


18 January 2016

Committee	Council
Date	Tuesday, 26 January 2016
Time of Meeting	6:00 pm
Venue	Council Chamber

ALL MEMBERS OF THE COUNCIL ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

Agenda

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.



	Item	Page(s)
3.	MINUTES	1 - 6
	To approve the Minutes of the meeting held on 8 December 2015.	
4.	ANNOUNCEMENTS	
	1. When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (staff should proceed to their usual assembly point). Please do not re-enter the building unless instructed to do so.	
	In the event of a fire any person with a disability should be assisted in leaving the building.	
	2. To receive any announcements from the Chairman of the Meeting and/or the Chief Executive.	
5.	ITEMS FROM MEMBERS OF THE PUBLIC	
	a) To receive any questions, deputations or petitions submitted under Council Rule of Procedure.12.	
	<i>(The deadline for public participation submissions for this meeting is 20 January 2016).</i>	
	b) To receive any petitions submitted under the Council's Petitions Scheme.	
6.	MEMBER QUESTIONS PROPERLY SUBMITTED IN ACCORDANCE WITH COUNCIL PROCEDURE RULES	
	To receive any questions submitted under Rule of Procedure 13. Any items received will be circulated on 26 January 2016.	
	<i>(Any questions must be submitted in writing to Democratic Services by, not later than, 10.00am on the working day immediately preceding the date of the meeting).</i>	
7.	REPORT OF THE INDEPENDENT REMUNERATION PANEL	7 - 23
	To consider the Panel's report and determine a Scheme of Allowances.	
8.	APPOINTMENT OF CIVIC HEADS FOR THE MUNICIPAL YEAR	
	To recommend the appointment of Civic Heads for the Municipal Year 2016/17.	
	1. Mayor	
	It is usual practice that the current Deputy Mayor be appointed Mayor for the ensuing Municipal Year.	
	2. Deputy Mayor	
	To receive nominations for the appointment of Deputy Mayor for the ensuing Municipal Year.	
	<i>(Potted biographies for the nominations received will be placed in the pigeon-holes prior to the start of the meeting)</i>	

Item	Page(s)
9. RECOMMENDATIONS FROM EXECUTIVE COMMITTEE	
The Council is asked to consider and determine recommendations of a policy nature arising from the Executive Committee as follows:-	
(a) Contract Procedure Rules	24 - 51
At its meeting on 13 January 2016 the Executive Committee revised Contract Procedure Rules and RECOMMENDED TO COUNCIL that the updated Contract Procedure Rules, as appended to the report, be APPROVED .	
10. REVISION OF STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT	52 - 98
At its meeting on 26 November 2015 the Licensing Committee considered the revision of the Statement of Principles under the Gambling Act and RECOMMENDED TO COUNCIL that the Gambling Act 2005: Statement of Principles 2016-2019 be ADOPTED with effect from 31 January 2016, subject to any relevant representations being received within the consultation period being reviewed by the Chairman and Vice-Chairman of the Licensing Committee.	
11. SCHEDULE OF MEETINGS 2016/17	99 - 102
To adopt a Schedule of Meetings for the 2016/17 Municipal Year.	
12. SYRIAN REFUGEE MOTION	103 - 114
To receive an update from the Overview and Scrutiny Committee following its consideration of the Motion on 19 January 2016.	
13. ROYAL GARDEN PARTY	
To consider nominations for the Council's representation at the Royal Garden Party in May 2016.	
The dates provided are Tuesday 10 May, Thursday 19 May and Tuesday 24 May 2016.	
14. SEPARATE BUSINESS	
The Chairman will move the adoption of the following resolution:	
That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.	
15. SEPARATE MINUTES	115 - 117
To approve the Separate Minutes of the meeting held on 8 December 2015.	

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Mayor will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Council held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 8 December 2015 commencing at 6:00 pm

Present:

The Worshipful the Mayor
Deputy Mayor

Councillor R E Allen
Councillor Mrs G F Blackwell

and Councillors:

P W Awford, Mrs K J Berry, R A Bird, R Bishop, G J Bocking, K J Cromwell, Mrs J E Day, M Dean, R D East, A J Evans, J H Evetts, D T Foyle, R Furolo, Mrs P A Godwin, Mrs M A Gore, Mrs J Greening, Mrs R M Hatton, B C J Hesketh, Mrs S E Hillier-Richardson, Mrs A Hollaway, Mrs E J MacTiernan, J R Mason, A S Reece, V D Smith, Mrs P E Stokes, P D Surman, M G Sztymiak, H A E Turbyfield, R J E Vines, D J Waters, M J Williams and P N Workman

CL.36 APOLOGIES FOR ABSENCE

36.1 Apologies for absence were received from Councillors D M M Davies, R E Garnham, Mrs H C McLain and T A Spencer.

CL.37 DECLARATIONS OF INTEREST

37.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

37.2 There were no declarations of interest made on this occasion.

CL.38 MINUTES

38.1 The Minutes of the ordinary meeting held on 22 September 2015 and of the Extraordinary meeting held on 23 November 2015, copies of which had been circulated, were approved as correct records and signed by the Mayor.

CL.39 ANNOUNCEMENTS

39.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

39.2 The Mayor indicated that Councillor Derek Davies was unable to attend the meeting as he had recently had a fall which had resulted in a bad fracture of the shoulder. He advised that he intended to send a 'get well' card on behalf of the Council with its best wishes for a speedy recovery.

39.3 Referring to the terrible flooding currently being experienced in Cumbria, the Mayor advised that he intended, with the blessing of the Council, to send a letter of support to those Councils affected. He felt that the Borough knew only too well the distress that the area was experiencing and a letter offering support and understanding would be well received. Members agreed that they shared the Mayor's sentiments.

CL.40 ITEMS FROM MEMBERS OF THE PUBLIC

40.1 There were no items from members of the public on this occasion.

CL.41 MEMBER QUESTIONS PROPERLY SUBMITTED IN ACCORDANCE WITH COUNCIL PROCEDURE RULES

41.1 The following question had been received from Councillor Mrs S E Hillier-Richardson to the Lead Member for Finance and Asset Management. The answer was given by the Lead Member for Finance and Asset Management, Councillor D J Waters, but was taken as read without discussion.

Question:

As 35% of New Homes Bonus money coming to this Council was available to other uses than supporting the budget, please could the Lead Member for Finance and Asset Management answer the following;

£959,606 of New Homes Bonus was used last year for the one-off programme, please provide a breakdown of exactly how this was used? Please could the information include the exact amounts granted to communities, stating the organisations involved and the communities this was supporting.

Answer:

The use of £959,606 of New Homes Bonus for the 2015-16 financial year was approved at Council on Thursday 19 February 2015. The approved usage was as follows:

- Uncommitted Reserve - £150,000.
- Business Rates Reserve - £250,000.
- Borough Elections - £120,000.
- Business Transformation - £109,606.
- Business & Marketing Grants - £50,000.
- Borough Plan Development - £60,000.
- Planning Capacity - £40,000.
- Grants Officer - £29,700.
- Community Grants - £150,000.

To date, £71,300 had been allocated from the Community Grants budget although the next quarterly meeting would take place on Tuesday 15 December. The grants awarded to date were as follows:

- Rugby World Cup Legacy Grant - £10,000 – Boroughwide.
- Severn Area Rescue Association - £10,500 – Boroughwide.
- Cheltenham Rugby Club - £19,000 – Southam.
- Tewkesbury Town Council (Mitton Play Area) - £18,300 – Tewkesbury.
- St Peter's Church - £10,000 – Dumbleton.
- St Mary's Church - £3,500 – Deerhurst.

- 41.2 The Mayor invited any supplementary questions and, in response, the Member asked the following:

How much New Homes Bonus had been received by Tewkesbury Borough Council as a result of homes built and completed in Bishop's Cleeve since its inception; to include how many homes completed and money received as a result of those completions as well as an estimate to the end of the year?

- 41.3 The Lead Member advised that he would investigate and provide a detailed response following the meeting.

CL.42 RECOMMENDATIONS FROM EXECUTIVE COMMITTEE

Medium Term Financial Strategy 2016/17 - 2020/21

- 42.1 At its meeting on 25 November 2015 the Executive Committee had considered the Medium Term Financial Strategy 2016/17-2020/21 and had recommended to Council that it be adopted.
- 42.2 The report that had been considered by the Executive Committee had been circulated with the Agenda for the current meeting at Pages No. 14-38.
- 42.3 The recommendation from the Executive Committee was proposed and seconded. During the discussion which ensued, a Member noted that the five year Medium Term Financial Strategy was based on the Council Plan which would need to be renewed next year. She therefore questioned whether it was the intention that the Medium Term Financial Strategy would be varied as a result of any changes to the Council Plan. In response, she was advised that the Medium Term Financial Strategy would definitely change, and probably in the very near future, for a number of reasons, not least the new Council Plan and the awaited financial settlement from the Government. The Strategy was a working document and therefore would be subject to change throughout its life. Referring to the Treasury Strategy and Minimum Revenue Provisions, a Member indicated that the Council's approach had been very risk averse since the Icelandic banking crash and he questioned what the new strategy would be. In response, the Deputy Chief Executive indicated that the Council would be looking to diversify its holdings and reduce risk to ensure it had security in investment overall. In addition, the Lead Member advised that the Treasury Management Strategy would be considered and approved by the Council in due course.
- 42.4 One Member expressed great concern about the large amount of New Homes Bonus which was being used to support the finances of the Council. She was of the view that a larger amount of the monies should go to the communities where houses were being built. The answer provided to the question she had asked at Agenda Item 6 showed that much of the money spent on the one-off programme was going to Tewkesbury Borough Council i.e. elections, planning development etc. so in theory it was actually over 90% that was propping up the Council's finances rather than the previously agreed 65%. In terms of the community grants budget she noted that not even half of that money had been used this year. She was of the view that the areas in the Borough where there was large scale housing development/completions needed that money for infrastructure etc. In response, she was advised that the New Homes Bonus funding was not allocated for any particular use by the Government and the reason it had been introduced was to force Councils to build houses. The point was taken about the needs of the communities but it should not be forgotten that Section 106 monies were negotiated for that purpose and, further to that, communities could apply for a share of the community grants pot should they wish. The hole in the Council's

budget was very real and ideas were always welcome from Members as to how that could be addressed. Another Member expressed the view that New Homes Bonus had not been introduced to provide money to specific parts of the Borough where housing was built but rather to replace the loss of some of the revenue support budget. With this in mind, he felt it was right that it be used as a general provision to the Borough to provide services across the whole area.

42.5 Having considered the information received, and points raised, it was

RESOLVED That the Medium Term Financial Strategy 2016/17-2020/21 be **ADOPTED**.

CL.43 GLOUCESTERSHIRE DEVOLUTION PROJECT - UPDATE

43.1 The report of the Chief Executive, circulated at Pages No. 39-53, provided an update on the progress of Gloucestershire's devolution bid since its submission on 4 September 2015 and set out the next steps. Members were asked to note the current position in respect of the Gloucestershire Devolution Project.

43.2 The Chief Executive indicated that the bid document had been circulated to all Members of the Council for information shortly after its submission. There were two main areas upon which the Gloucestershire bid was based: economic growth and public sector reform. Within each of those areas there were two sub-workstream areas: Economic Growth - planning, transport and infrastructure (including housing growth) and business growth and skills development; and Public Sector Reform – healthcare commissioning and community safety. In addition, the bid included a 'governance' workstream which made a proposal to establish a Combined Authority for Gloucestershire.

43.3 Since submission, detailed conversations had been held with lead civil servants to develop the respective workstreams to allow an agreement with Government to be produced. The bid, as submitted, was welcomed by the Government and the Gloucestershire Partnership had initially been advised that it may be possible for a devolution deal to be agreed by Government for announcement in late November or early December 2015. However, this would be subject to the outcome of a 'Ministerial Challenge' meeting with the Secretary of State for local Government. That meeting had been held on 11 November 2015 and had involved a small group of representatives from the County including the Leader of the County Council, the Leader of Stroud District Council, both the Chairman and Chief Executive of the Local Enterprise Partnership and Tewkesbury Borough Council's Chief Executive. The meeting had been positive and the Secretary of State had been supportive of the proposals for business growth and skills, health commissioning and community safety. However, he had requested that further work be undertaken on the planning and housing elements of the planning, transport and infrastructure workstream and on the governance workstream. The lead civil servant for the Gloucestershire bid had indicated that it may be possible to conclude the agreement for Gloucestershire in January 2016 subject to the additional work being agreed.

43.4 In terms of the next steps for the bid, work was underway to address the two outstanding areas identified by the Secretary of State and a draft version of the bid would be considered by Leadership Gloucestershire on 9 December 2015. Those amendments would then be discussed with the civil servants and, once finalised, the bid proposals would be included in the draft devolution agreement to be signed off by the Secretary of State. Once drafted, the agreement would need to be approved by all partners prior to being announced by the Government and, as part of that process, the final draft documentation would be presented to Tewkesbury Borough Council, and other partner Councils and Boards, for approval in the New Year. In respect of the Combined Authority, a formal governance review, to include public consultation, would be required and this was planned for 2016. The detailed

timescale for this would need to be considered by Leadership Gloucestershire at its meeting on 9 December; this would need to be carefully thought through due to the fact that a number of the partner Councils had elections in May 2016 which would have an impact.

- 43.5 During the discussion which ensued, a Member expressed the view that the Devolution Bill seemed to be changing over time and she questioned whether it was likely that the County would have an Elected Mayor imposed upon it as part of its devolution agreement. In response, the Chief Executive indicated that there were changes proposed to the Bill but at the moment there was no offer from Gloucestershire for an Elected Mayor and the Secretary of State had indicated that, whilst an Elected Mayor was his favoured model, it was unlikely he would force Gloucestershire to have one. There was certainly no change to the County's position that it did not want an Elected Mayor. In terms of public consultation, a Member questioned what form it would take and whether it would include both the public and Parishes. In addition, she noted that the Secretary of State wanted to see a larger number of homes built in Gloucestershire and she questioned how this would equate to the Joint Core Strategy and whether any such change would have to be considered by the Council before becoming part of the devolution bid. In response, the Chief Executive indicated that he was unsure at the moment exactly how the consultation would work but the details would be drawn up as part of the governance review. The Council was already undertaking some local engagement with Parishes and the voluntary sector etc. In respect of housing, the Secretary of State would like to see additional development but the fact was that development in Gloucestershire, as far as the strategic plans were concerned, had to be evidence based and this had been made clear to Government. The only additional development that was being considered was that which might be brought forward on public sector land and those would be windfall sites. It was known that there were a number of small sites like this and they would still be subject to normal planning decisions. The Joint Core Strategy would not be affected by the devolution bid.

- 43.6 Accordingly, it was

RESOLVED That the current position of the Gloucestershire Devolution Project be **NOTED**.

CL.44 OUTSIDE BODY MEMBERSHIP - TEWKESBURY REGENERATION PARTNERSHIP

- 44.1 The Mayor drew attention to the note on the Agenda for the current meeting and it was

RESOLVED That the amendment to the membership of the Tewkesbury Regeneration Partnership to replace the Lead Member for Health and Wellbeing with the Lead Member for Organisational Development be **NOTED**.

