NEIGHBOURHOOD PLANNING

Councillor John Mackman, Lead Executive Member for Place Shaping presented the report which updated the Executive on the progress of a number of Neighbourhood Plans and asked that delegated authority be given to the Director of Economic Regeneration and Place in consultation with the Lead Executive Member for Place Shaping to enable the administration of the Neighbourhood Plan process.

It was explained that this was necessary to ensure the Council meets its obligations relating to Neighbourhood Plans as set out in the Localism Act 2011.

It was confirmed that the final decision on adoption of a Neighbourhood Plan would remain with the Executive, and that up to £30,000 could be reclaimed by the Council for each Neighbourhood Plan. The Joint Interim Planning Policy Manager confirmed that the £30,000 available for each Neighbourhood Plan would be to cover all costs incurred by the Council including officer time, office costs, referendum costs and other resources.

RESOLVED:

To delegate authority to the Director of Economic Regeneration and Place in consultation with the Lead Executive Member for Place Shaping, to enable the administration of the neighbourhood plan process as required in the Localism Act 2011.

REASON FOR THE DECISION

To enable the timely and efficient administration of the neighbourhood planning process in line with the council's obligations under the Localism act 2011.

The meeting closed at 4.53pm

Selby District Council

REPORT

Public

Reference: E/16/48



To: The Executive
Date: 6 April 2017
Status: Non Key Decision
Report Published: 29 March 2017
Author: Jonathan Dodsworth, Counter Fraud Manager (Veritau)
Executive Member: Councillor Cliff Lunn, Lead Councillor for Finance and Resources
Lead Officer: Karen Iveson, Chief Finance Officer

Title: Counter Fraud Strategy and Associated Policies

Summary:

This report sets out a revised counter fraud strategy, and a new counter fraud and corruption policy and associated prosecution policy, for approval following consideration by the Audit and Governance Committee. The strategy confirms the Council's commitment to tackling fraud and corruption and sets out actions to strengthen the council's arrangements, in line with recommended practice. The new Counter Fraud Policy, now addresses all forms of fraud that the council experiences or may experience in the future. The Counter Fraud Prosecution Policy, within the Counter Fraud policy, sets out the council's approach to taking legal action against perpetrators of fraud. This includes prosecutions, simple cautions and financial penalties.

Recommendations:

It is recommended that, subject to any views of the Executive, the revised counter fraud strategy for 2017-2019 and new counter fraud and corruption policy with associated prosecution policy be approved.

Reasons for recommendation

The current counter fraud strategy, counter fraud policy and counter fraud and corruption prosecution policy are out of date and do not cover fraud occurring outside of the benefit arena.

1. Introduction and background

- 1.1 In March 2016 the council's responsibility for investigating housing benefit fraud ended. This work transferred to the Department for Work and Pensions (DWP) as part of their Single Fraud Investigation Service (SFIS) project. However, the Council recognises that it faces significant fraud risks other than housing benefit fraud. In recognition of this the Council has strengthened existing arrangements by allocating some of the resource previously used for housing benefit fraud investigation to corporate counter fraud work, through Veritau Limited.
- 1.2 A key part of this first year's activity was to review the Council's strategy and policies in relation to counter fraud, taking into account the new approach.
- 1.3 The brief commissioned through Veritau includes developing a 'corporate fraud' service within the Council which investigates cases of fraud against the authority. In addition it provides a liaison service to meet requests for council information from the DWP.
- 1.4 Raising awareness of fraud both internally and externally is a key objective in the development of the service. Annual progress reports setting out actions delivered and service performance is considered by the Audit and Governance Committee as part of its counter fraud monitoring role.
- 1.5 The Council also continues to participate in regional and national data matching exercises. There is an ongoing exercise involving regional partners looking at cross boundary council tax discounts. The Council is participating in the Cabinet Office's 2016/17 National Fraud Initiative (NFI) exercise.

2. Counter Fraud Strategy and Associated Policies

- 2.1 The proposed new counter fraud strategy covering 2017-2019 is attached in **Appendix A**. The strategy confirms the Council's commitment to tackling fraud and corruption and sets out actions to strengthen the council's arrangements, in line with recommended practice.
- 2.2 The strategy reflects both CIPFA's Code of Practice on Managing the Risks of Fraud and Corruption and Fighting Fraud & Corruption Locally - The local government counter fraud and corruption strategy 2016-2019. The strategy is a working document and updates will be brought to the Audit and Governance committee for review annually and if appropriate amendments will be brought to the Executive for approval.
- 2.3 The new Counter Fraud Policy, attached in **Appendix B**, now addresses all forms of fraud that the council experiences or may experience in the future. The policy sets out roles and responsibilities within the Council for combating fraud.
- 2.4 The Counter Fraud Prosecution Policy, attached in Annex A of the Counter Fraud Policy, sets out the council's approach to taking legal action against perpetrators of fraud. This includes prosecutions, simple cautions and financial penalties. The policy sets out how these decisions should be made.

3. Legal/Financial Controls and other Policy matters

3.1 Legal issues

3.1.1 The Local Government Act 1972 grants local authorities the power to investigate and prosecute criminal offences. Veritau Ltd work within legislation covering criminal investigation such as the Police and Criminal Evidence Act, the Criminal Procedures Investigations Act, the Regulation of Investigatory Powers Act, and the Data Protection Act. Investigators are authorised to obtain information using powers granted to local authorities under the Council Tax Reduction Scheme (Detection of Fraud and Enforcement) Regulations 2013 and the Prevention of Social Housing Fraud Act 2013.

3.2 Financial Issues

3.2.1 The Council has engaged Veritau Ltd to deliver a fraud service. This service cost the authority £25k in 2016/17. The service while not designed to be self funding does attempt to maximise the levels of savings received by the council as a result of fraud work. Savings for 2016/17 currently stand at £41k.

3.3 Impact Assessment

3.3.1 The prosecution of perpetrators of fraud will be carried out in accordance with the proposed Counter Fraud and Prosecution Policy which includes provisions for dealing with each case on its merits, having considered the likelihood of a successful prosecution (the evidential test) and whether it is in the public interest to prosecute. In deciding whether or not to prosecute, due regard will be given to the specific circumstances of each case and any mitigating factors such as prolonged ill health or serious disability.

4. Conclusion

4.1 Adoption of a new Counter Fraud Strategy, Counter and Corruption Policy and Fraud and Corruption Prosecution Policy provides a framework for effectively dealing with any fraud committed against the Council.

5 Background Documents/Contacts

Contact Officer: *Jonathan Dodsworth; Counter Fraud Manager; Veritau
Jonathan.Dodsworth@veritau.co.uk*

*Richard Smith; Deputy Head of Internal Audit; Veritau
Richard.Smith@veritau.co.uk*

Appendices:

Appendix A: Counter Fraud and Corruption Strategy 2017-19

Appendix B: Counter Fraud and Corruption Policy and Fraud and Corruption Prosecution Policy



COUNTER FRAUD & CORRUPTION STRATEGY

2017-19

Forward by the Chief Executive

The council is funded by public money, through council tax, business rates and other sources. Fraud against the council is essentially theft of this money and the council takes its role as a guardian of these public funds seriously.

We also provide essential services for customers. In the Corporate Plan we set out our key priorities and part of our mission is to provide value for money services to the people who live in, work in and visit the district. Any fraud against the council takes money away from services and undermines our ability to meet our aims.

For these reasons, the council will not tolerate any fraud or corruption against it.

This strategy sets out the measures the council will take to develop its arrangements to tackle fraud and corruption. We will seek to identify areas where fraud may occur and limit opportunities for fraudsters to exploit the council. Where fraud is suspected we will investigate robustly, and where it is proved will utilise all measures available to us to deal with criminals and recover any losses.

Janet Waggott
Chief Executive

Introduction

- 1 All organisations are at increasing risk of fraud and corruption. The illegal and hidden nature of fraud makes it hard to measure accurately. Some commentators suggest that annual fraud losses to local government in the UK could be £7.3 billion¹. And the risks are growing as fraudsters become more aware of the possibilities for committing fraud against public sector bodies, new technology gives easy access to sophisticated fraud techniques, and council resources are stretched to maintain services with reduced levels of funding.
- 2 The council faces significant financial challenges in the next few years. It must make significant changes to the way it works to continue to provide effective services for its citizens and to achieve its overall aims. It is essential that the council minimises losses caused by fraud, to help it achieve those aims and to maximise the money it has available to provide services.
- 3 This strategy outlines how the council will assess the risks of fraud and corruption that it faces, strengthen its counter fraud arrangements, and tackle fraud where it occurs. It has been prepared to reflect the national collaborative counter fraud strategy for local government in the UK (Fighting Fraud & Corruption Locally - The local government counter fraud and corruption strategy 2016 - 2019). It also takes into account the principles set out in the Chartered Institute of Public Finance and Accountancy's (Cipfa's) Code of Practice on Managing the Risks of Fraud and Corruption (2014).
- 4 The strategy has been reviewed by the Audit and Governance Committee as part of its responsibility for considering the effectiveness of counter fraud and corruption at the council. The strategy will be reviewed annually.

Our aim

- 5 Fighting Fraud & Corruption Locally recommends councils consider the effectiveness of their counter fraud framework by considering performance against the six key themes set out below. The council's aim is that by 2019 it will have adequate and effective arrangements in each of these areas.
 - **Culture**: – creating a culture in which beating fraud and corruption is part of daily business
 - **Capability** – ensuring that the range of counter fraud measures deployed is appropriate to the range of fraud risks
 - **Capacity** – deploying the right level of resources to deal with the level of fraud risk
 - **Competence** – having the right skills and standards

¹ Annual Fraud Indicator 2016 - Experian/PKF Littlejohn/University of Portsmouth Centre for Counter Fraud Studies. The figure excludes benefit fraud.

- **Communication** – raising awareness, deterring fraudsters, sharing information, celebrating successes
- **Collaboration** – working together across internal and external boundaries: with colleagues, with other local authorities, and with other agencies; sharing resources, skills and learning, good practice and innovation, and information.

Current arrangements and action required

- 6 The council already has many of the components for a strong counter fraud framework in place. For example:
- control arrangements for key financial systems are robust, being underpinned by statutory requirements, council financial regulations and scrutiny through internal and external audit
 - the policy framework incorporates many elements of counter fraud good practice (eg a counter fraud and corruption policy, codes of conduct and registers of interests) which have developed over the years in response to legislation and emerging issues
 - participation in collaborative counter fraud work with other agencies, through the National Fraud Initiative.
- 7 However, with a growing awareness of new fraud risks in recent years there is now a need to review overall arrangements, taking into account the latest guidance available to assess whether the overall counter fraud framework is robust. To support this review, the council has allocated some of the resource previously used for benefit fraud investigation².
- 8 The themes listed in paragraph 5 are reflected by the good practice arrangements set out in Cipfa's Code of Practice on Managing the Risks of Fraud. A review of current arrangements against the code of practice has identified a number of areas for development, and these are included in the action plan at Appendix 1. The actions also address the recommendations directed at local authorities in the national Fighting Fraud Locally strategy.

The counter fraud policy framework

- 9 This strategy is part of the council's overall framework for countering the risks of fraud and corruption. Further detailed information can be found in other detailed policies and procedures including:
- Counter Fraud and Corruption Policy - this sets out responsibilities for counter fraud and investigation work, the actions the council will take in response to fraud, and its policy on sanctions

² In March 2016 the responsibility for benefit fraud investigation transferred from the council to the DWP.

- Counter Fraud Risk Assessment - a specific risk assessment undertaken to identify counter fraud risks and develop action to address those risks. This was undertaken for the first time in September 2016
- Anti Money Laundering Policy - defines council responsibilities in respect of the Proceeds of Crime Act 2002 and Money Laundering Regulations 2007
- Whistleblowing Policy - arrangements for council staff to raise concerns; confidentially if required.

10 The strategy also links to, and is supported by, wider council policy and procedures covering areas such as:

- governance
- employee disciplinary arrangements
- codes of conduct
- registers of interest
- financial regulations
- electronic communications
- information security
- cyber security

Appendix 1: Counter Fraud and Corruption Strategy Action Plan

Ref	Action Required	Target Date	Responsibility	Notes / Further Action Required
1	Prepare a counter fraud strategy which acknowledges fraud risks facing the council and sets overall counter fraud aims. The strategy should link together existing counter fraud related policies and set out actions required for developing counter fraud arrangements.	February 2017	Chief Finance Officer / Veritau	Progress against the strategy to be reviewed annually and reported to the Audit and Governance Committee For longer term to consider whether specific targets can be set under each of the FFL themes
2	Prepare an updated counter fraud policy to take account of the latest national guidance, and reflecting changes to the councils counter fraud arrangements following the transfer of benefit fraud investigation to the DWP.	February 2017	Chief Finance Officer / Veritau	Review annually
3	Review and update counter fraud risk assessment. (Note that separate actions are included within the risk assessment to address specific issues identified.)	September 2017	Chief Finance Officer / Veritau	To be reviewed at least annually. For the longer term: <ul style="list-style-type: none"> consider whether counter fraud risk assessment can be integrated into service risk management arrangements, supported by counter fraud expertise (eg through risk workshops) look to refine the risk assessment by developing techniques to evaluate potential fraud losses.

4	Participate in regional data matching and counter fraud exercises.	February 2016	Veritau	Cross boundary data matching work on council tax and NNDR discounts and exemptions is in progress. Investigative work to follow up matches will commence in February. Results will be reported through ongoing internal audit progress reports (see 7).
5	Regularly report to the Audit and Governance Committee on counter fraud activity.	January 2017	Veritau	To include an annual report timed to coincide with the Head of Internal Audit report and review of the counter fraud strategy. In year reporting to be included in internal audit progress reports.
6	Undertake specific fraud awareness training for priority service areas identified through the fraud risk assessment.	October 2017	Veritau	To be undertaken on a rolling basis
7	Liaise with HR officers to incorporate general counter fraud awareness training into induction training for all new employees.	March 2017	Veritau / Head of HR	Veritau are developing an e-learning fraud awareness application which will be available from 2017/18
8	Review wider governance and other policies (eg employee related policies, gifts, interests, financial regulations) to ensure they: <ul style="list-style-type: none"> cover all required areas are consistent with the counter fraud strategy and policy. 	March 2017	Chief Finance Officer / Veritau	The review will identify timescales for updates to individual policies.



COUNTER FRAUD AND CORRUPTION POLICY

1 Introduction

- 1.1 All organisations are at increasing risk of fraud and corruption. Some commentators estimate that annual fraud losses to local government in the UK could be £7.3 billion. It is therefore a risk that the council cannot and should not ignore.
- 1.2 Any fraud committed against the council effectively constitutes a theft of taxpayer's money. It is unlawful and deprives the council of resources which should be available to provide services to the public. By putting in place effective measures to counter the risk of fraud and corruption the council can reduce losses which impact on service delivery as a contribution to the achievement of overall council priorities.
- 1.3 This document sets out the council's policy in relation to fraud and corruption perpetrated against it, and its overall arrangements for preventing and detecting fraud. It includes the fraud and corruption prosecution policy contained in Annex A. It forms part of the council's overall policy framework for combating fraud and corruption and should be read in conjunction with the counter fraud strategy, constitution, the financial regulations, contract procedure rules, the whistleblowing policy, anti-money laundering policy, codes of conduct, and disciplinary procedures.

2 Definitions and Scope

- 2.1 For the purpose of this policy, the term fraud is used broadly to encompass:
- acts which would fall under the definition in the Fraud Act (2006)
 - anything which may be deemed fraudulent in accordance with the generally held view of fraud as causing loss or making a gain at the expense of someone by deception and dishonest means
 - any offences which fall under the Social Security Administration Act (1992), Council Tax Reduction Schemes Regulations (2013) and the Prevention of Social Housing Fraud Act (2013)
 - any act of bribery or corruption including specific offences covered by the Bribery Act (2010)
 - acts of theft
 - any other irregularity which is to the detriment of the council whether financially or otherwise, or by which someone gains benefit they are not entitled to.
- 2.2 This policy does not cover fraud or corruption against third parties, except where there may be an impact on the service provided by the council. In addition, it does not cover other acts – for example offences involving

violence - which may affect the council, and which should in most cases be reported directly to the police.

3 Principles

- 3.1 The council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by members, officers, customers of its services, third party organisations contracting with it to provide goods and/or services, or other agencies with which it has any business dealings. There is a basic expectation that members, employees, and contractors' staff will act with integrity and with due regard to matters of probity and propriety, the requirement to act lawfully and comply with all rules, procedures and practices set out in legislation, the constitution, the council's policy framework, and all relevant professional and other codes of practice.
- 3.2 The council will seek to assess its exposure to risks of fraud and corruption. It will prioritise resources available to prevent and deter fraud in order to minimise this risk.
- 3.3 The council will consider any allegation or suspicion of fraud seriously, from whatever source, and if appropriate will undertake an investigation to confirm whether fraud has occurred and determine the appropriate outcome. Any investigation will be proportionate. The council may refer any incident of suspected fraud to the police or other agencies for investigation, if appropriate.
- 3.4 To act as a deterrent, the council will take action in all cases where fraud (or an attempt to commit fraud) is proved, in proportion to the act committed. This may include prosecution, application of internal disciplinary procedures, or any other action deemed appropriate to the offence (for example referral to a professional body). Prosecution decisions will be made in accordance with the fraud and corruption prosecution policy (Annex A).
- 3.5 As a further deterrent, and to minimise losses, the council will attempt to recover any losses incurred through civil or legal action. In addition, the council will seek to apply any appropriate fines or penalties, and recover any costs incurred in investigating and prosecuting cases.