CL.45 MOTION - SYRIAN REFUGEES

- 45.1 The Worshipful the Mayor referred to the Notice of Motion set out on the Agenda and indicated that, in accordance with the Rules of Procedure, it was necessary for the Council firstly to decide whether it wished to debate and determine the Motion at this evening's meeting, or whether it wished to refer the Motion, without debate, to a Committee for consideration with authority either to make a decision on the matter or to bring a recommendation back to Council. Upon being put to the vote it was proposed that the Motion would be referred to the Overview and Scrutiny Committee.

45.2 The Chairman of the Overview and Scrutiny Committee indicated that his Committee would need to know exactly what it was required to do if it was decided by the Council that the Motion should be considered in that way. The Deputy Chief Executive advised that a report would be provided to aid the Committee's consideration.

45.3 Accordingly, it was

RESOLVED That the Motion be referred to the Overview and Scrutiny Committee for consideration.

CL.46 SEPARATE BUSINESS

46.1 The Chairman proposed, and it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

CL.47 SEPARATE MINUTES

47.1 The Separate Minutes of the meeting held on 22 September 2015, copies of which had been circulated, were approved as a correct record and signed by the Mayor.

CL.48 REVIEW OF THE DEVELOPMENT MANAGEMENT TEAM STAFFING STRUCTURE

(Exempt – Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

48.1 Members considered the staffing structure of the Development Management Team and approved the staffing structure as set out within the report along with the use of market supplements for existing and new senior officer posts.

The meeting closed at 7:00 pm

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	26 January 2015
Subject:	Scheme of Members Allowances
Report of:	Lin O'Brien, Democratic Services Group Manager
Corporate Lead:	Sara Freckleton, Borough Solicitor
Lead Member:	Councillor R J E Vines
Number of Appendices:	One

<p>Executive Summary:</p> <p>The Council's current Scheme of Allowances expires on 31 March 2016. In determining a new Scheme of Allowances the Council must have regard to the recommendations of its Independent Remuneration Panel. Once a Scheme has been determined the Council cannot make any changes to it without considering the recommendations of its Independent Remuneration Panel.</p>
<p>Recommendation:</p> <p>The Council is asked to determine the Scheme of Allowances to take effect on 1 April 2016 following expiry of the existing arrangements.</p>
<p>Reasons for Recommendation:</p> <p>To enable the Council to put into place a Scheme of Allowances prior to the expiry of the current Scheme.</p>

<p>Resource Implications:</p> <p>The current budget for Basic Allowances and Special Responsibility Allowances is £325,318. A 1% increase in this sum equates to £3,253 and the proposals result in an increased cost of £3,157 in 2016/17.</p>
<p>Legal Implications:</p> <p>As contained in the report.</p>
<p>Risk Management Implications:</p> <p>If the Council does not adopt a Scheme of Allowances prior to the expiry of the current arrangements it will be unable to pay any allowances.</p>
<p>Performance Management Follow-up:</p> <p>Once a new Scheme is agreed the appropriate amendments will be made and actioned and the statutory requirements in respect of publicity will be undertaken.</p>

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 The Council considered an interim report, following a 'light touch' review, on 19 February 2015 and resolved that the current Scheme of Members Allowances remain in place for 2015/16 and that a fundamental review of allowances be undertaken to ensure a new Scheme is in place for 2016/17.

2.0 LEGISLATIVE REQUIREMENTS

2.1 The Local Authorities (Members' Allowances) (England) Regulations 2003, require Authorities to establish and maintain an Independent Remuneration Panel. The purpose of the Panel is to make recommendations to the Authority about the Allowances to be paid to Councillors.

2.2 Independent Remuneration Panels will make recommendations which must include the level of Basic Allowance for all Councillors, the level of Special Responsibility Allowances, and to whom they should be paid, and on whether Dependants' Carers' Allowance, Travelling & Subsistence Allowances and Co-Optees' Allowance should be paid and the levels of these Allowances. Schemes must be made by 31 March for implementation in the forthcoming financial year. A Scheme may be amended at any time, following consideration of the Independent Remuneration Panel's recommendations, but may only be revoked with effect from the beginning of a year, except in the case where a Council has begun to operate:

- (a) executive arrangements, where they are being operated in place of existing alternative arrangements;
- (b) alternative arrangements, where they are being operated in place of existing executive arrangements; or,
- (c) different executive arrangements which involve an executive which takes a different form.

2.3 From 1 April 2014, the entitlement of local Councillors to join the Local Government Pension Scheme was abolished.

3.0 SCHEME OF MEMBERS ALLOWANCES

3.1 The report of the Council's Independent Remuneration Panel is attached at Appendix 1. The Council's existing Scheme expires on 31 March 2016 and, before making a new Scheme, the Council must have regard to the recommendations of its Independent Remuneration Panel. Once a Scheme has been determined, the Council can only make any changes to it after having considered the recommendations of its Independent Remuneration Panel. Schemes can only be revoked in accordance with the circumstances detailed in Paragraph 2.2 above.

3.2 A summary of the Independent Remuneration Panel's recommendations for a new Allowances Scheme commencing on 1 April 2016 is set out at Pages No. 21 and 22.

4.0 PUBLICITY

- 4.1** The 2003 Regulations place certain duties on Local Authorities in connection with publicising the recommendations made by their Independent Remuneration Panel, their Scheme of Allowances and the actual allowances paid to Councillors in any given year.
- 4.2** The Regulations require that, as soon as reasonably practicable after receiving a report from its Panel which sets out the Panel's recommendations, a Local Authority must ensure that copies of the report are available for inspection at its Principal Office at all reasonable hours. A Local Authority must also, as soon as reasonably practicable after it receives the report, publish a Notice in at least one newspaper circulating in its area which:
- States that the Authority has received recommendations from an Independent Remuneration Panel about its Scheme of Allowances.
 - States that copies of the report detailing the Panel's recommendations are available for inspection at the Principal Office of the Authority at all reasonable hours.
 - States the address of the Principal Office,
 - Describes the main features of the Panel's recommendations, including the amounts of allowances the Panel has recommended should be payable to Councillors.
- 4.3** The 2003 Regulations also require that members of the public may take copies of the Panel's report on payment of such reasonable fee as the Local Authority may determine.
- 4.4** In respect of the Local Authority's Scheme of Allowances, the Regulations require that, as soon as reasonably practicable after determining a Scheme of Allowances, a Local Authority must ensure that copies of the Scheme are available for inspection at its Principal Office at all reasonable hours. A Local Authority must also, as soon as reasonably practicable after determining the Scheme, publish a Notice in at least one newspaper circulating in its area which:
- States that the Authority has adopted a Scheme of Allowances and the period for which the Scheme has effect.
 - States that copies of the Scheme are available for inspection at its Principal Office at all reasonable hours.
 - States the address of the Principal Office.
 - Describes the main features of the Scheme, including the amounts of Allowances payable to Councillors under the Scheme.
 - States that, in determining the Scheme, the Authority had regard to the recommendations of an Independent Remuneration Panel.
 - Describes the main features of the Panel's recommendations, including the amounts of allowances the Panel had recommended should be payable to its Councillors.
 - Describes any responsibilities or duties in the Scheme which would merit the payment of a Special Responsibility Allowance and Travelling and Subsistence Allowance.

- 4.5** The final publicity requirement in the Regulations is that, as soon as reasonably practicable after the end of a year to which a Scheme relates, a Local Authority must make arrangements for the publication in its area of the total sum paid by it to each Member in respect of Basic, Special Responsibility, Travelling and Subsistence, Co-Optees' and Dependants' Carers' Allowances.
- 4.6** All these publicity requirements are statutory minimum requirements. However, the guidance on the Regulations from the then Office of the Deputy Prime Minister also states that a Local Authority should publicise more widely the report from its Panel, its Scheme of Allowances and the sums paid to each Member. This should include, where possible, publishing this information on the Authority's website and in the Council's own newspaper (where they have one).
- 5.0 OTHER OPTIONS CONSIDERED**
- 5.1** Not applicable.
- 6.0 CONSULTATION**
- 6.1** As set out in the Independent Remuneration Panel's report.
- 7.0 RELEVANT COUNCIL POLICIES/STRATEGIES**
- 7.1** Not applicable.
- 8.0 RELEVANT GOVERNMENT POLICIES**
- 8.1** Not applicable.
- 9.0 RESOURCE IMPLICATIONS (Human/Property)**
- 9.1** Not applicable.
- 10.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 10.1** Not applicable.
- 11.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 11.1** Not applicable.
- 12.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 12.1** Council Report considered on 19 February 2015.

Background Papers: None.

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Appendices: One – Report of the Independent Remuneration Panel.

TEWKESBURY BOROUGH COUNCIL

**REPORT AND RECOMMENDATIONS OF THE INDEPENDENT
REMUNERATION PANEL ON MEMBERS' ALLOWANCES**

1. INTRODUCTION

1.1 The Tewkesbury Borough Council Independent Remuneration Panel was established pursuant to the provisions of the Local Authorities (Members Allowances) (England) Regulations 2003.

1.2 The Panel comprised:

Mr Richard Blamey (Chairman)

Mr Hugh Laird

Mrs Sue Lambert

Mr Andrew Turner

2. TERMS OF REFERENCE

2.1 The Panel approved the following Terms of Reference:

1. To make recommendations to Council on the appropriate level and nature of allowances payable to Tewkesbury Borough Councillors under the Scheme of Allowances which:-
 - a) conform to the requirements of the Local Authorities (Members Allowances) (England) Regulations 2003;
 - b) recognise the duties and levels of responsibility which fall upon them; and
 - c) are clear, unambiguous, easy to administer, explain and justify to the local community.

The recommendations will cover as a minimum :-

- i) The Basic Allowance.
- ii) The payment of Special Responsibility Allowances.
- iii) Travel Allowances.
- iv) Subsistence Allowances.
- v) Dependent Carers Allowances.
- vi) Pensions.
- vii) Suspension of Allowances.
- viii) Duration of Scheme.

2. To undertake the role of Parish Remuneration Panel and make recommendations on the following:-
 - i) the amounts of Parish Basic, Travel and Subsistence Allowances;
 - ii) whether the Parish Basic Allowance should be available to all Members of the Parish Council or only to the Chairman; and
 - iii) the duties for which Travel and Subsistence Allowance may be claimed.

3. THE REVIEW

(a) Preparation

- 3.1 Prior to the commencement of the Review, the Panel was provided with a briefing on its role and task. This was delivered by Graham Russell, Independent Local Government Adviser, Chair of the West Dorset Independent Remuneration Panel, Chair of the Regional Meeting of Chairs of the Independent Remuneration Panels and Independent Adviser to South Somerset, South Gloucestershire and North Somerset Independent Panels.

(b) Evidence Reviewed

- 3.2 To assist with the Review, a variety of information was considered which included:

- | | |
|----------|--|
| Guidance | <ul style="list-style-type: none">• New Council Constitutions – Government Guidance on Consolidated Regulations.• South West Councils – A Practical Guide for those involved in the work of Independent Remuneration Panels – Revised January 2015. |
|----------|--|

Tewkesbury Borough Council Political Structure, Make-Up and Role Descriptions, Ward Map, Electorate, Committee Membership, Working Group Membership, Lead Member Portfolios, Outside Body Representation and information on individual Members, date of election and additional roles undertaken where applicable.

Current Scheme of Allowances.

Independent Remuneration Panel Report for 2011.

Allowances received in 2014/15.

The cost to each resident of the total Basic and Special Responsibility Allowance for Tewkesbury Borough Council compared with all the authorities in Gloucestershire, the South West and every authority in the Country operating a streamlined Committee structure.

- 3.3 The Panel met with Councillors over two sessions.
- 3.4 The first session was held prior to the Elections, on 20 April 2015, and the Panel particularly spoke to Members that were not planning to stand for election again as well as those that were standing:
- Councillor Claire Wright – Lead Member for Health and Wellbeing
 - Councillor Adele Carter – Local Member for Northway
 - Councillor Elaine MacTiernan – Local Member for Northway
 - Councillor Mike Dean – Mayor
 - Councillor Jude Perez – Lead Member for Corporate Governance
 - Councillor Dave Waters – Lead Member for Economic Development/Promotion
 - Councillor Allen Keyte – Deputy Leader of the Council and Lead Member for Finance and Asset Management
- 3.5 The second session was held on 1 October 2015 and the Panel spoke to a mixture of new Members, Lead Members, Chairmen and the Leader and Deputy Leader of the Council:
- Councillor Rob Garnham – New Member
 - Councillor Ron Allen – Mayor and Lead Member for Health and Wellbeing
 - Councillor Dave Waters – Deputy Leader of the Council and Lead Member for Finance and Asset Management
 - Councillor Kay Berry – Lead Member for Community
 - Councillor Robert Vines – Leader of the Council and Lead Member for the Corporate Portfolio
 - Councillor Terry Spencer – New Member
 - Councillor Andrew Reece – New Member
 - Councillor Phil Awford – Chairman of Overview and Scrutiny Committee
 - Councillor Derek Davies – Lead Member for Built Environment
 - Councillor Rob Bird – Lead Member for Economic Development/Promotion
 - Councillor Heather McLain – New Member
 - Councillor Ruth Hatton – New Member
 - Councillor Mel Gore – New Member
- 3.6 A summary of some of the points arising from these discussions is set out below:
- Most Members felt that the Basic Allowance was about right.
 - On average Members spent in excess of 30 hours a week on Council business.
 - Allowances were not the overriding factor in persuading Members to stand for election but were an important encouragement to enable people from all walks of life to stand, particularly young and employed people.
 - No Members expressed any concerns about the list of approved duties.
 - Most Members claimed mileage and were content that the rates provided adequate compensation for fuel, wear and tear.

- All Members agreed that it was appropriate for those Members taking on extra responsibility to receive an additional allowance.
- Allowances, particularly the Special Responsibility Allowances, helped to make Members feel that their contribution was valued and any cut in Allowances would be very demotivating.
- All Members valued the support that they received from Officers and praised the standard of that support.
- Many Members referred to the fact that the Basic Allowance had been cut previously on two occasions to introduce Special Responsibility Allowances into the Allowance structure without increasing the overall financial burden on the Taxpayer.
- No one makes money being a Councillor and many Councillors do lots of other voluntary unpaid work in their communities as most Councillors became engaged through a desire to give something back to the community.
- A few Members felt that there should be deferential payments for Chairmen and Lead Members as some of those roles were more burdensome than others.

3.7 The Panel met with the Council's Chief Executive, Mike Dawson, who briefed Panel Members on the following areas:

- The role of the Chief Executive at Tewkesbury Borough Council.
- The background and context of the Council.
- Current issues such as devolution and the Joint Core Strategy.
- The financial position of the Council.

4. MEMBERS ALLOWANCES SCHEME

(a) Basic Allowance

- 4.1 Each Local Authority must make provision in its Scheme of Allowances for a basic, flat rate Allowance payable to all Councillors of the authority. The Allowance must be the same for each Councillor. The Allowance may be paid in a lump sum or in instalments through the year.
- 4.2 Government guidance states that the Basic Allowance *"is intended to recognise the time commitment of all Councillors including such inevitable calls on their time, such as meetings with Officers and constituents and attendance at political group meetings"* and *"it is important that some element of the work of Members continues to be voluntary – that some hours are not remunerated. This must be balanced against the need to ensure that financial loss is not suffered by Elected Members, and further to ensure that, despite the input required, people are encouraged to come forward as Elected Members and that their service to the community is retained"*.

- 4.3 The Panel recognised, from all the information provided, that the Basic Allowance at Tewkesbury was higher than the majority of comparable Councils in the country. However, they were also mindful of the following:
- The Basic Allowance had been cut on two previous occasions from £10,400 to the current £7,200.
 - Members had stood for election in May 2015 based on the current Allowance and to cut it one year into a four year term seemed unfair and inappropriate.
 - A cut in the Basic Allowance would be demotivating and devalue the role, particularly as the commitment shown by Members was impressive and there was no doubt that the majority worked exceptionally hard.

- 4.4 **Accordingly, it is recommended that the Basic Allowance for all Councillors should remain at £7,200.**

(b) Special Responsibility Allowances

- 4.5 Each Local Authority may also make provision in its Scheme for the payment of Special Responsibility Allowances for those Councillors who have significant responsibilities. Special Responsibility Allowances may be payable for duties which fall within the following categories:

- Acting as Leader or Deputy Leader of a Political Group.
- Membership of the Executive, where an authority is operating Executive Arrangements.
- Presiding at meetings of a Committee, Sub-Committee or Joint Committee.
- Representing the authority at meetings of another body.
- Membership of a Committee or Sub-Committee that meets with exceptional frequency, or for exceptionally long periods.
- Acting as a spokesperson for a Political Group on a Committee or Sub-Committee.
- Membership of an Adoption Appeals Panel or Panel dealing with licensing or controlling any activity.
- Any other activities in relation to the discharge of the Authority's functions as to require equal or greater effort of the Member than any of the activities listed above.

- 4.6 A Scheme must also specify the amounts of Allowance to be paid for each responsibility and, where one Political Group is in control and where an Authority has decided to pay Special Responsibility Allowances, the Authority must make the provision for payment of a Special Responsibility Allowance to at least one Member of a minority group.

4.7 The Panel was mindful of the fact that all of its research showed that the Special Responsibility Allowance's at Tewkesbury were low in comparison with other authorities. The Panel was also very much in favour of the principle that there should be a strong link between responsibility and payment. Taking account of the fact that Local Government staff had received a pay rise of 1% over the last four years, the Panel felt that there was scope for the total Basic and Special Responsibility Allowance budget (£325,318 in 2014/15) to be increased by 1% giving approximately £3,253 to be used to provide increases in the Special Responsibility Allowances.

4.8 It was noted that currently the Chairman of the Standards Committee was not included in the Committee Chairman Special Responsibility Allowances as historically the Chairman had not been a Member of the Council. The Panel did not feel that the Standards Committee Chairman should be treated any differently from other Chairmen.

4.9 **It is therefore recommended that Special Responsibility Allowances be payable as follows:**

Current		Proposed	
Leader of the Council	£7,937	Leader of the Council	£8,400
Deputy Leader	£5,953	Deputy Leader	£6,300
Lead Members (7)	£3,969	Lead Members (7)	£4,200
Committee Chairmen (5)	£1,984	Committee Chairmen (5)	£2,100
Planning Committee		Planning Committee	
Licensing Committee		Licensing Committee	
Overview and Scrutiny Committee		Overview and Scrutiny Committee	
Audit Committee		Audit Committee	
Standards Committee		Standards Committee	
Mayor	£2,000	Mayor	£2,100
Deputy Mayor	£1,250	Deputy Mayor	£1,300

4.10 The Panel considered that the provision in the Scheme whereby Councillors who carry out more than one role, which would attract a Special Responsibility Allowance, are only entitled to claim the highest applicable Special Responsibility Allowance was unfair and did not fit with the principle of payment for responsibility.

4.11 **It is therefore recommended that this provision be deleted from the Scheme and that any Member carrying out a role subject to a Special Responsibility Allowance should receive payment for each role undertaken.**

- 4.12 **The Panel felt that, in respect of the current Mayor particularly, who was also a Lead Member; this provision should be back-dated so that he received both Special Responsibility Allowances during his Mayoral Year. Accordingly, it is recommended that the provision in the 2015/16 Scheme restricting claims to one Special Responsibility Allowance be removed.**

(c) Pensions

- 4.13 From 1 April 2014, the entitlement of local Councillors to join the Local Government Pension Scheme was abolished.

(d) Councillors' IT Equipment

- 4.14 The Panel did not address provision of IT equipment and facilities for Members as this was subject to a separate policy and not included in the Allowance Scheme.

(e) Travel Allowances

- 4.15 These expenses are currently paid at the Inland Revenue approved rates as set out below:

• Cars and Vans	45p
• Motorcycles	24p
• Bikes	20p
• Passenger Supplement Per Passenger	5p

- 4.16 Any increases are accordance with those rates during the period of the Scheme except that, where the duty for which the travelling expenses is sought takes place within Tewkesbury Borough, journeys exceeding 50 miles in total will be payable at a mileage rate of 1p per mile after the first 50 miles.

- 4.17 Expenditure on tolls, parking fees etc. are reimbursed for authorised duties upon the production of receipts.

- 4.18 **Recommendation:**
That the arrangements for travel allowances remain unchanged except that the reference to 'journeys exceeding 50 miles in total will be payable at a mileage rate of 1p per mile after the first 50 miles' be deleted as the Panel cannot see any rationale for this to remain in the Scheme.

(f) Subsistence Allowances

- 4.19 The current Scheme allowed the following payments for approved duties taking place outside of the Council Offices:

Breakfast (in the case of an absence from the usual place of residence of more than 4 hours before 11am) £4.48

Lunch (in the case of an absence from the usual place of residence of more than 4 hours and including the period between 12noon and 2pm) £6.17

Tea (in the case of an absence from the usual place of residence of more than 4 hours and including the period 3pm to 5pm) £2.43

Evening meal (in the case of an absence from the usual place of residence of more than 4 hours ending after 6pm) £7.64

- 4.20 These were the maximum amounts payable and any claim would only be paid on the production of receipts.
- 4.21 The Panel was advised that, for the financial year 2015/16 (to date) only £65.50 had been claimed in subsistence.
- 4.22 The Panel was content for these to remain unchanged but agreed that the Democratic Services Group Manager should have a delegation to approve increased amounts in special circumstances, such as visits to London, subject to these being reasonable and upon the production of receipts.
- 4.23 **Recommendation:**
That the arrangements for subsistence allowances remain unchanged except that the Democratic Services Group Manager be given delegated authority to approve increased amounts in special circumstances, such as visits to London, subject to them being reasonable and upon the production of receipts.

(g) Dependant Carers' Allowance

- 4.24 The current Scheme of Allowances provides for a maximum rate payable of £6.00 per hour with no overall daily maximum.
- 4.25 The Carers' Allowance is payable in respect of:
- a) Children aged 14 or under.
 - b) Elderly relatives requiring full-time care.
 - c) Relatives with disabilities or nursing requirements who require either temporary or permanent full-time care.
- 4.26 In each case, the dependant must normally live with the claimants as part of the family and be unable to be left unsupervised.
- 4.27 Claims are only payable upon the production of receipts.
- 4.28 There had been no claims for the Dependent Carers' Allowance over the past year.
- 4.29 **Recommendation:**
That the Dependent Carers' Allowance remain in place but that the maximum amount payable be increased from £6 per hour to £7.20 in line with the living wage.

(h) Repayment

4.30 The current Scheme states as follows:

“If a Councillor does not attend at least two-thirds of the total number of scheduled meetings of the Council, or of the Executive, or of Committees of which he/she is a Member, the Councillor concerned should be invited to pay back an appropriate percentage of his/her Basic Allowance up to a maximum of 25% of the Basic Allowance.”

“If a Member is absent from Council business for more than one continuous month (other than on illness grounds) the Member concerned should be invited to pay back a sum equivalent to the amount of Basic and Special Responsibility Allowances paid for any single period of absence which exceeds one month.”

“For periods of long term absences due to illness the Council should review its position on a case by case basis.”

4.31 The question of payment based on performance is extremely difficult to address, particularly as the law does not allow for a differential Basic Allowance. A number of Members raised the issue of a few Members not putting in the same level of commitment but receiving the same Allowance and the unfairness of such a system; although it was recognised that this should be addressed in the Political Groups.

4.32 During the life of the Scheme the repayment provision has been triggered on at least six occasions and, although voluntary, on each occasion repayments have been made although some Members felt that the system failed to recognise other work in the community and on Working Groups.

4.33 **Recommendation**
That the repayment provision within the Scheme remain unchanged.

(i) Period of Scheme and Review

4.34 It was noted that a four year Scheme had ended in March 2015 and that the Panel had agreed to continue with that Scheme for 12 months to allow detailed consideration to be undertaken before new proposals were recommended. The Panel was therefore mindful of the fact that the current Scheme was due to expire on 31 March 2016 and a new Scheme needed to be in place for 1 April 2016 which would take the Council into its mid-term which would be an appropriate time to further consider whether any changes were necessary and/or appropriate. It is therefore recommended that the Scheme be implemented for one year from 1 April 2016 to 31 March 2017, during which period the Panel would meet to review the Scheme and recommend any amendments if necessary.

Recommendation:
That the proposed revised Scheme be in place for one year from 1 April 2016 to 31 March 2017.

(j) Other Amendments to the Scheme

- 4.35 The Panel did not see the need for any other changes to the existing Scheme to be made including the Schedule of Approved Duties shown at Appendix 1.

Recommendation:

That no other changes be made to the Scheme of Allowances, including the Schedule of Approved Duties.

5. THE BUDGET

- 5.1 The current budget for Basic Allowances and Special Responsibility Allowances is £325,318. A 1% increase in this sum equated to £3,253 and the proposals result in an increased cost of £3,157 which, in the view of the Panel, is appropriate and justifiable in the current climate. It should also be noted that, if the recommendation that the Mayor receive his Mayoral Special Responsibility Allowance in 2014/15 as well as his Lead Member payment was agreed, there would be a cost of £2,000 in the current year.

6. CONCLUSION

- 6.1 The Panel wished to make the following points in concluding their report:
- Councillors work extremely hard in a very challenging environment which is not always recognised or appreciated by the electorate.
 - The role of a Councillor is voluntary, it is not that of an employee and it is not a salaried position. The remuneration within a Scheme of Allowances is intended to recognise the commitment of Councillors and prevent financial loss.
- 6.2 Finally the Panel wished to thank Councillors and the Chief Executive for their time and contributions to inform the Panel's work.

7. SUMMARY OF RECOMMENDATIONS

- That the Basic Allowance payable to all Councillors remain at £7,200.

- That the following Special Responsibility Allowances be payable:

Leader of the Council	£8,400
Deputy Leader	£6,300
Lead Members (7)	£4,200
Committee Chairmen (5)	£2,100
Planning Committee	
Licensing Committee	
Overview and Scrutiny Committee	
Audit Committee	
Standards Committee	
Mayor	£2,100
Deputy Mayor	£1,300

- The provision which states that Councillors who carry out more than one role which would attract a Special Responsibility Allowance are only entitled to claim the highest applicable Special Responsibility be deleted from the Scheme and that any Member carrying out a role subject to a Special Responsibility Allowance should receive payment for each role undertaken.

(In respect of the current Mayor particularly, who was also a Lead Member; this provision should be back-dated so that he receives both Special Responsibility Allowances during his Mayoral Year. Accordingly, it is recommended that the provision in the 2015/16 Scheme restricting claims to one Special Responsibility Allowance be removed).

- That no reference to IT be included in the Council's Scheme of Allowances.
- That the arrangements for travel allowances remain unchanged except that the reference to 'journeys exceeding 50 miles in total will be payable at a mileage rate of 1p per mile after the first 50 miles' be deleted as the Panel cannot see for any rationale for this to remain in the Scheme.
- That the arrangements for subsistence allowances remain unchanged except that the Democratic Services Group Manager be given delegated authority to approve increased amounts in special circumstances, such as visits to London, subject to them being reasonable and upon the production of receipts.
- That the Dependent Carers' Allowance remains in place but that the maximum amount payable be increased from £6 per hour to £7.20 in line with the living wage.

- That it be noted that from 1 April 2014 the entitlement of local Councillors to join the Local Government Pension Scheme was abolished.
- That the repayment provision within the Scheme remains unchanged.
- That the Scheme be introduced for one year from 1 April 2016 to 31 March 2017, during which period the Panel will meet to review the Scheme and recommend any amendments if necessary.
- That no other changes be made to the Scheme of Allowances, including the Schedule of Approved Duties.

REVIEW OF SCHEME OF MEMBERS' ALLOWANCES

APPROVED DUTIES

The following are deemed to be approved duties for the purposes of claiming travelling allowances:-

- a) Formal meetings of the Council including Committees, Sub-Committees, Working Groups and Advisory Panels.
- b) Meetings of other bodies to which the Council makes appointments.
- c) Authorised training events and conferences which relate to the duties of the Council.
- d) Attendance at meetings and events relating to the duties of the Council at the request of a Borough Council Officer.
- e) Any other duty undertaken for the purpose of or in connection with the discharge of the functions of the Council or any of its Committees subject to the prior approval of the Borough Solicitor.
- f) Any meetings arranged by an Officer with a Lead/Support Member at the Council Offices to discuss items within their Portfolio.
- g) Any meeting which a Lead Officer has asked the Lead/Support Member to attend (whether at the Council Offices or elsewhere).
- h) Invitations to Lead/Support Members to attend events, seminars, presentations etc within a Member's Portfolio, subject to prior approval by the Democratic Services Group Manager in consultation with the Lead Officer.

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	13 January 2016
Subject:	Contract Procedure Rules
Report of:	Simon Dix, Finance and Asset Management Group Manager
Corporate Lead:	Rachel North, Deputy Chief Executive
Lead Member:	Councillor D J Waters
Number of Appendices:	One

<p>Executive Summary:</p> <p>The Contract Procedure Rules (CPRs) were last fully updated in December 2006. Although delegated authority was given to the Borough Solicitor to approve minor amendments, the CPRs are now nearly ten years old and in need of revision to reflect the latest EU Directive and Public Contracts Regulations 2015 as well as the increased value of purchases.</p>
<p>Recommendation:</p> <p>That it be RECOMMENDED TO COUNCIL that the updated Contract Procedure Rules as appended to this report be APPROVED.</p>
<p>Reasons for Recommendation:</p> <p>The CPRs are important in ensuring Officers with delegated powers to purchase goods, services and works enter into contracts within a framework which promotes probity and transparency. The updated CPRs reflect this requirement and modern procurement practices.</p>

<p>Resource Implications:</p> <p>None directly arising from the report.</p>
<p>Legal Implications:</p> <p>The Council is required to adopt contract rules in order to comply with s135 of the Local Government Act 1972 which requires all local authorities to make standing orders with respect to the making of contracts by them or their behalf. The coming into force of the new Public Contracts Regulations in February 2015 gives the Council a good opportunity to update the current CPRs.</p>
<p>Risk Management Implications:</p> <p>None.</p>

Performance Management Follow-up:

Ensuring compliance with the CPRs is the duty of senior managers. The Procurement Working Group oversees procurement practice throughout the organisation and offers support to services to ensure value for money is obtained within the contractual and procurement activities of the Council. The Contracts Register of the Council is subject to transparency requirements and is published on a quarterly basis.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1** The Council is required to approve Contract Procedure Rules to govern the way Officers manage the procurement activities of the Council and the relationship with and appointment of contractors. The CPRs form an integral part of the Constitution of the Council.
- 1.2** The current CPRs being used by Officers of the Council were last fully approved by Members in December 2006. Although some minor revisions have taken place, the current CPRs are essentially those approved nearly ten years ago.
- 1.3** The recently reformed Procurement Working Group undertook to review the current CPRs with the intention of revising them to meet updated legal requirements. This is part of the work activity of the group in order to ensure the Procurement Strategy action plan is being discharged and that the procurement activities of the Council are robust and transparent and deliver value for money.
- 1.4** It has been decided to bring forward the updated CPRs in advance of the Constitution being updated as the current CPRs do not comply with new legislation.