4 Responsibilities

- 4.1 Overall responsibility for counter fraud arrangements rests with the council's Chief Finance Officer (CFO), on behalf of the council. The CFO has a professional responsibility for ensuring the council has appropriate

measures for the prevention and detection of fraud and corruption, which are reflected in legislation.

- 4.2 The Audit and Governance Committee has responsibility to consider the effectiveness of counter fraud and anti-corruption arrangements at the council. This includes monitoring of council policies on raising concerns at work and counter fraud and corruption.
- 4.3 The Extended Leadership Team (ELT) are collectively responsible for ensuring that the council has effective counter fraud and corruption procedures embedded across the organisation that comply with best practice and good governance standards and requirements.
- 4.4 Veritau (who provide internal audit and counter fraud services to the council) is responsible for reviewing the council's counter fraud and corruption policies on a regular basis and recommending any required changes to those policies. In addition, Veritau leads on fraud prevention and detection issues for the council and is responsible for investigating suspected cases of fraud or corruption. The internal audit team carries out audit work to ensure that systems of control are operating effectively, which contributes to the reduction in opportunities for committing fraud. The Head of Internal Audit is required to report their professional opinion on the council's control environment to members of the Audit & Governance Committee on an annual basis in accordance with proper practice.
- 4.5 All senior managers have a responsibility for preventing and detecting fraud within their service areas. This includes maintenance of effective systems of internal control and ensuring that any weaknesses identified through the work of internal audit or by other means are addressed promptly.
- 4.6 The Solicitor to the Council is the council's nominated officer for the purposes of the Money Laundering Regulations (2007), and is responsible for reporting any issues referred to them, in this capacity.
- 4.7 All staff have a general responsibility to be aware of the possibility of fraud and corruption, and to report any suspicions that they may have to Veritau. Where appropriate, staff may use the whistleblowing policy to raise concerns anonymously.
- 4.8 Officers within human resources have a responsibility to support service departments in undertaking any necessary pre-disciplinary investigation and disciplinary process.

5 Overall Counter Fraud Arrangements

Introduction

- 5.1 The purpose of this section is to set out the council's overall framework for countering the risk of fraud and corruption. While the council aims to follow best practice in relation to counter fraud activity¹, it recognises that new and emerging fraud risks will require a dynamic approach to fraud prevention and detection.

Measurement

- 5.2 The council will assess the potential risks and losses due to fraud and corruption, and will use these to prioritise counter fraud activity, and review the resources available to counter those risks. The review will include an assessment of actual levels of fraud² and the effectiveness of counter fraud activity in reducing losses. The outcome of this review will be reported to the Audit & Governance Committee on an annual basis as part of the audit and fraud planning cycle.

Culture

- 5.3 The council will promote a culture whereby all staff, members, service users, and contractors are aware that fraud or corruption in any form is unacceptable. To do this, it will:
- ensure that there are clear arrangements in place for reporting suspicions about potential fraud or corruption, whether that be by staff, council members, partners, stakeholders, contractors or members of the public;
 - investigate reported suspicions and where evidence of fraud or corruption is found will prosecute where appropriate and take any other action necessary in accordance with the financial regulations, contract procedure rules, fraud and corruption prosecution policy, disciplinary procedures, members code of conduct, or any relevant legislation or guidance;
 - ensure that the consequences of committing fraud and/or partaking in corrupt practices are widely publicised.

¹ For example the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption.

² All suspected fraud should be reported to Veritau. A record of all such information will be maintained on a confidential basis.

Prevention and Detection

Controls

- 5.4 As part of its ongoing operating procedures, the council seeks to ensure that proper systems of internal control are in place. This includes controls to directly prevent and detect fraud, such as separation of duties and management review, along with other procedures such as vetting as part of recruitment processes and systems for declaration of interests and gifts and hospitality. The effectiveness of systems of control are monitored and a formal report is made as part of the process for preparing the annual governance statement. The council maintains a system of internal audit to provide independent review of control systems on an ongoing basis, in accordance with a risk assessment.
- 5.5 Services will be encouraged to consider the risk of fraud as part of the council's risk management process. Any information on risks identified will be used to inform the annual review of counter fraud activity.

Proactive Work

- 5.6 The council will carry out targeted project work (for example data matching exercises) to identify fraud and corruption in known high risk areas. This work will be carried out by Veritau as part of its annual workplan. Work will be prioritised based on a risk assessment as part of the annual review of counter fraud activity. Work may include joint exercises with other agencies, including other local councils.
- 5.7 The council will take part in projects led by other agencies such as the Cabinet Office and the DWP to identify potential fraud e.g. the National Fraud Initiative and HBMS Data Matching Service. Resources will be allocated to follow up all data matches, and will include support through the internal audit and counter fraud teams to review potential control issues and suspected fraud. Veritau will work with service departments to ensure that they are aware of the need to include notices to service users stating that any data held may be subject to use for data matching purposes.

Relationships

- 5.8 The council has established relationships with a number of other agencies. It will continue to develop these relationships and develop new ones to further the prevention and detection of fraud. Organisations which the council will work with include:
- the police

- the courts
- the Cabinet Office
- the Department for Communities and Local Government
- the Department for Works and Pensions
- other councils
- community groups

5.9 Veritau will work with council departments to ensure that systems for reporting and investigating suspected fraud and corruption are robust.

Fraud Awareness Training

5.10 As part of its annual workplan, Veritau will provide targeted fraud awareness training to specific groups of staff, based on its annual risk assessment.

Investigation

5.11 All suspected cases of fraud, corruption, theft or other irregularity will be investigated. The nature of each investigation will depend on the circumstances of each case. Veritau will act as a first port of call for any suspected fraud and will provide advice on whether other agencies should be notified (eg the police). Veritau will determine the extent of the investigation to be carried out in consultation with the Chief Finance Officer, service departments and human resources. Where necessary, Veritau may refer cases to other agencies (for example the police) at the discretion of the Head of Internal Audit. Figure 1 overleaf outlines the fraud referral and investigation process.

5.12 All staff involved in the investigation of fraud will be appropriately trained. They will be required to comply with any relevant legislation and codes of practice. For example the Police and Criminal Evidence Act (PACE), Regulation of Investigatory Powers Act (RIPA), the Data Protection Act, and the Criminal Procedures Investigations Act (CPIA). Investigators will take into account the individual circumstances of anyone involved in an investigation and adjustments to procedure will be made where necessary to ensure that all parties are treated equitably (where it is appropriate and reasonable to do so).

5.13 As part of the outcome of every investigation, a review of any weaknesses in control will be made and if necessary recommendations will be made to address any issues identified. These will be set out in a formal report to the managers of the service concerned, and will be followed up to ensure the issues are addressed.

Fraud suspected by officer, member, contractor or other third party - reported directly to Veritau via fraud hotline or fraud email address.

Veritau conduct initial assessment of referral including review of readily available information. Cases with insufficient information to support suspicion of fraud (or insufficient information to investigate) closed and referred back for management action if necessary.

Third party frauds:
eg council tax and NNDR, housing, CTRS.

Veritau investigate to establish facts. Evidence gathered to criminal investigation standards.

Veritau consult CFO if there are any sensitive issues or if referral to police is considered.

Veritau consult service departments as necessary during investigation.

Fraud proven:

- recommendation to authorised officer about action (eg prosecution/sanction)
- refer any management action required to service department.

Fraud not proven: case closed - refer any management action required to service department.

All cases - report control weaknesses to service and copy in CFO.

Internal fraud: internal fraud cases which may require pre-disciplinary investigation.

- Consult CFO on conduct of case.
- Liaise with HR on potential for disciplinary issues.
- Veritau consult CFO if referral to police recommended.

FACT FINDING INVESTIGATION TO CRIMINAL STANDARD

Fact finding investigation started by Veritau. Evidence gathered to criminal investigation standard.

During conduct of investigation:

- Maintain contact with CFO, HR, and service managers as appropriate.
- Liaise with HR and service where pre-disciplinary investigation may need to be started.
- Keep under review whether the case needs to be referred to the police or another agency (and liaise with CFO if so)
- Liaise with investigating manager on ongoing basis if pre-disciplinary investigation commenced.

Interviews:

- If pre-disciplinary investigation started interview witnesses and employee(s) concerned jointly with pre-disciplinary IM unless an interview under caution (IUC) is required.
- IUC to be considered if main areas requiring investigation are sufficiently advanced and there is clear evidence that offences may have been committed, which need to be put to the employee concerned.

Fraud proven - full investigation report produced for CFO including:

- recommendation that service consider pre-disciplinary investigation (if not started)
- recommendations about other appropriate sanctions for CFO to authorise
- details of any control or other issues that require addressing by the service.