2.0 REVISED CONTRACT PROCEDURE RULES

- 2.1** The revised CPRs are contained at Appendix A. In establishing the revised CPRs, best practice has been sought in order to inform their development. The new CPRs also reflect the latest procurement legislation. The main changes recommended against the current CPRs include:
- Increased thresholds for low, intermediate and high value procurement.
 - A legal requirement for any contract with a value in excess of £25,000 to be advertised on the government's Contract Finder website.
 - Requirement to keep contracts register of all contracts over £5,000 in line with the Local Authorities Transparency Code 2015.
 - Legal requirement for electronic tendering.
 - An open tender process must be used for all procurements under the EU threshold (£164,176.00 from 1 January 2016).
- 2.2** If the revised CPRs are approved by Council on January 26 2016, it is the intention that they become active for all procurement activities with effect from 1 February 2016. A revised procurement toolkit will be issued to Officers and training will also be provided.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 The Procurement Working Group, chaired by the s151 officer, was consulted during the drafting of the revised Rules. The Borough Solicitor was also consulted.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Financial Procedure Rules last approved by Council in November 2011.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 The Contract Procedure Rules help the council to demonstrate value for money in its procurement activities.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Approval of Contract Procedure Rules – Council on 19 December 2006.

Background Papers: None.

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Appendices: A – Contract Procedure Rules.

Appendix A
Version 30.12.15

Tewkesbury Borough Council

Contract Rules

CONTENTS

- Section 1 – General Compliance and Scope
 - 1. Compliance
 - 2. Scope
- Section 2 – Common Requirements
 - 3. Calculation of Contract Values
 - 4. Authorised Officers and their responsibilities
 - 5. Contract Values
 - 6. Waivers
- Section 3 – Tendering Process
 - 7. Advertising
 - 8. Suitability assessment and Pre-Qualification
 - 9. Electronic Tendering
 - 10. Dividing into Lots
 - 11. Invitation to Tender
 - 12. Submission and Opening of Tenders and Quotes
 - 13. Arithmetical Errors and Post Tender Clarification
 - 14. Tender Evaluations
 - 15. Awarding Contracts
 - 16. Debrief
- Section 4 – Contract Formalities
 - 17. Execution of contracts
 - 18. Records of tender and contract
 - 19. Bonds and Parent Company Guarantees
 - 20. Embedded Leases and Embedded Derivatives
- Section 5 – Specific Types of Tendering
 - 21. Framework Agreements
 - 22. Draw Down Agreements
 - 23. Collaborations and joint working
 - 24. Procurement by Consultants
 - 25. Nominated and Named Sub-Contractors
- Section 6 – Amendments and Contract Management
 - 26. Amendments to Contracts
 - 27. Contract Management
 - Definitions

CONTRACT RULES

SECTION 1: GENERAL COMPLIANCE AND SCOPE

1. COMPLIANCE

1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:

- 1.1.1 all relevant statutory provisions including codes and statutory guidance e.g. transparency code;
- 1.1.2 the relevant European procurement rules when applicable (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);
- 1.1.3 the Authority's Constitution including these Contract Rules, the Authority's Financial Rules and Scheme of Delegation; and
- 1.1.4 the Authority's strategic objectives, Procurement Strategy, Procurement Code (which includes template documentation) and relevant policies.

1.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, goods and services:

- 1.2.1 are obtained with probity and propriety to ensure the proper expenditure of public funds;
- 1.2.2 are appropriate for the purpose for which they are obtained; and
- 1.2.3 ensure Best Value for Money.

2. SCOPE

2.1 These Contract Rules apply to any arrangement made by, or on behalf of, the Authority for the carrying out of works or for the supply of goods or services.

2.2. These Contract Rules do not apply to

- 2.2.1 contracts of employment which make an individual a direct employee of the Authority;
- 2.2.2 the acquisition, disposal, or transfer of land (which must be carried out by the Head of Property Services) except where services or works are required by the Authority as part of the land transaction e.g. regeneration projects;
- 2.2.3 contracts relating to the placement of deposits or raising of loans under the Treasury Management Strategy;

2.2.4 purchases made at public auction; and

2.2.5 the giving of grants.

SECTION 2: COMMON REQUIREMENTS

3. CALCULATION OF CONTRACT VALUES

3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling, net of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.

3.2 The estimated value is to be calculated as at the date the contract is first advertised or the candidates are contacted, whichever occurs first. Contracts should be for a fixed term, but where this is not possible (e.g. hire agreements) the contract value should be calculated by multiplying the monthly value by 48.

3.3 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of the Contract Rules.

4. AUTHORISED OFFICERS AND THEIR RESPONSIBILITIES

4.1 Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules, and the Procurement Code.

4.2 The Authorised Officer must proceed with the procurement in a manner commensurate with its complexity and value by:

4.2.1 appraising the need for the expenditure and its priority;

4.2.2 defining the objectives of the procurement;

4.2.3 assessing the risks associated with the procurement and how to manage them;

4.2.4 considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium and frameworks;

4.2.5 consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;

- 4.2.6 checking to see if a corporate contract already exists e.g. stationery contract;
- 4.2.7 where the procurement involves a potential change to services provided by the Authority the Authorised Officer ensuring compliance with:
- the Authority's duty to consult under Section 3 Local Government Act 1999.
 - the Authority's duties under the Equalities Act 2012.
 - the Public Social Value Act 2012 for contracts for services over the EU threshold to ensure how the procurement might improve the economic, social and environmental well-being of the geographical area the Authority serves;
- 4.2.8 ensuring the Budget Holder has sufficient budget to sustain the contract for the life of the contract;
- 4.2.9 for quotes and tenders below £10,000.00 attaching the relevant standard terms and conditions to the purchase order or otherwise draw the attention of the supplier to these standard terms and conditions;
- 4.2.10 for quotes and tenders above £10,000.00, instructing the Council's Solicitor in writing to draft or approve the formal written contract terms and conditions that are to apply to the proposed contract; and
- 4.2.11 ensuring that a purchase order is raised for the contract.
- 4.3 Where any procurement may result in any employee either of the Authority or of a service provider being affected by any transfer arrangements, Authorised Officers must ensure that the application of the Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) is considered and obtain legal advice before proceeding with inviting tenders or quotes.
- 4.4 Any procurement that is:
- over EU threshold and TUPE applies; or
 - is over budget
- shall be referred to the relevant Committee or Council for decision, unless otherwise stated elsewhere in the Authority's Constitution.

5. CONTRACT VALUES

5.1 Where the total value for a purchase is within the values in the first column below, the award procedure in the second column must be followed:

Estimated Total Contract Value	Contract Letting Requirements & Forms of Contract
Up to £10,000	<p>The budget holder can purchase from the source that offers the Best Value for Money to the Authority.</p> <p>This could be demonstrated by the obtaining of 2 written Quotes, where this is possible.</p> <p>Contracts shall be by purchase order with standard terms and conditions attached.</p>
From £10,001 to £50,000	<p>Shall be advertised on the website of the Authority (and/or other public advertisement as determined by the Authorised Officer) unless, in consultation with the S151 Officer, and the Council's Solicitor, it is agreed to approach suppliers on an adhoc basis (in which case 3 written quotes shall be sort).</p> <p>Any procurement opportunity over £25,000.00 that is advertised shall also be advertised on Contract Finder using the Authority's e-procurement system within 24 hours of any other adverts appearing together with unrestricted and full direct internet access to relevant contract documents.</p> <p>Procurement opportunities advertised on Contract Finder shall be procured using the Open Procedure.</p> <p>A formal written contract approved by the Council's Solicitor must be utilised.</p>
From £50,001 to EU Threshold	<p>Shall be advertised on the website of the Authority and on Contract Finder using the Authority's e-procurement system (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents</p> <p>An open procedure shall be followed for goods and services.</p> <p>Pre-Qualification Questionnaires (PQQ's) can be used in the procurement of works contracts where the value of the works exceeds the EU</p>

	<p>threshold for goods and services. A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
EU Threshold and Above	<p>Shall be advertised in the Official Journal of the European Journal (OJEU), on the website of the Authority and on Contract Finder using the Authority's e-procurement system (within 3 days of the receipt of OJEU notice at publications office or within 24 hours of the OJEU notice being published) (and/or other public advertisement as determined by the Authorised Officer)</p> <p>Pre-Qualification Questionnaires (PQQ's) can be used in the procurement of works contracts where the value of the works exceeds the EU threshold for goods and services.</p> <p>The Procurement Adviser, in consultation with the Council's Solicitor, shall advise on the most appropriate EU procurement procedure to be used for the relevant goods, services and/or works to be procured. The two most common procedures are:</p> <ul style="list-style-type: none"> • Open Procedure – anyone can submit a tender. • Restricted Procedure – following receipt of expressions of interest a pre-qualification questionnaire (PQQ) is used to shortlist Candidates who are then invited to submit a tender. <p>The following procedures can only be used in certain circumstances following advice from the Council's Solicitor:</p> <ul style="list-style-type: none"> • Innovation Partnership; This may be used when the Authority is seeking innovative ideas where solutions are not already available on the market and there is also an intention to include both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement. A structured partnership will be established for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and costs.

	<ul style="list-style-type: none"> • Competitive dialogue This can be used where either of the following apply: <ul style="list-style-type: none"> (i) the need of the Authority cannot be met without adaptation of readily available solutions; or (ii) they include design or innovative solutions; or (iii) specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them; or (iv) the technical specifications cannot be established with sufficient precision with reference to a standard, European Technical Assessment, common technical specification or technical reference; or (v) where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the tenderers that meet certain criteria and submitted tenders in accordance with the formal requirements of the failed procedure • Competitive Procedure with negotiation. This procedure can be used for the same reasons as competitive dialogue. With this procedure the Authority can negotiate with candidates who have submitted tenders to seek improved offers. A formal written contract prepared/approved by the Council's Solicitor must be utilised.

Light Touch Regime	<p>Contracts involving the following goods and services are subject to a 'light touch' regime if the value of the contract is below the prescribed threshold contained in the EU Regulations:</p> <ul style="list-style-type: none"> • health, social and related services; • administrative social, educational, healthcare and cultural services; • compulsory social security services; • benefit services; • other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services; • legal services; • other administrative services and government services; • provision of services to the community; • prison related services, public security and rescue services; • investigation and security services; • international services; • postal services; and • miscellaneous services listed in schedule 3 of the Public Contract Regulation 2015. <p>Advice must be sought from the Procurement Adviser before undertaking a light touch regime procurement. A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
Concessions	<p>A concession contract is an agreement where suppliers are given the right to exploit works or services provided for their own gain. Suppliers can either receive payment for their services solely through third party sources or partly through consideration from the contracting authority along with income received from third parties e.g. a service concession is where a supplier has a contract to manage an Authority's catering services for its staff. The Authority doesn't pay the supplier to run the services and its income is solely through the staff using the facilities. The risk in the concession making a profit is with the supplier and not the Authority.</p>

Disposal of assets (other than land)	Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules. Where the Authority is disposing of land and there is an element of services or works required by the Authority as part of the disposal these Contract Rules apply e.g. regeneration projects.
Disposal of Land	These contract rules apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (e.g. regeneration projects).

6. WAIVERS

6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:-

- 6.1.1 Where the goods, materials, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:
- an upgrade; or
 - where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative Contractors; or
- 6.1.2 the goods or materials to be purchased are proprietary articles or are sold only at fixed prices; or
- 6.1.3 the price of services, goods or materials to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or
- 6.1.4 where in the opinion of the Authorised Officer, in consultation with the s151 Officer and the Council's Solicitor, considers that the services to be provided or the work to be executed or the goods or materials to be purchased are urgent (subject to the action being reported to the next Executive Committee Meeting); or

- 6.1.5 specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:
- there is no satisfactory alternative; or
 - evidence indicates that there is likely to be no genuine competition; or
 - it is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser; or
- 6.1.6 the goods or materials to be purchased are within a bulk purchasing agreement made between the Authority and a consortium or other organisation approved by the Authority; or
- 6.1.7 the works to be executed or the goods or materials to be purchased can only be carried out or supplied by a statutory body.
- 6.2 These Contract Rules cannot be waived for the procurements above the relevant EU Threshold. Where it is possible to waive these Contract Rules, any such waiver must be agreed by:
- 6.2.1 Executive Committee for contracts above £100,000.00 or the Head of Paid Service, in consultation with the Leader of the Authority, if the matter requires an urgent decision and a meeting of the Executive Committee cannot be called; or
- 6.2.2 the budget holder, in consultation with the Section 151 Officer and the Council's Solicitor, if the contract is £100,000.00 or less.
- 6.3 A record of the decision and the reasons for it shall be kept and the waiver itself shall be kept by the Council's Solicitor.

SECTION 3: TENDERING AND QUOTATION PROCESS

7. ADVERTISING (above £10,000.00)

- 7.1 Adverts shall include as a minimum:
- date and time response to be received by the Authority;
 - how and to whom the Supplier must respond; and
 - any requirements for participating in the procurement.
- 7.2 Where adverts are placed on Contract Finder unrestricted and full direct internet access to relevant contract documents shall be available on the Authority's website and the Authority's e-procurement system free of charge when the advert is placed.
- 7.3 Opportunities with a value over the relevant EU Threshold must also be advertised in the Official Journal of the European Union (OJEU) by submitting a Contract Notice using the Authority's e-procurement system.

- 8. SUITABILITY ASSESSMENT (under EU threshold) AND PRE-QUALIFICATION (above EU threshold only)**
- 8.1 Authorised Officers are responsible for ensuring that all candidates for a contract are suitably assessed.
- 8.2 **Under EU Threshold**
As part of the tender or quotation process Authorised Officer shall establish that the potential candidates meet minimum requirements or minimum standards of:
- suitability;
 - capability;
 - legal status; and
 - financial standing.
- 8.3 The assessment questions must be:
- relevant to the subject matter of the procurement; and
 - proportionate.
- 8.4 For works contracts above the EU threshold (supply and services level) a Pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use form PAS91 or such other required PQQ template.
- 8.5 **Above EU Threshold**
Procurements above the EU threshold can use a Pre-Qualification Questionnaire (PQQ) stage. Officers must use the PQQ form issued by the Government or for works contract form PAS91 or such other required PQQ template. As any deviations the standard form must be reported to the Cabinet Office changes to the form are not permitted without the consent of the Procurement Adviser, S151 Officer and the Council's Solicitor.
- 8.6 Any candidate eliminated from a procurement where a PQQ has been undertaken must be notified following the evaluation of that stage in the process.
- 8.7 Financial and due diligence checks must be undertaken for all contracts where the value of the contract is above £10,000.00.
- 8.8 Any procurement subject to the EU Regulations shall comply with the appropriate EU Regulations.