Fraud not proven - full investigation report produced for CFO which outlines the findings and includes details of any control issues that require addressing by the service.

Cases referred to other officers under whistleblowing policy:

- Officer notifies Veritau, who will record details.
- Consultation between officer and Veritau to determine who (if anyone) investigates.
- Where the officer (or someone they nominate) investigates then the outcome will be reported to Veritau for recording purposes.
- Where Veritau investigates, officer to be consulted on progress and at conclusion of case.

PRE-DISCIPLINARY INVESTIGATION

Pre-disciplinary investigation to start at the point there is clear evidence of potential employment related misconduct to be investigated.

This is often at the conclusion of the fact finding investigation. However, the need to act promptly and fairly may mean the pre-disciplinary investigation commences earlier. Where suspension may be appropriate (for example to preserve evidence) then a pre-disciplinary investigation will commence.

Where pre-disciplinary investigation commences before end of the fact finding investigation:

- Service appoint an investigating manager (IM).
- IM determines what information needed in relation to the pre-disciplinary investigation and will instruct Veritau, who will gather the evidence.
- IM / Veritau investigating officers to liaise on ongoing basis.
- IM interviews witnesses and employee(s) concerned jointly with Veritau investigators, unless the fact finding investigation has determined an interview under caution with the employee concerned is required.
- IM to request interim report from Veritau once the fact finding investigation has substantially concluded (ie there are no significant avenues of investigation that are incomplete). Interim report to contain all details required for IM to draw conclusions.
- Veritau investigators available as witnesses for any subsequent disciplinary process.

Civil action may be taken in relation to any investigation which identifies financial loss to the council, or where financial redress may be sought. This will generally commence later in the investigation, once clear evidence of any actual loss to the council has been gathered through the fact finding investigation. In some cases, accredited financial investigators may be employed at an early stage to identify and restrain assets related to criminal activity.

- 5.14 The Head of Internal Audit will ensure that systems for investigating fraud are reviewed on an ongoing basis, to ensure that they remain up to date and comply with good practice.

Publicity

- 5.15 The council will publicise all successful prosecutions undertaken either by itself or by partner organisations, to act as a deterrent against future fraud.
- 5.16 In addition, where appropriate, targeted publicity will be used to raise the awareness of fraud to staff, members, the public, and other agencies. This will consist of both internal and external publicity and will aim to:
- raise awareness about potential fraud and ensure all stakeholders are alert to the possibilities of fraud;
 - inform all stakeholders of the procedures to be followed if they have suspicions of fraud;
 - ensure that all stakeholders are aware that the council will not tolerate fraud and the consequences of committing fraud against it.

Recovery of Monies

- 5.17 Where any loss has been incurred by the council or additional costs have been incurred as a result of fraud or corruption, the council will seek to recover these from the individual or organisation concerned. This will help to ensure that the financial impact of fraud on the council is minimised and act as a deterrent. As a further deterrent, the council will seek to levy any appropriate fines or penalties where it is possible and desirable to do so.
- 5.18 Methods of recovery may include (but are not limited to):
- recovery from assets held by the organisation or individual (using the Proceeds of Crime Act or any other relevant legislation);
 - bankruptcy where appropriate;
 - recovery from future salary payments if an individual remains an employee of the council;
 - recovery of pension contributions from employees or members who are members of the North Yorkshire Pension Fund.

6 Monitoring & Review Arrangements

- 6.1 The arrangements set out in this policy document will be reviewed on an annual basis as part of the audit and fraud planning cycle and will include the fraud and corruption prosecution policy (Annex A) and other related guidance. Veritau will work with other departments to ensure that other related guidance and policy (such as the whistleblowing policy) are

reviewed on a regular basis and any amendments or necessary changes are reported to members for approval.

LAST REVIEWED AND UPDATED: 09 January 2017



FRAUD AND CORRUPTION PROSECUTION POLICY

1 Scope and Purpose

- 1.1 The fraud and corruption prosecution policy forms part of the council's overall counter fraud and corruption arrangements. The policy covers all acts, and/or attempted acts, of fraud or corruption committed by officers or members of the council, or committed by members of the public, or other organisations or their employees, against the council.
- 1.2 The policy sets out the circumstances in which the council will take legal action against the perpetrators of fraud or corruption. It also sets out the circumstances when it is appropriate to consider alternative courses of action such as offering a caution. The policy does not cover internal disciplinary procedures which are the subject of the council's separate disciplinary policy and procedures.
- 1.3 This policy should be read in conjunction with the council's constitution, financial regulations, contract procedure rules, the counter fraud and corruption policy and the strategy, the whistleblowing policy and the council's disciplinary policy and procedures.
- 1.4 The policy contains specific guidelines for determining the most appropriate course of action when fraud has been identified. Offences other than fraud and corruption (for example those relevant to the enforcement of regulations) are dealt with by the appropriate service departments under other policies and relying on specific legal powers.

2 Principles

- 2.1 The council is committed to deterring fraud and corruption. As part of its overall strategy to do this the council will seek to take appropriate action against anyone proven to have attempted and/or committed a fraudulent or corrupt act against it. The council considers that those guilty of serious fraud or corruption must take responsibility for their actions before the courts.
- 2.2 The policy is designed to ensure that the council acts fairly and consistently when determining what action to take against the perpetrators of fraud or corruption.
- 2.3 Staff and members who are found to have committed fraud or corruption may be prosecuted in addition to such other action(s) that the council may decide to take, including disciplinary proceedings in the case of staff and referral to the relevant officer or body in the case of members. Any decision not to prosecute a member of staff for fraud and corruption does not preclude remedial action being taken by the relevant director(s) in accordance with the council's disciplinary procedures or other

policies.

- 2.4 This Policy is also designed to be consistent with council policies on equalities. The council will be sensitive to the circumstances of each case and the nature of the crime when considering whether to prosecute or not.
- 2.5 The consistent application of the policy will provide a means for ensuring that those who have perpetrated fraud and corruption are appropriately penalised. It will also act as a meaningful deterrent to those who are contemplating committing fraud or corruption. The council recognises the deterrent value of good publicity and therefore information regarding successful prosecutions and sanctions will be made public.
- 2.6 Any decision taken by an authorised officer to prosecute an individual or to offer a formal sanction will be recorded in writing. The reason for the decision being taken will also be recorded.
- 2.7 Irrespective of the action taken to prosecute the perpetrators of fraud and corruption, the council will take whatever steps necessary to recover any losses incurred, including taking action in the civil courts.

3 Prosecution

- 3.1 The policy is intended to ensure the successful prosecution of offenders in court. However, not every contravention of the law should be considered for prosecution. The council will weigh the seriousness of the offence (taking into account the harm done or the potential for harm arising from the offence) with other relevant factors, including the financial circumstances of the defendant, mitigating circumstances and other public interest criteria. All cases will be looked at individually and be considered on their own merit.
- 3.2 To consider a case for prosecution the council must be satisfied that two tests have been passed. Firstly, there must be sufficient evidence of guilt to ensure conviction. This is called the **evidential test**. Secondly, it must be in the public interest to proceed – the **public interest test**.
- 3.3 To pass the evidential test, authorised officers must be satisfied that there is a realistic prospect of conviction based on the available evidence (that is, there must be sufficient admissible, substantial and reliable evidence to secure a conviction).
- 3.4 To pass the public interest test, the authorised officer will balance, carefully and fairly, the public interest criteria against the seriousness of the offence. The public interest criteria include;

- the likely sentence (if convicted);
- any previous convictions and the conduct of the defendant;
- whether there are grounds for believing the offence is likely to be repeated;
- the prevalence of the offence in the area;
- whether the offence was committed as a result of a genuine mistake or misunderstanding;
- any undue delay between the offence taking place and/or being detected and the date of the trial;
- the likely effect that a prosecution will have on the defendant;
- whether the defendant has put right the loss or harm caused.

3.5 It will generally be in the public interest to prosecute if one or more of the following factors applies, subject to any mitigating circumstances;

- the actual or potential loss to the council was substantial;
- the fraud has continued over a long period of time;
- the fraud was calculated and deliberate;
- the person has previously committed fraud against the council (even if prosecution did not result) and/or there has been a history of fraudulent activity;
- the person was in a position of trust (for example, a member of staff);
- there has been an abuse of position or privilege;
- the person has declined the offer of a caution or financial penalty;
- the case has involved the use of false identities and/or false or forged documents;

4 Mitigating Factors

4.1 The following mitigating factors will be taken into account when determining whether to prosecute;

Voluntary Disclosure

4.2 A voluntary disclosure occurs when an offender voluntarily reveals fraud about which the council is otherwise unaware. If this happens, then the fraud will be investigated but the offender will not be prosecuted unless

in exceptional circumstances. However, any person colluding in the crime will still be prosecuted. A disclosure is not voluntary if the:-

- admission is not a complete disclosure of the fraud;
- admission of the fraud is made only because discovery of the fraud is likely, (for example, the offender knows the council is already undertaking an investigation in this area and/or other counter fraud activity);
- offender only admits the facts when challenged or questioned;
- offender supplies the correct facts when making a claim to Legal Aid.