9. ELECTRONIC TENDERING

- 9.1 Until electronic tendering becomes compulsory, the Authorised Officer, following consultation with the Procurement Adviser or Council's Solicitor, may authorise:
- 9.1.1 the transmission of quotes and tenders by electronic means;
 - 9.1.2 the carrying out of an electronic auction where satisfied that it is in the interests of the Authority to do so; and
 - 9.1.3 the carrying out of the whole tendering process and the award of the contract by electronic means, using the Authority's e-procurement system, where satisfied that it is in the interests of the Authority to do so.

10. DIVIDING TENDERS INTO LOTS

- 10.1 Authorised Officers may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots.
- 10.2 For an above EU threshold procurement, if the contract is not split into lots the main reasons for this decision shall be included in the procurement documents and the Authority's report under Regulation 84 of the Public Contracts Regulations 2015.
- 10.3 Authorised Officers shall include in the notice and or tender documents:
- 10.3.1 if tenders can be submitted for one, for several or for all of the lots; and
 - 10.3.2 if there is a limit on the numbers of lots that can be tendered for.
- 10.4 Where more than one lot may be awarded to the same tenderer, Awarding Officers may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to tender that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.

11. INVITATION TO TENDER

- 11.1 The Invitation To Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation To Tender. Subject to Contract Procedure Rule 11.3 below, no Tender delivered in contravention of this Contract Procedure Rule shall be considered.
- 11.2 All Invitations To Tender shall be in accordance with these Contract Rules, codes and policies.

- 11.3 No Tenders received after the specified date and time for receipt of Tenders shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the Procurement Adviser, s151 Officer and the Council's Solicitor, is satisfied that there is sufficient evidence for the Tender having been despatched in sufficient time for it to have arrived before the closing date and time.

12. SUBMISSION AND OPENING OF TENDERS AND QUOTES

- 12.1 Tenders and quotes shall be submitted in accordance with requirements set out in the Invitation to Tender or quote as appropriate.

Tenders (over £50,000.00)

- 12.2 All Tenders received shall be addressed to the Procurement Adviser in a plain sealed envelope endorsed with the words "Tender – Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Tenders shall be kept in a safe place by the Procurement Adviser and remain unopened until the time and date specified for their opening.

Where tenders are submitted electronically via the Authority's e-procurement system, Authorised Officers shall ensure that they are kept secure and unopened until the specified date and time.

- 12.3 Tenders shall be opened by at least one officer nominated by the budget holder and the Procurement Adviser or their nominated officer. An immediate record shall be made of the Tenders received including names, amount of tender and the date and time of opening.

12.4 Quotes (over £10,000.00)

All quotes received shall be addressed to the Authorised Officer in a plain sealed envelope endorsed with the words "Quote – Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Quotes shall be kept in a safe place by the Authorised Officer and remain unopened until the time and date specified for their opening.

- 12.5 Quotes shall be opened by the Authorised Officer who shall keep a note on file of the names, amount of tender and the date and time of opening.

- 12.6 If the submission of quotes is electronically under Contract Rule 9.1, the Authorised Officer shall ensure that the quotes are not opened until the time and date specified for their opening.

- 12.7 No Tenders or quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the s151 Officer and the Council's Solicitor, is satisfied that there is sufficient evidence for the tender or quote having been despatched in sufficient time for it to have arrived before the closing date and time.

13. ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND ABNORMALLY LOW TENDERS

- 13.1 Candidates can only alter their tenders or quotes after the date specified for their receipt but before the formal acceptance of the tender or quote, where examination by officers of the tender or quote reveals arithmetical errors or discrepancies which affect the tender or quote figure. The candidate shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.
- 13.2 In an EU Procurement the Authority must require tenderers to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, supplies or services.
- 13.3 All other post-tender clarifications shall:
- 13.3.1 only be undertaken following consultation with the Procurement Adviser and the Council's Solicitor; and
 - 13.3.2 not disclose commercially sensitive information supplied by other candidates for the contract
- 13.4 The Authority does not accept qualified or conditional quotes/tenders. Where a candidate has submitted a qualified or conditional quotation/tender Authorised Officers, in consultation with the Procurement Adviser, must give candidates the opportunity to withdraw the qualification or condition without amendment to the bid submitted.

14. TENDER EVALUATION

- 14.1 Tenders shall be evaluated in accordance with the relevant regulations and the award criteria set out in the Invitation to Tender.
- 14.2 All contracts shall be awarded on the basis of the offer which represents the most economically advantageous, taking into account price and/or quality, to the Authority.
- 14.3 The award criteria shall be predetermined and listed in the Invitation to Tender documentation. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.
- 14.4 For all contracts, regardless of value, no person with a personal or financial interest in any of the Contractors submitting a proposal should be involved in any way in influencing the decision as to which contractor is to be awarded the contract. A declaration of interest form must be completed by each officer involved in the evaluation process and held on file by the Authorised Officer.

14.5 Where Authorised Officers intend to carry out site visits, presentations or interviews as part of the evaluation process, this must be made clear in the Invitation to Tender and include whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, candidates must be informed of the evaluation criteria and weighting in the tender documents.

15. AWARDING CONTRACTS

15.1 The Authority shall only accept a tender and award a contract to the candidate submitting the most economically advantageous tender/quote

15.2 Depending on what is being procured, and whether or not it is an EU procurement, the most economically advantageous tender/quote can be assessed as follows;

- Price (i.e. the lowest bid).
- Cost (where the assessment is based on cost-effectiveness basis such as an asset life-cycle assessment (cost of the asset, maintenance costs, end of life costs).
- Best Price/Quality Ratio. (the award criteria can include quality, including technical merit, aesthetic and functional characteristics, delivery date, delivery process, after-sales service and technical assistance as well as environmental and/or social matters and any other matters relevant to what is being procured.

The award criteria and the scoring methods must be disclosed in the Invitation to Tender/Quote.

15.3 A contract may only be awarded by an Awarding Officer with the requisite delegated authority to award contracts. Prior to award, the Authorised Officer should ensure that the budget holder responsible for the contract has sufficient funds in place to sustain the contract.

15.4 Where the contract award opportunity was advertised, a contract award notice containing the name of the contractor, the date the contract was entered into and the value of the contract must be published on Contract Finder no later than 90 days after contract award. If below EU Threshold include whether or not Contractor is a Small and Medium-sized Enterprise (SME) or voluntary, community and social enterprise (VCSE).

15.5 A Contract Award Notice must be published in OJEU where there has been an above EU Threshold Procurement and the relevant standstill period observed. The contract shall not be completed or purchase order issued unless the standstill period passes with no challenges. The Authorised Officer shall notify the Procurement Adviser and the Council Solicitor immediately following receipt of a challenge.

15.6 For contracts over £10,000.00 the purchase order shall not be issued until the formal written contract has been completed.

16. DEBRIEFING

- 16.1 The Authorised Officer shall provide a written debriefing to unsuccessful Tenderers as required by the law.

SECTION 4: CONTRACT FORMALITIES

17. EXECUTION OF CONTRACTS

- 17.1 All contracts not exceeding £10,000.00 shall be signed by the relevant budget holder, unless the Council's Solicitor requires that the contract be sealed.
- 17.2 All contracts exceeding £10,000.00 but not exceeding £50,000.00 shall be signed by the Council's Solicitor or other authorised officer as set out in the Authority's Constitution unless the Council's Solicitor requires that the contract be sealed.
- 17.3 All contracts exceeding £50,000.00 shall be executed as a deed by the Council's Solicitor or other authorised officer as set out in the Authority's Constitution and the common seal affixed to the contract.

18. RECORDS OF TENDERS AND CONTRACTS

- 18.1 The Procurement Adviser shall maintain a list of all tenders received.
- 18.2 A Contracts Register of all contracts awarded over £5,000.00 shall be maintained by the the Section 151 Officer.
- 18.3 All contracts over £10,000.00 shall be kept by the Council's Solicitor.

19. BONDS AND PARENT COMPANY GUARANTEES

- 19.1 Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 or for a contract of a lesser value if considered appropriate by the Section 151 Officer following consultation with the Council's Solicitor.
- 19.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by Section 151 Officer following consultation with the Council's Solicitor.
- 19.3 Bonds shall be a minimum of 10% of the contract value.

20. EMBEDDED LEASES & EMBEDDED DERIVATIVES

- 20.1 Prior to the award of a contract the Authorised Officer must notify the S151 officer where under the contract:
- 20.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or

- 20.1.2 contains a clause that caps the price the Authority has to pay for supplies or services or there is floor price on the price the Authority has to pay for supplies or services; or
- 20.1.3 the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or
- 20.1.4 the prices the Authority has to pay, increase by some other form of Indices or commodity price.

SECTION 5: SPECIFIC TYPES OF TENDERING

21. FRAMEWORK AGREEMENTS

FRAMEWORK AGREEMENTS SET UP BY OTHER CONTRACTING AUTHORITIES

- 21.1 External Framework Agreements, where the Authority is named or identified as part of a class of permitted users, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a new procurement exercise.
- 21.2 The Framework Agreement may include within its terms a requirement for a mini competitive exercise between some or all of those suppliers who are parties to the Framework Agreements and can provide the goods/services being tendered. Other Framework Agreements may allow for a direct award or the choice of either direct award or mini completion. Any call-off from a Framework Agreement shall be tendered in accordance with the procedure set out in the Framework Agreement.
- 21.3 The approval of the Procurement Adviser or Council's Solicitor shall be sought before signing up to a new Framework Agreement.
- 21.4 A call-off contract, as set out in the Framework Agreement, will need to be entered into. If no pre-agreed contract is provided for a contract approved by the Council's Solicitor shall be entered into.

FRAMEWORK AGREEMENTS SET UP BY THE AUTHORITY

- 21.5 The Authority may carry out procurement exercises to set up Framework Agreements to allow it to choose contractors or suppliers who meet its pre-qualification requirements. The Authority can then call-off suppliers from the Framework Agreement without having to carry out a further procurement exercise. This could be useful where the Authority has need to call on contracts urgently or often. The Authority could also set up a Framework Agreement for itself and other local authorities to use in order to make efficiency savings.
- 21.6 Once a Framework Agreement is established, quotes and tenders for contracts may be invited from suppliers included on Framework Agreement up to the limit stated in the Framework.

- 21.7 The Authority will need to carry out a procurement exercise to select the suppliers to include on the Framework. This procurement will need to be advertised in accordance with these Contract Rules. The contract value is to be determined by the anticipated level of spend per Framework Agreement.
- 21.8 A Contract Award Notice must be published in OJEU where there has been an above-EU threshold procurement and the relevant standstill period observed with no challenge.

PUBLISHING THE AWARD OF CALL-OFF CONTRACTS UNDER ALL FRAMEWORK AGREEMENTS

- 21.9 The call-off of a contract under a Framework with a value of £25,000.00 or over shall be published on Contract Finder.

22. DRAW DOWN AGREEMENTS

- 22.1 Authorised Officers may award Draw Down Agreements to individual suppliers where services, supplies or works are required on an adhoc basis e.g. JCT measured terms agreements. More than one Draw Down Agreement may be awarded to different suppliers for the same services supplies or works.
- 22.2 Authorised Officers shall carry a procurement process for the award of the Draw Down Agreement in accordance with these Contract Rules.

23. COLLABORATIONS AND JOINT PROCUREMENT

- 23.1 The Authorised Officer may participate in any collaborative or joint procurement arrangements with other Local Authorities or public bodies including membership or use of a purchasing consortia subject to the prior approval of the relevant Director and the Procurement Adviser.

24. PROCUREMENT BY CONSULTANTS

- 24.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Rules. The Authorised Officer shall ensure that the consultant's performance is monitored.
- 24.2 Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules.
- 24.3 Consultants may advice the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the consultant to make their recommendation to the Awarding Officer.
- 24.4 No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. This decisions rests with the Awarding Officer who should sign the Tender Acceptance Form.

25. NOMINATED AND NAMED SUB-CONTRACTORS

- 25.1 Tenders for sub-contracts to be performed or goods and materials to be supplied by nominated suppliers shall be dealt with in accordance with the provisions of these Contract Procedure Rules.

SECTION 6

AMENDMENTS TO CONTRACTS DURING THEIR TERM AND CONTRACT MANAGEMENT

26. AMENDMENTS TO CONTRACTS

- 26.1 A contract may be changed in any of the following circumstances:
- a) the contract contains a clear review or option clause which specifies the conditions as to when an amendment can be made. The scope and the nature of the change and the overall nature of the contract must not change.
 - b) additional works, services or goods that have become necessary and a change of supplier would not be practicable for economic or technical reasons or would involve substantial inconvenience/duplicate cost (limited to 50% of original contract price).
 - c) the need for change could not have been foreseen by a diligent contracting authority; and
 - the changes do not affect the overall nature of the contract; and
 - any increase in price does not exceed 50% of the price of the original contract.
 - d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of:
 - (i) an unequivocal review clause or option in conformity with Rule 26(1) (a), or
 - (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not involve other substantial changes to the contract and is not aimed at circumventing the application of the EU Regulations.
 - e) The changes, irrespective of their value, are not substantial (see the 'Definitions' section for the definition of substantial).

- f) It is a change that does not affect the overall nature of the contract or Framework Agreement and the value of the change does not exceed:
- the relevant EU Threshold; or
 - 10% (goods and/or services) 15% (works) of the initial value of the contract.

26.2 Where successive changes are made, the value shall be the net value of the successive changes.

26.3 Where changes to a contract have been made under Contract Rule 26.1 b) or c) above and the initial contract value exceeded the EU Threshold, a modification of contract notice shall be published in the OJEU.

27. CONTRACT MANAGEMENT

27.1 Authorised Officers need to actively monitor and manage the contractor's performance throughout the contract life to ensure milestones, KPI's, deliverables and outcomes are achieved and risks and, where appropriate, business continuity is managed as detailed in the tender and contract documentation. Management data needs to be published in accordance with the Government's Transparency Code.

27.2 Plans should be made well in advance to re-procure the contract (if applicable) and an exit strategy included in the tender and procurement documentation and the contract.