Ill Health or Disability

- 4.3 Where the perpetrator (and/or their partner) is suffering from prolonged ill health or has a serious disability or other incapacity then the offender will not normally be prosecuted. Evidence from a GP or other doctor will be requested if the condition is claimed to exist, unless it is obvious to the investigator. It is also necessary to prove that the person understood the rules governing the type of fraud committed and was aware that their action is wrong. This may not be possible where, for instance, the offender has serious learning difficulties. However, simple ignorance of the law will not prevent prosecution.

Social Factors

- 4.4 A wide range of social factors may make a prosecution undesirable. The test is whether the court will consider the prosecution undesirable, and go on to reflect that in the sentence.

Exceptional Circumstances

- 4.5 In certain exceptional circumstances the council may decide not to prosecute an offender. Such circumstances include;
- the inability to complete the investigation within a reasonable period of time;
 - the prosecution would not be in the interests of the council;
 - circumstances beyond the control of the council make a prosecution unattainable.

5 Alternatives to Prosecution

5.1 If some cases are considered strong enough for prosecution but there are mitigating circumstances which cast a doubt as to whether a prosecution is appropriate then the council may consider the offer of a sanction instead. The two sanctions available are;

- a caution, or;
- financial penalty.

Simple Cautions

5.2 A simple caution is a warning given in certain circumstances as an alternative to prosecution, to a person who has committed an offence. All cautions are recorded internally and kept for a period of six years. Where a person offends again in the future then any previous cautions will influence the decision on whether to prosecute or not.

5.3 For less serious offences a simple caution will normally be considered where all of the following apply;

- there is sufficient evidence to justify instituting criminal proceedings;
- the person has admitted the offence;
- there is no significant public requirement to prosecute;
- it was a first offence, and;
- a financial penalty is not considered to be appropriate.

Only in very exceptional circumstances will a further caution be offered for a second or subsequent offence of the same nature.

5.4 Cautions will be administered by the Head of Internal Audit (or deputy), Counter Fraud Manager, or a senior fraud investigator, on behalf of the council. If a caution is offered but not accepted then the council will usually consider the case for prosecution. In such cases the court will be informed that the defendant was offered a penalty but declined to accept it.

Financial Penalties

5.5 The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, permit a financial penalty to be offered to claimants as an alternative to prosecution. The penalty is

set at 50% of the amount of the excess reduction, subject to a minimum of £100 and a maximum of £1000. Once a penalty is accepted, the claimant has 14 days to change their mind.

5.6 Subject to the criteria set out in the guidelines below, a financial penalty will normally be offered by the council in the following circumstances;

- the council believes that there is sufficient evidence to prosecute;
- it was a first offence or a previous offence was dealt with by way of a caution, and;
- in the opinion of the council, the circumstances of the case mean it is not overwhelmingly suitable for prosecution, and;
- the claimant has the means to repay both the overpayment and the penalty, and;
- there is a strong likelihood that both the excess reduction and the penalty will be repaid.

5.7 It is important to note that the claimant does not need to have admitted the offence for a financial penalty to be offered. Financial penalties will be administered by the Head of Internal Audit (or deputy), Counter Fraud Manager or a senior investigation officer. If a financial penalty is not accepted or is withdrawn then the council will usually consider the case for prosecution. In such cases the court will be informed that the defendant was offered a penalty but declined to accept it.

6 Proceeds of Crime Act 2002 (POCA)

6.1 In addition to the actions set out in this policy, the council reserves the right to refer all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order will prevent a person from dealing with specific assets. A confiscation order enables the council to recover its losses from assets which are found to be the proceeds of crime.

7 Implementation Date

7.1 This revised policy is effective from 02 February 2017 and covers all decisions relating to prosecutions and sanctions after this date.

POLICY LAST REVIEWED AND UPDATED 09 January 2017

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Selby District Council

REPORT

Public

Reference: E/16/49



To: The Executive
Date: 6 April 2017
Status: Non Key Decision
Report Published: 29 March 2017
Author: Chris Watson, Policy and Performance Officer
Executive Member: Cllr Richard Musgrave, Lead Councillor for Housing, Leisure, Health and Culture
Lead Officer: Gillian Marshall, Solicitor to the Council

Title: Gambling Policy Refresh

Summary:

Selby District Council ('the Council') is the Licensing Authority responsible for the licensing of certain Gambling Premises Licences (e.g. adult gaming centres and betting shops) and all types of gaming machine permits in Selby District. As part of this role the Council must have regard to the statutory licensing objectives and issue a statement of licensing principles (the Gambling Policy) which must be reviewed every 3 years.

The existing policy required a scheduled review, therefore, a draft Gambling Policy (Statement of Principles (Appendix A) has been developed. This draft policy brings the service into line with the latest (5th) edition of the Gambling Commission guidance and the Licence Conditions and Codes of Practice. Consultation on the draft policy commenced 20 January 2017 and finished on 14 March 2017 with only minor changes to the consultation draft policy being made as a result of responses.

Recommendations:

- i. To recommend the draft Gambling Policy (Statement of Principles) be approved by Council on 25 April 2017.

Reason for recommendation

- To ensure compliance with the Gambling Act 2005.

1. Introduction and background

- 1.1 Selby District Council is the Licensing Authority responsible for the licensing of certain Gambling Premises Licences (e.g. adult gaming centres and betting shops) and all types of gaming machine permits in Selby District.
- 1.2 The Gambling Commission issues operating licences and personal licences required by the Gambling Act 2005 ('the Act').
- 1.3 In exercising functions under the Act, the Council must have regard to the Licensing Objectives, which are distinct and different from those contained under the Licensing Act 2003. They are:
 - Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 The Council has a duty which it must discharge under s349 of the Act. The Council is required to formulate a Gambling Policy (Statement of Principles) that it proposes to apply in exercising its functions under the Act. The policy will be considered by Full Council in April 2017 and be effective shortly after, subject to approval. The Gambling Policy (Statement of Principles) has to be reviewed at least every 3 years.

2. The Report

- 2.1 A scheduled review of the Gambling Policy (Statement of Principles) has been undertaken to ensure the policy reflects the Act and the most recent national guidance.
- 2.2 The key changes to the draft policy include:
 - The Licence Conditions and Codes of Practice. From 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measure to mitigate those risks (para 12.2-12.3 of the draft policy); and
 - The draft policy also includes the Registration of Small Society Lotteries for the first time (para. 33 of the draft policy). This is not a statutory requirement, but has been noted as best practice following a benchmarking exercise.
- 2.3 The Executive approved the draft policy for consultation on 5 January 2017. The consultation ran from 20 January 2017 to 14 March 2017.

2.4 The consultation met the Act requirements that the Authority to consult with various groups before policy is determined. These included:

- The Chief Officer of North Yorkshire Police covering Selby District;
- One or more persons who represent the interests of gambling businesses in Selby District - Consultation information sent to all the relevant premises licence holders in the district; and
- One or more persons who appear to represent the interests of persons who are likely to be affected by the implementation of the Act - Consultation information sent to representative bodies such as the Gambling Commission and Gamcare, the Responsible Authorities, District Councillors and Parish Councils.

2.5 Copies of the draft policy were made available for the public online, in the Customer Contact Centre and in the District's public libraries.

2.6 **Licensing Committee**

2.7 On 6 March 2017 officers presented a report to the Licensing Committee in order to provide the committee with the opportunity to discuss the draft policy.

2.8 Following discussion on the policy it was resolved that the committee note the policy and provide no recommendations to Executive.

2.9 **Policy Review Committee**

2.10 On 14 March 2017 officers presented a report to the Policy Review Committee in order to provide the committee with the opportunity to discuss the draft policy.

2.11 The committee discussed the draft policy and raised two small typographical amendments and asked for an explanatory note about the definition of "tracks" to be added. All comments and amendments have been incorporated into the appended draft policy.