DEFINITIONS

Authorised Officer	An officer who is authorised to undertake the procurement in question and who has received corporate training on these Contract Rules.
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Awarding Officer	The officer with the delegated authority to award the contract
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Best Value for Money	The best solution for the Authority taking into account price, quality and deliverability.
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Bond	An insurance policy: if the Contractor does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the Contractor's failure.
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Budget holder	The officer responsible for the budget for the relevant procurement
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Candidate	Any person who asks or is invited to submit a Quote or Tender.
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Call-Off Contract	A contract awarded to a supplier under a Framework Agreement
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Concessions	An agreement where Suppliers are given the right to exploit works or services provided for their own gain.
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Consultant	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
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Contracting Authorities	Bodies which are subject to the EU Regulations.
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Contractor	Any person, company or supplier who has been awarded a contract in accordance with these contract rules.
Council's Solicitor	The senior legal Adviser for the Authority
Director	The chief officers for the Authority, director or the Council's Solicitor
Draw down contract	A contract with a single supplier where goods, services or works are requested on an ad hoc basis
EU Regulations	The UK regulations implementing the EC public procurement directives.
EU Threshold	The values set by the European Commission which determine whether a procurement has to be carried out in accordance with the EU Regulations.
Framework Agreement	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Head of Paid Service	The officer designated as head of paid for the Authority under section 4 of the Local Government and Housing Act 1989
Invitation to Tender (ITT)	Invitation to tender documents in the form required by these Contract Rules.
Most Economically Advantageous Tender	The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> • Price (i.e. the lowest price) • Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing) • Best price/quality ratio

OJEU	Official Journal of the European Union – where notices for all above EU Threshold procurements opportunities and contract awards must be placed.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
Procurement Adviser	The procurement officer for the Authority
Quote	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulation 84 Report	The report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015
Section 151 Officer	The officer designated responsibility for the proper administration of the Authority's financial affairs under section 151 of the Local Government Act 1972

Substantial	<p>In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:-</p> <ul style="list-style-type: none"> (a) the change renders the contract or the framework agreement materially different in character from the one initially concluded; . (b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have— . <ul style="list-style-type: none"> (i) allowed for the admission of other candidates than those initially selected, . (ii) allowed for the acceptance of a tender other than that originally accepted, or . (iii) attracted additional participants in the procurement procedure; . (c) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement; . (d) the modification extends the scope of the contract or framework agreement considerably; . (e) a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in Rule 28(1)(d).
Supplier	A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.
Tender	A Candidate’s proposal submitted in response to an Invitation to Tender.

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	26 November 2015
Subject:	Revision of Statement of Principles under the Gambling Act 2005
Report of:	Bhavdip Nakum, Licensing and Systems Officer
Corporate Lead:	Val Garside, Environmental and Housing Services Group Manager
Lead Member:	Cllr J R Mason
Number of Appendices:	2

Executive Summary:

This report proposes redrafting the Statement of Principles under the Gambling Act 2005 (Gambling Act Policy) to address the matters cited in this report followed by a six week consultation with public and relevant parties.

Recommendation:

1. **To AGREE that a six week consultation be undertaken on the Gambling Act 2005: Statement of Principles 2016-2019; and**
2. **TO RECOMMEND TO COUNCIL that the Gambling Act 2005:Statement of Principles 2016-2019 be ADOPTED with effect from 31 January 2016, subject to any relevant representations being received within the consultation period being reviewed by the Chairman and Vice-Chairman of the Licensing Committee.**

Reasons for Recommendation:

To ensure the Council effectively meets its obligations under the Gambling Act 2005.

Resource Implications:

Total cost of consultation process will be met from existing resources.

Legal Implications:

The principal legal implications are set out in the report. The Council has a statutory duty to have a policy and to keep it under review. It is important that the policy statement provides an open and transparent policy regarding the Council's functions under the Gambling Act 2005. The policy statement forms an essential part of the decision making process.

Risk Management Implications:

If the policy statement does not address all relevant matters, decisions taken by the Council under the Gambling Act 2005 could be subject to legal challenge.

Performance Management Follow-up:

If the Committee recommends a redraft, a Special Licensing Committee meeting will be held to approve the policy statement for consultation or recommend further amendments.

Environmental Implications:

None

1.0 INTRODUCTION AND BACKGROUND

1.1 Tewkesbury Borough Council approved the current Statement of Principles under the Gambling Act 2005 on 31 January 2013. The existing statement is attached at **Appendix A**.

1.2 Section 349 of the Gambling Act 2005 requires a licensing authority to prepare and publish a statement of its policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2005 Act. This policy is required to comply with extensive national guidance and any departures must be supported by evidence justifying a different policy approach.

2.0 DRAFT REVISED POLICY STATEMENT

2.1 The proposed Gambling Act 2005: Statement of Principles 2016-2019 is attached at **Appendix B** and includes two substantive changes relevant to licensing authorities;

- a) The optional inclusion of a Local Area Profile – this is essentially a way of describing a process of gathering and presenting information about a locality and any particular areas of concern within that, to explain and underpin the approach that the licensing authority will apply, as set out in its policy statement. The objective of such a profile is to set (map) out what the area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the licensing authority and operators.
- b) A requirement from 6 April 2016 for operators to assess local risk, in terms of understanding the local environment and reflecting that awareness in their procedures and policies so that they mitigate any local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to share their risk assessments with their local licensing authority when applying for a new premises licence; to vary an existing premises licence; or, upon request by the licensing authority.

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

- 4.1** The guidance recommends a 12 week consultation but, given the timescales available before the next Licensing Committee, as well as the ability of the Licensing Team to engage with stakeholders and consultees quickly, it is recommended that the consultation is held for six weeks.
- 4.2** Consultation will be undertaken with all required parties; responsible authorities; the Gambling Commission; stakeholders; persons carrying on gambling business within the Borough; and, the general public. Any responses received during the consultation period will be taken into account and considered by the Chairman and Vice-Chairman of the Licensing Committee before being taken to the Council for adoption.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

- 5.1** Tewkesbury Borough Council Plan 2012-16
Residential Services Service Plan 2013/14
Environmental Health and Licensing Enforcement Policy

6.0 RELEVANT GOVERNMENT POLICIES

- 6.1** Gambling Act 2003
Statutory guidance under the Gambling Act 2003

7.0 RESOURCE IMPLICATIONS (HUMAN/PROPERTY)

- 7.1** Met from existing resources.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

- 8.1** An effective policy statement can help promote community safety and increase public confidence.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

- 9.1** Consultation will be carried out via the Council's website.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

- 10.1** None

Background Papers: None

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Appendices: Appendix A – Gambling Act 2005: Statement of Principles (Current)
Appendix B – Gambling Act 2005: Draft Statement of Principles 2016 -2019 (Proposed)



GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

Published on DATE and taking effect on 31st January 2013

CONTENTS

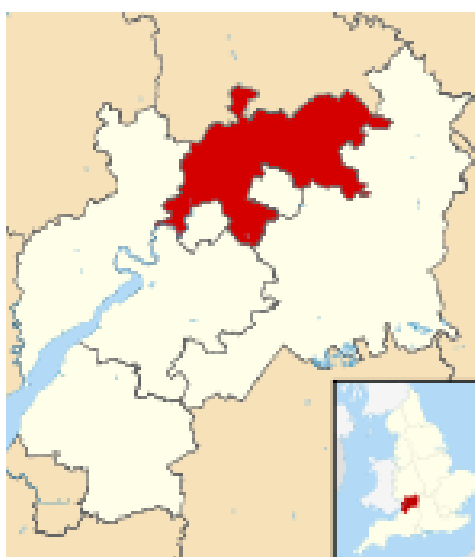
INTRODUCTION The Borough Consultation Declaration	
GENERAL PRINCIPLES Licensing Objectives Gambling Commission Authorised Activities Responsible Authorities Interested Parties Exchange of Information Enforcement The Licensing Process	
PREMISES LICENCES Definition of Premises Premises “Ready for Gambling” Conditions Casino Premises Adult Gaming Centres (Licensed) Family Entertainment Centres Betting Premises Bingo Premises Reviews	
PERMITS, NOTICES AND REGISTRATIONS Unlicensed Family Entertainment Centre gaming machine permits (Alcohol) Licensed premises gaming machines Prize Gaming Permits Club Gaming and Club Machines Permits Temporary Use Notices Occasional Use Notices Registration of Small Society Lotteries	
TABLE OF DELEGATIONS OF LICENSING FUNCTIONS	
DEFINITIONS	
ANNEX A – LIST OF CONSULTEES	

INTRODUCTION

The Borough

Tewkesbury Borough covers an area of 160 sq miles in North Gloucestershire. The Borough is situated within the Severn Vale and stretches south beyond the outskirts of Gloucester and borders the county of Worcestershire to the north. It occupies the northern gateway into the South West Region.

The Borough is predominantly rural in nature with the three largest towns / villages being Tewkesbury, Winchcombe and Bishops Cleeve.



Consultation

In producing this Statement this licensing authority was obliged to consult with:-

- the chief officer of police for the authority's area
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

A full list of those persons and bodies consulted when drafting this Statement is provided at Annex A to this Statement.

Declaration

In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

GENERAL PRINCIPLES

This Statement of Principles is intended to meet the Council's obligations under Section 349 of The Gambling Act 2005 (referred to in this Statement as "the Act")

In carrying out its licensing functions under the Act, particularly with regard to premises licences, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be :-

- In accordance with any relevant Codes of Practice issued by the Gambling Commission.
- In accordance with any relevant Guidance issued by the Gambling Commission.
- In accordance with this Statement of Principles.
- Consistent with the licensing objectives.

Licensing Objectives

There are 3 licensing objectives which are central to the regulatory regime created by the Act. These are:-

- Preventing gambling from being a source of crime and 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.

The Act provides for 3 categories of licence:

- Operating licences.
- Personal licences.
- Premises licences.

The Council will be responsible for issuing premises licences. The Gambling Commission will be responsible for issuing operating and personal licences.

The Gambling Commission

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.

The Commission has issued Guidance under Section 25 regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.

The Commission will also issue one or more codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, which may also include provisions about the advertising gambling facilities.

The Gambling Commission's website is www.gamblingcommission.gov.uk.

Authorised Activities

“Gambling” is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize.
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or any other event; or whether anything is true or not.
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

The main functions of the Council are to:

- Licence a premises for gambling activities.
- Grant permits for gambling and gaming machines in clubs.
- Regulate gaming and gaming machines in alcohol licensed premises.
- Grant permits to family entertainment centres for the use of certain lower stake gaming machines.
- Grant permits for prize gaming.
- Consider notices given for the temporary use of premises for gaming.
- Consider occasional use notices for betting at tracks.
- Register small society lotteries.

Spread betting is regulated by The Financial Services Authority.

Remote Gambling is dealt with by the Gambling Commission.

The National Lottery is also regulated separately under specific legislation.

General Principles

The Council recognises the wide variety of premises which will require a licence or a permit under the Gambling Act 2005. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission from time to time.

The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met, the Council will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities. The Council will continue to actively participate in the

Gloucestershire Licensing Officers Group where a consistent Countywide approach to Gambling issues is taken.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Council may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representation to that effect.

Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

However, the overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own merits.

Preventing gambling from being a source of crime and disorder

The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

Anyone applying to the Council for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. There fore, the Council will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise, the Council will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Council will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for appropriately registered / qualified door supervisors.

As far as disorder is concerned, there are already powers in existing anti-social behaviour and licensing legislation designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Council does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers.

Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than could be dealt with as a statutory nuisance and it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

When making decisions in this regard, the Council will give due weight to any comments made by the police.

Ensuring gambling is conducted in a fair and open way

The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.

Because betting track operators do not need an operating licence from the Commission the Council may, in certain circumstances require conditions of licence relating to the suitability of the environment in which betting takes place.

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

Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are “adult only” environments.

In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos only, the Gambling Commission will be issuing a code of practice about access to casino premises for children and young persons.

When considering whether to grant a premises licence or permit, the Council will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

In seeking to protect vulnerable people, the Council will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

The Council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people, will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

The Licensing Authority is required by regulations to state the principles it 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.

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Gloucestershire Safeguarding Children Service for this purpose.

Responsible Authorities

These are generally public bodies that are required by the Gambling Act 2005 to be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives (see page 5).

Section 157 of the Act defines those authorities as:

- The Gambling Commission.
- The Chief Officer of Police.
- The Fire and Rescue Service.
- The local Planning Authority.
- Environmental Health (Pollution Control).
- Designated Child Protection Body.
- Her Majesty's Revenue and Customs.
- Any licensing authority in whose area the premises is situated.

The Gambling Act 2005 makes clear that any concerns expressed by a responsible authority can only be taken into account if they are relevant to the application itself and the licensing objectives.

Examples of representations that would not be relevant to the licensing objectives include:-

- There are too many gambling premises in the locality.
- The premises are likely to be a fire risk.
- The location of the premises is likely to lead to traffic congestion.
- The premises will cause crowds to congregate in one area causing noise and nuisance.

Each representation will, however, be considered on its own individual merits.

Interested Parties

An interested party is someone who:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- Has business interests* likely to be affected by the authorised activities.
- Represents persons in either of the two groups above.

* this would include partnerships, charities, faith groups, medical practises etc.

In determining whether someone lives sufficiently close to a particular premises so as to be affected, the Council will take into account, among other things:

- The size of the premises.
- The nature of the premises.
- The distance of the premises from the person making the representation.
- The nature of the complaint.
- The potential impact of the premises.

In determining whether a person has a business interest which could be affected the Council will consider, among other things:

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

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Council would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The Council may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Council will normally consider:

- Who is making the representation and whether there is a history of making representations that are not relevant.
- Whether it raises a “relevant” issue or not.
- Whether it raises issues specifically to do with the premises which are the subject of the application.

Exchange of Information

Subject to the provisions of the Data Protection Act 1998 the Council will share any information it receives, through the application process with the Gambling Commission. In doing so the Council will have regard to the Act itself, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in 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.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and 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.
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will adopt and implement a risk-based inspection programme, based on;

- The licensing objectives.
- Relevant codes of practice.
- Guidance issued by the Gambling Commission.
- The principles set out in this statement of principles.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

The licensing process

The Council's licensing functions under the Act will be carried out by the Licensing Committee, supported by a sub-committee and by officers acting under the delegated authority of the committee.

Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application, the matter will be determined by the Licensing Committee or one of its sub-committees, as will any application for the review of a licence.

The Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

The Council reserves the right to amend this Statement should it be necessary to do so following Regulations issued by the Secretary of State or further Guidance from the Gambling Commission.

PREMISES LICENCES

A premises licence can authorise the provision of facilities at the following:

- Casino premises.
- Bingo premises.
- Betting premises, including betting tracks.
- Adult gaming centres.
- Family entertainment centres.

Other than an application for a betting premises licence in respect of a track, the Council is not able to issue a premises licence unless the applicant holds that relevant operating licence from the Gambling Commission.

When considering applications for premises licences, the Council will not take into consideration either the expected "demand" for facilities or the likelihood of planning permission being granted.

The Council will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

Definition of Premises

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.

The Gambling Commission states in 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 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.”

This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing 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.

The Guidance also gives a list of factors which the licensing authority should be aware of, 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?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

Premises “Ready for Gambling”

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are 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.

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.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling.
- Second, 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.

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.

Conditions

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.
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority 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.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to

- prevent access other than through a designated entrance.
- Only adults are admitted to the area where these machines are located.
- Access to the area where the machines are located is supervised.
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder.
- 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.

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

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

It is noted that there are conditions which the licensing authority cannot attach to premises licences which 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).
- Conditions in relation to stakes, fees, winning or prizes.

Casino Premises

There are no existing casino premises licences in force in the Borough.

On 17th April 2012 Tewkesbury Borough Council resolved under section 166(1) of the Gambling Act 2005 not to issue Casino Premises Licences. This resolution took effect from 28th July 2012.

The Gambling Commission will be responsible for issuing at least one code of practice about access to casino premises by children and young persons, which would mean that no one under 18 years of age would be able to enter casino premises and entrances to the casino or gambling area would be required to be properly supervised.

Adult Gaming Centres

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

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

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

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

(Licensed) Family Entertainment Centres:

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

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

- CCTV.
- Supervision of entrances / machine areas.
- Physical separation of areas.
- Location of 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, and is merely indicative of example measures.