2.12 **Consultation**

2.13 In addition to the above two committee resolutions, four consultation responses were received as detailed below:

Respondent	Comments	Action
North Yorkshire Police	<p>Thank you for providing me with the opportunity to pass comment on your revised Statement of Principles under the Gambling Act 2005.</p> <p>The latest version echoes that of previous iterations in terms of its clear and concise format. The document is easy to digest for those not familiar with this particular field of work, and the balance between descriptive / legislative content is refreshing to see.</p> <p>It's clear from the content that the author is very knowledgeable in this particular field of work therefore there is nothing I can add by way of observations to your original document.</p> <p>Please could you amend the list of Responsible Authorities to reflect the fact that North Yorkshire Police only processes licensing applications from our office at Fulford Road, York.</p>	Responsible Authorities list updated.
Trading Standards	Gambling is not something which comes under Trading Standards remit	None
North Duffield & Skipwith Luncheon Club	We are in receipt of your letter dated 24 January 2017 but are unaware of anything to do with this policy and on behalf of the Committee of the N.Duffield & Skipwith Luncheon Club I write to say we have no views and therefore no comment to make.	None
Selby Town Council	<p>The Town Council considered the Gambling Policy and your letter dated 24 January 2017 at their meeting last night.</p> <p>Concern was raised over the Fixed Odds Betting Terminals and suggest that a limit to the stake being made be reduced from £100.00 to £2.00. It was felt that there is a possibility of money laundering with so much money going into the machines and other vulnerable people may be exploited with such high stakes available.</p>	None

2.14 Only the response from North Yorkshire Police has resulted in a change to the draft policy (updated contact details in the policy's Responsible Authorities appendix). The Council does not have the authority to amend the maximum stake bets for fixed odds betting terminals (FOBTs), any change would require

a change in national legislation. Therefore, the Council cannot implement the changes requested by Selby Town Council's consultation response.

2.15 The Council does however, recognise the potential harm FOBTs can cause vulnerable individuals and has therefore benchmarked the issue against neighbouring Licensing Authorities policies. The draft policy matches Leeds City Council's stance which is that where FOBTs are applied for applicants should consider the control measures related to the protection of vulnerable people (para. 21.2 of the draft policy). In response to growing concern on the matter a full report setting out the Council's position on FOBTs is to appear before Full Council in April.

2.16 The remaining two consultation responses offered no comment on the draft policy.

3. Legal/Financial Controls and other Policy matters

Legal Issues

3.1 The review of the Gambling Policy (Statement of Principles) is a legislative requirement. Legislation requires that the final approval for the new Gambling Policy (Statement of Principles) is given by Full Council. Failure to review the policy and follow correct guidance will leave decisions on gambling licensing open to challenge.

3.2 The approval of the policy is part of the Budget and Policy Framework of the Council and therefore the Executive is responsible for proposing and consulting on the policy whereas the approval of it must be undertaken by full Council.

Financial Issues

3.3 This policy proposes no significant changes to the running of the service; therefore, no risk is identified.

Other Policy Matters

3.4 An Equality, Diversity and Community Impact Screening ('EDCI') has been completed for the draft policy. The EDCI did not highlight any significant impacts; therefore a further assessment has not been carried out.

4. Conclusion

4.1 The draft policy has been developed to ensure the Council's Gambling Policy (Statement of Licensing Principles) remains best practice and compliant with the requirements of the Gambling Act 2005 and Gambling Commission's Guidance for Local Authorities.

4.2 Following the consultation of the draft policy from 20 January to 14 March 2017 Officers are seeking Executive recommend the amended draft Policy for approval by Full Council on 24 April 2017.

5. Background Documents

Equality Diversity and Community Impact Screening Document.

Gambling Act 2005

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

Gambling Commission Guidance to Local Authorities

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

6 March 2017 Licensing Committee Minutes

14 March 2017 Policy Review Committee Minutes

Contact Officer:

*Chris Watson
Policy and Performance Officer
cwatson@selby.gov.uk*

*Gill Marshall
Solicitor to the Council
gmarshall@selby.gov.uk*

Appendices:

Appendix A – draft Gambling Policy (Statement of Principles)



Gambling Policy

Gambling Act 2005

Statement of Principles





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PART A

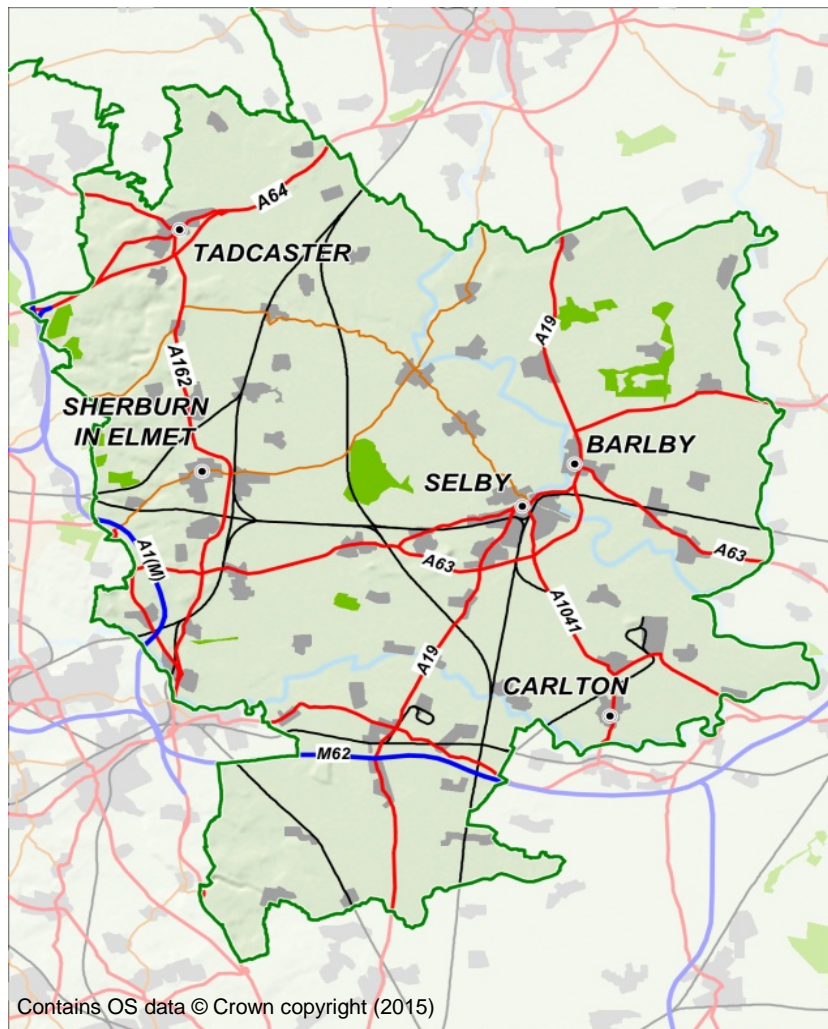
1. Introduction

- 1.1 Section 349 of the Gambling Act 2005 ('the Act') requires us (Selby District Council) as a Licensing Authority in England and Wales to define and publish our Policy Statement on the exercise of our gambling functions at least every three years.
- 1.2 We will review our statement from "time to time" and consult upon any amended parts to the statement. We will then re-publish the amended statement.
- 1.3 In exercising most of our functions under the Act, we must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.3 We have noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".
- 1.4 We have noted that, as per section 153 of the Act, in making decisions about premises licences and temporary use notices we should aim to permit the use of premises for gambling in so far as we think 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 the authority's Statement of Principles
- 1.5 The Act requires that we consult with the following parties:
 - The Chief Officer of Police
 - One or more persons who appear to us to represent the interests of persons carrying on gambling businesses in our area
 - One or more persons who appear to us to represent the interests of persons who are likely to be affected by the exercise of the our functions under the Gambling Act 2005
- 1.6 We have consulted widely on this policy statement from [insert start date] to [insert end date]. A list of persons consulted can be found at Appendix A.
- 1.7 There were [insert number] comments received in response to this consultation.
- 1.8 This statement of Principles was approved at a meeting of the Full Council on [insert date]. This is published on our website (www.selby.gov.uk). In addition, copies are placed in the public libraries of the area as well as being available in our customer contact centre.

- 1.9 It should be noted that this Statement of Principles 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 will be considered on its own merits and according to the statutory requirements of the Act.

2. Profile of Selby District

- 2.1 Selby District is situated in the County of North Yorkshire. It covers an area of 602 square kilometres and is situated to the south of the city of York. The district's population is 86,000¹ and the principal settlements are Selby, Tadcaster and Sherburn-in-Elmet. The council area is mainly rural in character and aspect with a dispersed settlement plan. There are 74 Parish Councils as well as various Parish and Community meetings. Selby in particular is of historical importance built as it is around Selby Abbey. As a consequence tourism and leisure are important industries. Detail of the district is shown in the map below.



¹ ONS Mid-Year Estimates 2015

3. Declaration

- 3.1 In producing this Statement of Principles, we have given regard to the licensing objectives of the Act, the guidance issued by the Gambling Commission, and any responses from those consulted on the Statement of Principles.