This licensing authority 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. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

Betting Premises

Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines.

The Council has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

Each application will be considered on its own merits.

Only one premises licence can be issued for any particular premises at any time unless the premises is a "track". A track is a site where races or other sporting events take place.

Track operators are not required to hold an "operators licence" granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

Although there will primarily be a betting premises licence for the track, there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

When considering whether to exercise its power to restrict the number of betting machines at a track, the Council will consider the circumstances of each individual application and, among other things, will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children, young persons and vulnerable people from betting on the machines.

Bingo Premises

The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from the Council.

Amusement arcades providing prize bingo will require a prize gaming permit from the Council.

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game. When considering applications of this type the Council will therefore

take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

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

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

Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for 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.
- In accordance with the authority's statement of principles.

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

The licensing authority 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.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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

- (a) Add, remove or amend a licence condition imposed by the licensing authority.
- (b) Exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion.
- (c) Suspend the premises licence for a period not exceeding three months.
- (d) Revoke the premises licence.

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

In particular, the licensing authority 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.

Once the review has been completed, the licensing authority must, as soon as possible, notify its 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.
- Her Majesty's Commissioners for Revenue and Customs.

PERMITS, NOTICES AND REGISTRATIONS

Unlicensed Family Entertainment Centre gaming machine permits

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

The Gambling Act 2005 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. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

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).
- That staff are trained to have a full understanding of the maximum stakes and prizes (24.7).

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles

This licensing authority will expect the applicant 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. This licensing authority will 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.

(Alcohol) Licensed premises gaming machines

Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority 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.
- An offence under the Gambling Act has been committed on the premises.

Permit: 3 or more machines

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

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed 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 will be expected to provide information leaflets / helpline numbers for organisations such as GamCare.

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

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

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.

Prize Gaming Permits

Gaming is “prize gaming” if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A Prize Gaming Permit can be issued by a licensing authority to authorise the provision of prize gaming on a commercial basis on specified premises.

The Gambling Act 2005 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”.

This licensing authority has 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.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority 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).
- Participation in the gaming must not entitle the player to take part in any other gambling.

Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. A Club Gaming Permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.

Members Clubs, Miners' welfare institutes and Commercial Clubs may apply for a Club Machine Permit. A Club Machine Permit enables the premises to provide gaming machines in accordance with the relevant regulations.

Gambling Commission Guidance 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 regulation and these cover bridge and whist clubs, which replicates the position under the Gambling 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."

The Commission Guidance also notes that "licensing authorities 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.
- (e) An objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "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." and "The grounds on which an application under the process may be refused are:

- (a) That the club is established primarily for gaming, other than gaming prescribed under schedule 12.

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

There are statutory conditions on club gaming permits and club machine 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.

Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

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 (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.

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 Part 7 of 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".

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.

This licensing authority expects 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.

Occasional Use Notices:

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

The licensing authority will share information with the Gambling Commission in respect of occasional use notices served in respect of tracks in the licensing authority’s area.

Registration of Small Society Lotteries

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the gaming commission or it is an “exempt” lottery as defined by the Act.

One of those exemptions is in respect of what are termed “small society lotteries” and the council is responsible for registering these “small” lotteries.

A society will be allowed to register with the council if it is a ‘non-commercial ‘ lottery, in other words, it is established and conducted:

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

The Council will maintain a register of small society lotteries which it has registered.

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING SUB-COMMITTEE (LICENSING	OFFICERS
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		PANEL)	
Licensing Policy	X		
Policy not to issue casino premises licences	X		
Fee setting – when appropriate			X To be approved by the Licensing Committee
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for the transfer of a licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Request to review a premises licence			X (in consultation with the Council Solicitor)
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed prize gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice			X

DEFINITIONS

Licensing Objectives:	As defined in the Gambling Act 2005.
Borough of Tewkesbury:	The area of Gloucestershire and Worcestershire administered by Tewkesbury Borough Council.
Licences:	As defined in The Gambling Act 2005.
Application(s):	Application(s) for licences and permits as required by The Gambling Act 2005, or an application for a review of such a licence.
Notifications:	Means notification of temporary and occasional use notices.
The Act	The Gambling Act 2005.
Regulations:	Regulations made under the Gambling Act 2005.
Premises:	As defined in the Gambling Act as being “any place, including a vehicle, vessel or moveable structure”.
Code of Practice:	Means any relevant code of practice under Section 24 of The Gambling Act 2005.
Mandatory Condition:	Means a specified condition provided by regulations that are required to be attached to a licence.
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by The Authority.
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: <ol style="list-style-type: none">1. The Licensing Authority in whose are the premises are wholly or mainly situated (Tewkesbury Borough Council);2. The Gambling Commission;3. Gloucestershire Constabulary;4. Gloucestershire Fire and Rescue Service;5. Development Control Manager, Planning Department, Tewkesbury Borough Council;6. Environmental Protection Manager, Tewkesbury Borough Council;7. Gloucestershire child protection unit8. HM Customs and Excise.
The Policy Document	Tewkesbury Borough Council’s Statement of Principles.

ANNEX A – LIST OF CONSULTEES

Chief Officer of Police, Gloucestershire Constabulary

Gambling Commission

Gloucestershire Fire and Rescue Service

Planning Department, Tewkesbury Borough Council

Environmental Protection Team, Tewkesbury Borough Council

Gloucestershire Safeguarding Children Service

Casino Operators Association of the UK

National Casino Industry Forum

Association of British Bookmakers

Independent Bookmakers Association

British Betting Office Association

Bingo Association

BACTA

Business in Sport and Leisure

British Holiday and Home Parks Association

GamCare

British Beer and Pub Association

British Institute of Innkeeping

All Town and Parish Councils in the Borough of Tewkesbury

In addition any other interested person was able to take part in the consultation which was publicised on the Tewkesbury Borough Council website.



GAMBLING ACT 2005

**DRAFT STATEMENT OF PRINCIPLES
2016 - 2019**

**Tewkesbury Borough Council, Council Offices
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT**

www.tewkesbury.gov.uk/licensing

Revised with effect from DATE

Index	Page No.
1.0 Introduction and local area profile	
1.2 The Licensing Objectives	
1.3 Declaration	
1.4 Responsible Authorities	
1.5 Interested parties	
1.6 Exchange of Information	
1.7 Enforcement	
1.8 Licensing Authority functions	
2.0 Premises licences: consideration of applications	
2.1 General Principles	
2.2 Decision making	
2.3 Definition of “premises”	
2.4 Premises “ready for gambling”	
2.5 Location	
2.6 Planning	
2.7 Duplication with other regulatory regimes	
2.8 Local Risk assessments	
2.9 Licensing objectives	
2.10 Conditions	
2.11 Door Supervisors	
2.12 Betting premises	
2.13 Adult Gaming Centres and (Licensed) Family Entertainment Centres	
2.14 Casinos	
2.15 Bingo premises	
2.16 Tracks	

2.17 Applications and plans	
2.18 Travelling Fairs	
2.19 Provisional Statements	
2.20 Reviews	
3.0 Permits, notices and registrations	
3.1 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)	
3.2 Statement of Principles	
3.3 (Alcohol) Licensed premises gaming machines	
3.4 Prize Gaming Permits	
3.5 Club Gaming and Club Machines Permits	
3.6 Temporary Use Notices	
3.7 Occasional Use Notices	
3.8 Registration of Small Society Lotteries	
4.0 Committee decisions and scheme of delegation	
4.1 Table of delegations of licensing functions	

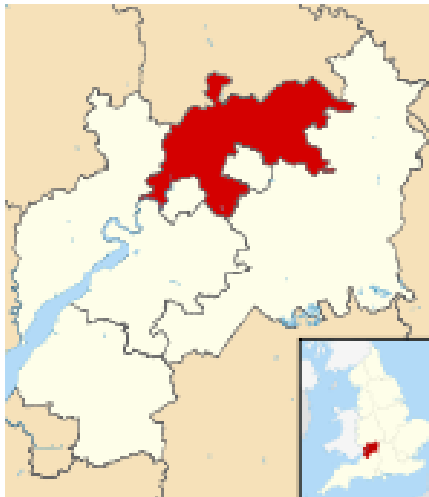
1.0 Introduction and local area profile

1.1 Tewkesbury Borough Council (the Council) is a licensing authority under the Gambling Act 2005 (the Act) and therefore has responsibilities for the administration and enforcement of the Act within the borough of Tewkesbury. We are required by the Act to publish a statement of the principles that governs how we exercise functions under the Act. This statement must be published at least every three years. The statement may be amended from time to time and any amended parts be consulted upon.

Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.

The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishop's Cleeve and Churchdown.

Gambling is not a significant industry or activity within the borough. Therefore, any new gambling proposal which seeks to intensify gambling activities will be very carefully considered and reviewed to ensure it does not significantly alter, adversely affect or otherwise impact upon the current level of gambling activity across the borough.



1.2 The Licensing Objectives

In exercising most of the 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.

In making decisions about premises licences and temporary use notices, we will aim to permit the use of premises for gambling if they are;

- in accordance with any relevant code of practice issued by the Gambling Commission (“the Commission”) under section 24 of the Act;
- in accordance with any relevant guidance issued by the Commission under section 25 of the Act;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority’s statement of licensing policy.

1.3 In producing this statement, we have had regard to the licensing objectives, the Guidance to Licensing Authorities issued by the Commission¹, and any responses from those consulted with on the statement.

1.4 **Responsible Authorities**

Responsible authorities are identified in the legislation and have to be notified about licence applications to enable them to identify any risk.

We are required by statute to confirm the principles that we will apply in exercising our powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise us about the protection of children from harm. These principles are;

- a) the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- b) the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Commission's Guidance to Licensing Authorities, we designate this to Gloucestershire County Council².

1.5 **Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as 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 authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraphs (a) or (b) above."

We are required by statute to state the principles we will apply to determine whether a person or a body is an interested party. These principles are;

- a) Each case will be decided upon its merits
- b) We will not apply a rigid rule to its decision making
- c) We will use the examples of considerations provided in the Commission's Guidance to Licensing Authorities.

Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils and councillors likely to be affected will be considered to be interested parties. Other than these however, this authority 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.

1.6 **Exchange of Information**

¹ <http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities-5th-edition.aspx>

² <http://www.gloucestershire.gov.uk/policy/children-families>

We are required to include in our statements the principles with respect to the exchange of information between us and the 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.

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 Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act. Should any protocols be established as regards information exchange with other bodies then they will be made available.

1.7 **Enforcement**

We will carry out enforcement in accordance with the Council's Environmental Health and Licensing Enforcement Policy; having regard to the Regulator's Code as well as any future amendments to this policy.

1.8 **Licensing Authority functions**

Our main functions under the Act are to;

- a) be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- b) issue Provisional Statements
- c) regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- d) issue Club Machine Permits to Commercial Clubs
- e) grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres (FECs)
- f) receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- g) issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- h) register small society lotteries below prescribed thresholds
- i) issue prize gaming permits
- j) receive and endorse temporary use notices
- k) receive occasional use notices
- l) provide information to the Commission regarding details of licences issued (see section 1.6)
- m) maintain registers of the permits and licences that are issued under these functions.

We are not involved in licensing remote gambling; remote gambling is regulated by the Commission³.

2.0 **Premises licences: consideration of applications**

2.1 **General Principles**

Premises licences are subject to the requirements set out in the Act and accompanying regulations, as well as specific mandatory and default conditions which are detailed in the 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 necessary.

2.2 **Decision making**

In making decisions about premises licences, we shall consider;

- a) relevant code of practice issued by the Commission;
- b) relevant guidance issued by the Commission;
- c) the licensing objectives; and
- d) our statement of licensing policy.

³ <http://www.gamblingcommission.gov.uk/Gambling-sectors/Online/Remote.aspx>

Moral or ethical objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section 2.14).

We will also follow the Commission's guidance on "appropriate licensing environment" (previously known as primary gambling activity) when making decisions on premises licences.

It is not permissible for an operator to offer gaming machines on a premises which is licensed for non-remote betting but not to offer sufficient facilities for non-remote betting. A non-remote betting operating licence authorises its holder to 'provide facilities for betting'⁴. Likewise, a betting premises licence authorises premises to be used for 'the provision of facilities for betting...'⁵. The ability to make up to four gaming machines, within categories B, C or D, available is an additional authorisation conferred upon the holder of a betting premises licence⁶; it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.

It is also important in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises.

Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings.

2.3 Definition of "premises"

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, we will pay particular attention if there are issues about sub-divisions of a single building or plot and ensure that mandatory conditions relating to access between premises are observed.

When determining applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes, we will consider;

- a) The protection of 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.
- b) That 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.
- c) That customers should be able to participate in the activity named on the premises licence.
- d) If the premises have a separate registration for business rates
- e) If any neighbouring premises owned by the same person or associates.
- f) If premises can be accessed from the street or a public passageway.
- g) If the premises only be accessed from any other gambling premises.

We will consider these and other relevant factors in making a decision, depending on all of the circumstances of the case. Relevant access provisions for each premises type is published in the Gambling Commission's Guidance.

⁴ <http://www.legislation.gov.uk/ukpga/2005/19/section/65>

⁵ <http://www.legislation.gov.uk/ukpga/2005/19/section/150>

⁶ <http://www.legislation.gov.uk/ukpga/2005/19/section/172>

2.4 Premises “ready for gambling”

A licence to use premises for gambling should only be issued in relation to premises that we are satisfied are 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. If the construction of a premises is not yet complete, or if it needs alteration, or if the applicant does not yet have a right to occupy it, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, we will determine applications on their merits, applying a two stage consideration process;

- a) whether the premises ought to be permitted to be used for gambling, and then
- b) 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.

Applicants should note that we are entitled to decide that it is appropriate to grant a licence subject to conditions, but we are not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found on the Gambling Commission’s Guidance.

2.5 Location

We cannot consider demand issues with regard to the location of premises. We will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling and issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, we will update this statement.

2.6 Planning

In determining applications, we will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Once a premises licence comes into effect, it authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that we can be satisfied are 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.

2.7 Duplication with other regulatory regimes

We seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. When determining a licence application, we will not consider whether it is likely to be awarded planning permission, building regulations approval, or any other type of permit, grant or licence. We will however, 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.

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 buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

2.8 Local Risk assessments

The Commission has introduced provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks⁷. The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. These changes take effect from 6 April 2016.

Licensees must review (and update as necessary) their local risk assessments;

⁷ <http://www.gamblingcommission.gov.uk/Publications-consultations/LCCP.aspx>

- a) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- b) when there are significant changes at a licensed premises that may affect their mitigation of local risks;
- c) 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.

Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

It is expected that licensees will refer to the Licensing Authority's Local Area Profile when completing their risk assessments.

2.9 Licensing objectives

Premises licences granted must be consistent with the licensing objectives.

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

We will 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 we 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 will make 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.

b) **Ensuring that gambling is conducted in a fair and open way**

The Commission 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. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

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

We will consider whether specific measures are required at particular premises, with regard to this licensing objective. Necessary measures may include supervision of entrances/machines, segregation of areas etc. We will regard Commission codes of practice in relation to specific premises.