4. Responsible Authorities

- 4.1 We are required by regulations to state the principles we will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- 4.2 In accordance with the Gambling Commission's Guidance for local authorities this authority designates Corporate Director of Children and Young People's Services, North Yorkshire County Council, Room 122 County Hall, Racecourse Lane, Northallerton, North Yorkshire, DL7 8DD for this purpose.
- 4.3 The contact details of the Responsible Authorities under the Act can be found at Appendix B and on our website www.selby.gov.uk:

5. Interested parties

- 5.1 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 follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-

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

- 5.2 We are required by regulations to state the principles we will apply in exercising our powers under the Act to determine whether a person is an interested party. The principles are:
- Each case will be decided upon its merits. We will not apply a rigid rule to our decision making. We will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities at 8.12 to 8.17. Note though that decisions on premises and temporary use notices must be “in accordance” with Gambling Commission Guidance (Section 153 of the Act). We will also consider the

Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however, we will generally require written evidence that a person/body (e.g. an advocate/relative) '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.
- If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing team at:

Licensing
Selby District Council
Civic Centre
Doncaster Road
Selby
YO8 9FT
licensing@selby.gov.uk

01757 705101

6. Exchange of Information

- 6.1 We are required to include in our policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between us and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that we apply is that we will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

7. Enforcement

7.1 We are required by regulation under the Act to state the principles we will apply to exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 Our principles are that:

We will be guided by the Gambling Commission's Guidance for local authorities. We will endeavour to 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.

7.3 As per the Gambling Commission's Guidance for local authorities we will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.4 We have adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this Statement of Licensing Principles

7.5 Our main enforcement and compliance role in terms of the Act will be to ensure compliance with the premises licences and other permissions which we authorise. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that we will not deal with concerns about manufacture, supply or repair of gaming machines but these concerns will be notified to the Gambling Commission.

7.6 We will also keep ourselves informed of developments regarding the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

7.7 Bearing in mind the principle of transparency, our Corporate Enforcement Policy is available upon request from the licensing team (see details on page 7) or online at: <http://www.selby.gov.uk/enforcement-policy>.

8. Licensing Authority functions

8.1 As the Licensing Authority we are required under the Act to:

- 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 via 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) of 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 more than two machines are required
- 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 regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

9. General Principles

9.1 Premises Licences will be subject to the requirements set-out in the Act and regulations, as well as specific mandatory and default conditions which are 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.

Decision-making

9.2 We are aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think 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 the authority's statement of licensing policy (which is available to view at the following webpage: <http://www.selby.gov.uk/licensing-policies>)

9.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for us.

10. Definition of “premises”

10.1 In the Act “premises” is defined as including “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

10.2 The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: “in most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the

Gambling Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

10.3 We take particular note of the Gambling Commission's Guidance to Local Authorities which states that: Licensing Authorities should 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. In particular they should 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 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.

10.4 The Guidance also gives a list of factors which we should be aware of when considering if two or more proposed premises are truly separate, which may include:

- 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?

10.5 We will consider these and other relevant factors in making decision, depending on all the circumstances of the case.

10.6 The Gambling Commission’s relevant access provisions (as defined at 7.23 of the Guidance) for each premises type are reproduced below:

Type of premises	Access Provisions
Casinos	<ul style="list-style-type: none"> • The principal access entrance to the premises must be from a street • No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons • No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence
Adult Gaming Centre	<ul style="list-style-type: none"> • No customer must be able to access the premises directly from any other licensed gambling premises
Betting Shops	<ul style="list-style-type: none"> • Access must be from a street or from another premises with a betting premises licence • No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.
Tracks	<ul style="list-style-type: none"> • No customer should be able to access the premises directly from: <ul style="list-style-type: none"> - a casino, or - an adult gaming centre
Bingo Premises	<ul style="list-style-type: none"> • No customer must be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre, or - a betting premises, other than a track
Family Entertainment Centre	<ul style="list-style-type: none"> • No customer must be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre, or - a betting premises, other than a track

10.7 Part 7 of the Gambling Commission’s Guidance to Licensing Authorities contains further guidance on this issue, which we will also take into account in our decision-making.

11. Premises “ready for gambling”

11.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that we can be satisfied is going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

- 11.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 11.3 In deciding whether a premises licence can be granted where there is outstanding construction or alteration works at premises, this authority will determine applications on their merits, applying a two stage consideration process:
- **Stage 1:** whether the premises ought to be permitted to be used for gambling
 - **Stage 2:** whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 11.4 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 11.5 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

12. Location:

- 12.1 We are aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives are relevant to our decision-making. As per the Gambling Commission's Guidance to Local Authorities, we will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this policy statement will be updated.
- 12.2 We will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives before refusing. From 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measure to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.
- 12.3 The LCCP say that licensees must review (and update as necessary) their local risk assessments:
- to take account of significant changes in local circumstances, including those identified in this policy statement;
 - when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - when applying for a variation of a premises licence; and
 - in any case, undertake a local risk assessment when applying for a new premises licence.

- 12.4 We expect the local risk assessment to consider as a minimum:
- the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
 - the demographics of the area in relation to vulnerable groups;
 - whether the premises is in an area subject to high levels of crime and/or disorder.
- 12.5 Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.
- 12.6 It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

13. Duplication with other regulatory regimes:

- 13.1 We will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. We will not consider whether a licence application is likely to be awarded planning or building approval, in our consideration of it. We will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 13.2 When dealing with a premises licence application for finished buildings, we will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning controls, buildings and other regulations and must not form part of the consideration for the premises licence.

14. Licensing objectives

- 14.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, we have considered the Gambling Commission's Guidance to Local Authorities:

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

We are aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. We are aware of the distinction between disorder and nuisance and will

consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

14.3 Ensuring that gambling is conducted in a fair and open way

We note that the Gambling Commission states that it generally does not expect licensing authorities 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 (but, if such concerns come to our notice we will forward them to the Commission). There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

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

We have noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). We will therefore consider, as suggested in the Gambling Commission's Guidance, 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 etc.

14.5 We will also make ourselves aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific types of premises.

14.6 As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes:

- people who gamble more than they want to;
- people 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."

14.7 We will consider this licensing objective on a case by case basis.

15. Conditions

15.1 Any conditions attached to licences 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 and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises: and
- reasonable in all other respects.

15.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures we will consider utilising should there be a perceived need, such as:

- the use of door supervisors;
- supervision of adult gaming machines; and
- appropriate signage for adult only areas etc.

15.3 There are specific comments made in this regard under some of the licence types below. We will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

15.4 We will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

15.5 We 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.

15.6 These considerations will apply to premises including buildings where multiple premises licences are applicable.

15.7 It is noted that there are conditions which we cannot attach to premises licences these are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

16. Door Supervisors

16.1 The Gambling Commission advises in its Guidance to Licensing Authorities that if we are concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then we may require that the entrances to the premises are controlled by a door supervisor, and we are entitled to impose a condition on the premises licence to this effect.

16.2 It is noted that the door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Act 2001.

Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to carry out a Disclosure and Barring Service check on potential staff and for such personnel to have attended industry recognised training. Door supervisors not directly employed by a casino or bingo operator do have to be SIA registered.

17. Adult Gaming Centres

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

17.2 We 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 entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive.

18. (Licensed) Family Entertainment Centres

18.1 Licensed Family Entertainment Centres (FECs) are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section for adult only 17 gaming machines with higher stakes and prizes. Licensed FECs will be able to make available unlimited category C and D machines where there is a clear segregation in place so children do not access the areas where the category C machines are located.

18.2 We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, 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.

18.3 We may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- 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.

18.4 We will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. We will also make ourselves aware of any mandatory or default conditions on these premises licences.

19. Casinos

19.1 *No Casinos resolution* – We have not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but we are aware that we have the power to do so. Should we decide in the future to pass such a resolution, we will update this Statement of Principles with details of that resolution. Any such decision will be made by the Full Council.

19.2 *Licence considerations / conditions* – We will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed at paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

20. Bingo premises

20.1 We note that the Gambling Commission's Guidance states:

20.2 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. 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 from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

20.3 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.

21. Betting premises

21.1 *Betting machines* - Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises, we will, amongst other things, 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 vulnerable persons

21.2 Where an applicant for a betting premises licence intends to offer higher stake category B gaming machines (categories B2-B4) including any Fixed Odds Betting Terminals (FOBTs), then applicants should consider the control measures related to the protection of vulnerable persons.

21.3 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commission's Codes of Practice or by the applicant we may consider licence conditions to address such issues.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive.

22. Tracks

22.1 Tracks (as defined by s353 the Act means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place) are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operating licence as there may be several premises licence holders at the track which will need to hold their own operating licences.

22.2 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence 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,

although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

We 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 entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive.

22.3 *Gaming machines* – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

22.4 *Betting machines* – We have a power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. In relation to betting premises away from tracks, we will take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted.

22.5 Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. We will consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

22.6 We take the view that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

22.7 **Condition on rules being displayed** - This authority will consider whether to attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

22.8 **Applications and plans** – The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that we have the necessary information to make an informed judgement about whether the premises are fit for gambling.

The plan will also be used for us to plan future premises inspection activity. (See Guidance to Licensing Authorities, paragraph 20.28).

22.9 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 (See Guidance to Licensing Authorities 20.29).

22.10 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities 20.31).

22.11 In rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the premises boundaries do not need to be defined (See Guidance to Licensing Authorities, paragraphs 20.32).

22.12 We appreciate that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.33).

23. Travelling Fairs

23.1 We are responsible for deciding whether, 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 is met.

23.2 We will also consider whether the applicant falls within the statutory definition of a travelling fair.

23.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it 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. We will work with our neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

24. Provisional Statements

24.1 Developers may wish to apply to us for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in

light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

24.2 Section 204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered; or
- expects to acquire a right to occupy

24.3 The process for considering an application for a provisional statement is the same as that 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 are rights of appeal.

24.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

24.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. We will be constrained in the matters we can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and we note that it can discuss any concerns it has with the applicant before making a decision.

25. Reviews

25.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us, as the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- 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 Gambling Act 2005 - Statement of Principles.

25.2 The request for the review will also be subject to our consideration as to whether the request is frivolous, vexatious, or whether it will certainly not cause us to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

25.3 We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

25.4 Once we have received a valid application for a review, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after we receive the application, we will publish notice of the application within 7 days of receipt.

25.5 We must carry out the review as soon as possible after the 28 day period for making representations has passed.

25.6 The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, the options open to us are to:-

- (a) add, remove or amend a licence condition we impose;
- (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence

25.7 In determining what action, if any, should be taken following a review, we must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

25.8 In particular, we may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

25.9 Once the review has been completed, we must, as soon as possible, notify our decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

PART C

Permits / Temporary & Occasional Use Notice

26. Unlicensed Family Entertainment Centre gaming machine permits

26.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to us for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238 of the Act).

26.2 The Act states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25 of the Act.

26.3 S24.9 of the Guidance also states: “An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application” Licensing Authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

26.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

26.5 **Statement of Principles:** We expect applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. We also expect (as per Gambling Commission Guidance), that applicants demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

27. (Alcohol) Licensed premises gaming machine permits

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

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

27.2 **Permit: 3 or more machines-** If a premises wishes to have more than 2 machines, then it needs to apply for a permit and we must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as [we] think relevant.*”

27.3 We consider that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff, who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

27.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

27.5 It should be noted that we can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

27.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

28. Prize Gaming Permits

28.1 The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

28.2 We have prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending 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 the gaming offered is within the law
- clear policies that outline the steps to be taken to protect children from harm.

- 28.3 In making our decision on an application for this permit we do not need (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 28.4 It should be noted that there are conditions in the Act by which the permit holder must comply, but to which we cannot attach conditions.

The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

29. Club Gaming and Club Machines Permits

- 29.1 Members Clubs and Miners' welfare institutes may apply for a Club Gaming Permit or a Club Gaming Machines Permit. A Commercial Club may only apply for a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set out in regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D). Only one category B3A machine can be sited as part of this entitlement.
- 29.2 Gambling Commission Guidance for licensing authorities states: "Members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include; working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 29.3 Before granting the permit we will need to be satisfied that the premises meet the requirements of a members' club and we may grant the permit only if the majority of members are over 18 years old.
- 29.4 We are aware that we 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 Commission or the police.

- 29.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Gambling Act 2005 (Schedule 12 paragraph 10). Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced.
- 29.6 The grounds on which an application under the process may be refused 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 have been cancelled."
- 29.7 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

30. Temporary Use Notices

- 30.1 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. Premises that might be suitable for Temporary Use Notices, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 30.2 We 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.
- 30.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 30.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 30.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 30.6 We expect to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

31. Occasional Use Notices:

- 31.1 The Act provides that where there is betting on a track on eight days or fewer in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a full premises licence.
- 31.2 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will, however, consider the definition of a 'track' and whether the applicant is permitted to benefit him/herself of the notice.

32. Registration of Small Society Lotteries

- 32.1 We will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of an operator:
- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
 - submission of incomplete or incorrect returns
 - breaches of the limits for small society lotteries
- 32.2 Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:
- by, or on behalf of, a charity or for charitable purposes
 - to enable participation in, or support of, sporting athletic or cultural activities.

Appendix A – List of Consultees

The Gambling Act requires that the following parties be consulted on the Licensing Policy:

(a) The Chief Officer of Police

Chief Constable, North Yorkshire Police

(b) One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area

Done Brothers (Cash Betting) Ltd
Betfred
Ladbrokes Betting & Gaming Ltd
Ladbrokes
Stan James
William Hill Organisation Ltd
William Hill Bookmakers
William Hill Bookmakers
William Hill
Bowl 'N' Fun
Gamestec Leisure Limited
Popleston Allen

Selby Bowling Club
Inspiring Healthy Lifestyles
BACTA
Association of British Bookmakers Ltd
The Bingo Association
Greyhound Board of Great Britain
The Jockey Club
Federation of Licensed
Victuallers Associations
Alcohol Premises Licence Holders

(c) One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005.

Matthew France, Police Licensing
Officer
Chief Fire Officer
The Gambling Commission
H M Revenue & Customs
Social Services Strategy &
Performance
Officer
GamCare
GambleAware
Health and Safety Executive

North Yorkshire Trading Standards
Mr Nigel Adams, MP
Selby District Councillors
Selby District Town and Parish
Councils
Selby District Council Licensing
Committee
Selby District Council Policy Review
Committee
Responsible Authorities

Appendix B – Responsible Authorities

This list of Responsible Authorities is also available on our website www.selby.gov.uk

North Yorkshire Police (For Licensing applications only)
North Yorkshire Police Headquarters
The Licensing Section
Fulford Road
York
YO10 4BY
nyplicensing@northyorkshire.pnn.police.uk

The Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP
Tel: 0121 230 6500

Lead Officer – Development Control

Selby District Council
Civic Centre
Doncaster Road
Selby
YO8 9FT

The Licensing Officer

Selby Police Station
Portholme Road
Selby
North Yorkshire
YO8 4QQ

Solicitor to the Council

Selby District Council
Civic Centre
Doncaster Road
Selby
YO8 9FT

North Yorkshire Fire and Rescue Authority

Chief Fire Officer
Fire Brigade Headquarters
Crosby Road
Northallerton
North Yorkshire
DL6 1AB
www.northyorksfire.gov.uk/contact-us

Social Services

Strategy & Performance Officer
Children & Young People's Service
Room SB012
County Hall,
Racecourse Lane
Northallerton
DL8 7AE

H M Revenue & Customs

National Registration Unit (Betting & Gaming)
Portcullis House
21 India Street
Glasgow
G2 4PZ

Tel: 0141 555 3633

Environmental Health

Selby District Council
Civic Centre
Doncaster Road
Selby
YO8 9FT

Health & Safety Section

Environmental Health Department
Selby District Council
Civic Centre
Doncaster Road
Selby
YO8 9FT

Appendix C - Table of delegation of licensing functions

Matter to be dealt with	Full Council	Licensing Sub Committee	Officers
Application for premises licences		✓ Where representations have been received and not withdrawn	✓ Where no representations received / representations have been withdrawn
Application for a variation to a licence		✓ Where representations have been received and not withdrawn	✓ Where no representations received / representations have been withdrawn
Application for a transfer of a licence		✓ Where representations have been received from the Commission or responsible authority	✓ Where no representations received from the Commission or responsible authority
Review of a premises licence		✓	
Application for a provisional statement		✓ Where representations have been received and not withdrawn	✓ Where no representations received/representations have been withdrawn
Application for club gaming / club machine permits		✓ Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming / club machine permits		✓	
Applications for other permits		✓ Where the application is for 5 or more machines	✓ (except where there is a possibility of refusal or grant of a reduced number of gaming or betting machines)
Cancellation of licensed premises gaming machine permits			✓
Consideration of temporary use notice			✓
Decision to give a counter notice to a temporary use notice		✓	

Matter to be dealt with	Full Council	Licensing Sub Committee	Officers
Determination as to whether a representation is frivolous, vexatious or repetitive		✓	
Fee Setting – when appropriate		✓	
Three year Gambling Policy	✓		
Policy not to permit casinos	✓		

✓ indicates the lowest level to which decisions can be delegated.

NB. The Council reserves the right to amend this table of delegation

Appendix D – Categories of Gaming Machines

Section 236 of the Gambling Act 2005 provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A, B, C, and D, with category B further divided into sub-categories. The regulations define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver.

The following table shows the different categories of machine and the maximum stakes and prizes that currently apply.

Category of machine	Maximum stake (from Jan 2014)*	Maximum prize (from Jan 2014)*
A	No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D – money prize (other than a coin pusher or penny falls machine)	10p	£5
D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be prize money)
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be prize money)

* with the option of a maximum £20,000 linked progressive jackpot on a premises basis only.