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

2.10 Conditions

Any conditions attached to licences will be proportionate and will be;

- a) relevant to the need to make the proposed building suitable as a gambling facility;
- b) directly related to the premises and the type of licence applied for;
- c) fairly and reasonably related to the scale and type of premises; and
- d) reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, though there will be a number of measures we will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. We also expect the applicants to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

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 Commission's Guidance.

We will also ensure that where category C or above machines⁸ are on offer in premises to which children are admitted;

- a) 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;
- b) only adults are admitted to the area where these machines are located;
- c) access to the area where the machines are located is supervised;
- d) the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- e) 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.

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

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

There are conditions which we cannot attach to premises licences, these are;

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

2.11 **Door Supervisors**

If there are concerns 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.

Where it is decided that supervision of entrances and/or machines is necessary for particular cases, a consideration of whether the door supervisors need to be Security Industry Authority (SIA) licensed or not, will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

2.12 **Betting premises**

The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises. Section 13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. Although betting intermediaries usually offer their services via remote communication, such as the internet, a betting intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room.

We are responsible for issuing and monitoring premises licences for all betting premises.

⁸ <http://www.legislation.gov.uk/ukxi/2014/45/made>

a) **Self Service Betting Terminals (SSBTs)**

Section 235 (2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine **is** a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

Use of SSBTs is a form of remote communication and a remote licence will be required from the Commission if SSBTs are used to facilitate the making or accepting of bets by others.

Section 181 contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino).

2.13 **Adult Gaming Centres and (Licensed) Family Entertainment Centres**

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 us that there will be sufficient measures to address these matters.

We may consider measures to meet the licensing objectives such as;

- a) Proof of age schemes
- b) Closed-circuit television (CCTV)
- c) Supervision of entrances and/or machine areas
- d) Physical separation of areas
- e) Location of entry
- f) Notices and/or signage
- g) Specific opening hours
- h) Self-exclusion schemes
- i) Provision of information leaflets and/or helpline numbers for organisations such as GamCare⁹ and/or GambleAware¹⁰.
- j) Measures and/or training for staff on how to deal with suspected truant school children on the premises (for licensed FECs)

This list is neither mandatory nor exhaustive, and is merely indicative of example measures.

We will refer to the Commission to see how any conditions that apply to operating licences covering the way in which the area containing the Category C machines should be delineated. We may keep a record of any mandatory or default conditions on these premises licences, when they have been published.

2.14 **Casinos**

There are no existing casino premises licences in force in the Borough.

On 17th April 2012 the Council resolved under section 166(1) of the Act, not to issue casino premises licences. This resolution took effect from 28th July 2012.

Should we decide in the future to pass such a resolution, we will update this policy statement with details of that resolution. Any such decision will be made at a meeting of the full Council.

⁹ <http://www.gamcare.org.uk/>

¹⁰ <http://www.gambleaware.co.uk/>

2.15 **Bingo premises**

We will ensure that the premises is suitable for playing bingo when deciding on a premises application for bingo. From 13th July 2011 holders of bingo premises licences are also able to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take advantage of this change to the legislation.

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. Social Responsibility code provision 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

2.16 **Tracks**

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objectives and we will ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

We also expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons may be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but they are prevented from entering areas where gaming machines (other than Category D machines) are provided. We may also consider additional measures outlined in paragraph 2.13.

Gaming Machines: Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, they shall be located in areas from which children are excluded.

Betting machines: We will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator proposes to offer.

2.17 **Applications and plans**

Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that we have necessary information to make an informed judgement about whether the premises is fit for gambling. The plan will also be used to plan premises inspections.

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 the statutory regulations.

We are aware 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.

We will not accept plans if they fail to provide sufficient information to enable us to assess an application.

2.18 **Travelling Fairs**

Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found at Appendix B of the Commission guidance.

Higher stake Category B and C machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

We are responsible for deciding whether, where Category D machines and/or equal chance prize gaming without a permit are 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.

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

2.19 **Provisional Statements**

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.

Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that are;

- a) expected to be constructed;
- b) expected to be altered; or
- c) expected that they will acquire a right to occupy.

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.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the 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.

The holder of a provisional statement may then apply for a premises licence once the premises is constructed, altered or acquired. The licensing authority will be constrained in the matters it 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;

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

We may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters;

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

2.20 **Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us 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;

- a) in accordance with any relevant code of practice issued by the Commission;
- b) in accordance with any relevant guidance issued by the Commission;
- c) reasonably consistent with the licensing objectives; and
- d) in accordance with the authority's statement of licensing policy.

The request for the review will also be subject to the consideration as to whether the request is frivolous or vexatious.

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 is necessary to uphold the licensing objectives.

Once we receive 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 also publish notice of the application within that period.

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

The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, we may;

- a) add, remove or amend a licence condition imposed by the licensing authority;
- 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; or
- d) revoke the premises licence.

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

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.

Once the review has been completed, we will notify our decision to;

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

3.0 Permits, notices and registrations

3.1 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)

Where a premises does not benefit from a premises licence but the operators wish to provide gaming machines, they may apply to us for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.

- 3.2 We expect the 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 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 or around the premises.

We also expect 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.

3.3 (Alcohol) Licensed premises gaming machines

a) Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

We can remove the automatic authorisation in respect of any particular premises if;

- i. Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- ii. Gaming has taken place on the premises that breaches a condition of section 282 of the 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 Commission about the location and operation of the machine has been complied with);
- iii. The premises are mainly used for gaming; or
- iv. An offence under the Act has been committed on the premises.

b) Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit. We will consider such applications based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and any other relevant matters. 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 that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Applicants are expected to demonstrate that these machines will be in sight of the bar or in the sight of staff that will monitor the machines. Notices and signage showing age restrictions for these machines may also be displayed. As regards the protection of vulnerable persons, applicants are expected to provide information leaflets and helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.

We may decide to grant the application with a smaller number of machines and/or a different category of machine than that applied for, if it is necessary to uphold the licensing objectives.

Holders of such permits must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

3.4 Prize Gaming Permits

Gaming is "prize gaming" if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A prize gaming permit can be issued by us to authorise the provision of prize gaming on a commercial basis on specified premises.

Applicants should set out the types of gaming that they intend to offer. Applicants should be able to demonstrate;

- a) That they understand the limits to stakes and prizes that are set out in the Gambling Act Regulations 2007.
- b) That the gaming offered is within the law.
- c) Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit, we will have regard to Commission guidance.

We cannot attach conditions but there are conditions in the Act which the permit holder must comply. These conditions are;

- a) The limits on participation fees, as set out in the statutory regulations, must be complied with.
- b) All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are

allocated; and the result of the game must be made public in the premises on the day that it is played.

- c) The prize for which the game is played must not exceed the amount set out in the Gambling Act Regulations 2007 (if a money prize), or the prescribed value (if non-monetary prize).
- d) Participation in the gaming must not entitle the player to take part in any other gambling.

3.5 **Club Gaming and Club Machines Permits**

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. A club gaming permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.

Members clubs, miners' welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit enables the premises to provide gaming machines in accordance with the relevant statutory regulations.

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 regulation and these cover bridge and whist clubs, which replicates the position under the Gambling 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.

We may refuse an application on the grounds that;

- a) for a club gaming permit: the applicant is not a members' club or miners' welfare institute
- b) for a club machine permit: the applicant is not a members' club, miners' welfare institute or commercial club
- c) the premises are used by children or young persons
- d) an offence or a breach of a condition of the permit has been committed by an applicant
- e) a permit held by an applicant has been cancelled during the last ten years
- f) an objection has been made by the Commission or local chief officer of police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (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 grounds upon which we can refuse a permit are reduced.

We may refuse an application on the following grounds;

- 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.
- c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

There are statutory conditions on club gaming permits and club machine 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.

3.6 **Temporary Use Notices**

Temporary use notices (TUNs) 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 a TUN would include hotels, conference centres and sporting venues.

We can only grant a TUN to a person or a company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by TUNs, and at the time of writing this statement the relevant regulations state that TUNs can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.

There are a number of statutory limits as regards TUNs. We will also consider amongst other things, the ownership, occupation and control of the premises.

We may 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 Commission's guidance to licensing authorities.

3.7 **Occasional Use Notices**

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 avail themselves of the notice.

We will share information with the Commission in respect of occasional use notices served in respect of tracks in our area.

3.8 **Registration of Small Society Lotteries**

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Commission or it is an "exempt" lottery as defined by the Act.

One of those exemptions is in respect of what are termed "small society lotteries" and the council is responsible for registering these "small" lotteries.

A society will be allowed to register with us if it is a 'non-commercial lottery', in other words, it is established and conducted;

- a) for charitable purposes.
- b) for the purpose of enabling participation in, or of supporting, sport, athletic or cultural activity.
- c) for any other non-commercial purpose other than private gain.

We will maintain a register of small society lotteries.

4.0 **Committee decisions and scheme of delegation**

We are involved in a wide range of licensing decisions and functions and have established a licensing committee to administer them.

Licensing sub-committees made up of three councillors from the main licensing committee will sit to hear applications where representations have been received from interested parties and responsible authorities.

Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is decided that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will generally be made by the officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committee. Where representations are taken no further, the person or organisation making that representation will be given written reasons for doing so. There is no right of appeal against a determination that representations will not be heard.

The table shown below sets out the agreed delegation of decisions and functions to licensing committee, sub-committee and officers.

This form of delegation is without prejudice to officers referring an application to a sub-committee or full committee if considered appropriate in the circumstances of any particular case.

4.1 Table of delegations of licensing functions

	Full Council	Licensing Sub-Committee (Licensing Panel)	Officers
Licensing Policy	✓		
Policy not to issue casino premises licences	✓		
Fee setting – when appropriate			✓ To be approved by the Licensing Committee
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for the transfer of a licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Request to review a premises licence			✓ (in consultation with the Council Solicitor)
Review of a premises licence		✓	
Application for club gaming / club machine permits		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits		✓	
Applications for other permits			✓
Cancellation of licensed prize gaming machine permits			✓
Consideration of temporary use notice			✓
Decision to give a counter notice to a temporary use notice			✓

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	26 January 2016
Subject:	Schedule of Meetings 2016/17
Report of:	Lin O'Brien, Democratic Services Group Manager
Corporate Lead:	Sara Freckleton, Borough Solicitor
Lead Member:	Councillor R J E Vines
Number of Appendices:	One

<p>Executive Summary: To agree a Schedule of Meetings for 2016/17.</p>
<p>Recommendation: To ADOPT the Schedule of Meetings shown at Appendix 1.</p>
<p>Reasons for Recommendation: To ensure that there is a Schedule of Meetings in place for the 2016/17 Municipal Year.</p>

<p>Resource Implications: None.</p>
<p>Legal Implications: None.</p>
<p>Risk Management Implications: None.</p>
<p>Performance Management Follow-up: Once adopted, the Schedule of Meetings will be distributed and published by Democratic Services and monitored to assess whether any problems arise which need to be addressed in the future.</p>
<p>Environmental Implications: None.</p>

1.0 INTRODUCTION/BACKGROUND

1.1 The Council's Constitution requires the Council, at the first meeting of the calendar year, to agree a programme of dates and times of meetings for the forthcoming Municipal Year.

2.0 SCHEDULE OF MEETINGS 2016/17

2.1 The Schedule of Meetings attached at Appendix 1 has been prepared on the same basis as the current Schedule, however, particular attention is drawn to the following points:

- This is the best Schedule that can be achieved taking account of Members' desire:
 - to hold Planning Committees on a Tuesday; and
 - for Overview and Scrutiny Committee to be held a week after the Executive Committee.
- The date of the Council meeting in February 2017 cannot be confirmed until the County Council sets its meeting schedule later in the year.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 The Schedule of Meetings 2016/17 has been considered by the Corporate Leadership Team and Group Managers.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 None.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None.

Background Papers: None.

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Appendices: Appendix 1 – Proposed Schedule of Meetings 2016/17.

Appendix 1

TEWKESBURY BOROUGH COUNCIL SCHEDULE OF MEETINGS 2016/17

MEETING	TIME	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY
Council	6.00 pm	Tu 10 Tu 17	Tu 28	Tu 26		Tu 20			Tu 6	Tu 24	Th 16 OR Th 23*		Tu 18	Tu 9 Tu 16
Executive	2.00 pm		W 8	W 13	W 31		W 12	W 23		W 4	W 1	W 15	W 26	
102 Planning	9.00 am	Tu 10	Tu 7	Tu 5	Tu 2 Tu 30	Tu 27	Tu 25	Tu 22	Tu 20	Tu 17	Tu 14	Tu 14	Tu 11	Tu 9
Licensing	2.30 pm		Th 16				Th 13				Th 9			
Overview and Scrutiny	4.30pm		Tu 14	Tu 19		Tu 6	Tu 18	Tu 29		Tu 10	Tu 7	Tu 21		Tu 2
Audit	2.00 pm		W 22			W 21			W 14			W 22		
Standards	2.00pm					M 19						M 20		

* The date of the Council meeting in February 2017 can only be confirmed once the date of the County Council meeting has been set.

Bank Holidays: 2 & 30 May, 29 August, 26 & 27 December, 2 January, 14 & 17 April (Easter) and 1 & 29 May.

TEWKESBURY BOROUGH COUNCIL

Report to:	Overview and Scrutiny Committee
Date of Meeting:	19 January 2016
Subject:	Syrian Refuges Motion
Report of:	Val Garside, Environmental and Housing Services Group Manager
Corporate Lead:	Rachel North, Deputy Chief Executive
Lead Member:	Cllr R E Allen, Lead Member for Health and Wellbeing
Number of Appendices:	1

Executive Summary:

Following referral of a Notice of Motion from the Council Meeting on 8 December 2015, asking the Council to help coordinate and support limited numbers of displaced Syrian families to settle within Gloucestershire, this report provides factual information on the potential impact on Gloucestershire and Tewkesbury Borough.

Recommendation:

To RECOMMEND TO COUNCIL whether or not the Motion to work with partners across Gloucestershire to assist displaced Syrian families to settle within the county should be supported.

Reasons for Recommendation:

The Council, at its meeting on 8 December 2015, asked the Overview and Scrutiny Committee to consider, in more detail, the potential impact/implications of the resettlement of Syrian refugees on the Borough and to advise the Council whether to support the Motion based on this information and the role expected of the Borough Council as a non-stock holding authority.

Resource Implications:

Funding is to be provided by the Home Office.

Legal Implications:

No legal implications arising as a result of this report

Risk Management Implications:

The resettlement process will be carefully monitored to ensure that Gloucestershire plays its part in the resettlement process in a fair and equitable manner both to the refugees and the residents of the Borough.

Performance Management Follow-up:

Monitoring and update reports will be provided to the Overview and Scrutiny Committee.

Environmental Implications:

N/A

1.0 INTRODUCTION

- 1.1** At its meeting on 8 December 2015, the Council received the following Motion and referred it to the Overview and Scrutiny Committee for consideration:

‘Tewkesbury Borough Council notes that more than six million Syrian people have been displaced by civil war within their homeland and three million have fled to neighbouring countries’.

The Prime Minister and the United Kingdom government are keen to support twenty thousand refugees seeking sanctuary and have pledged £215m over the next five years to help rebuild their lives within this country.

I would ask Members of this Council to join with other agencies, including ‘Severn Vale Housing Trust’ and ‘GARAS’ to help coordinate and support limited numbers of displaced Syrian families settle within the County of Gloucestershire’

2.0 BACKGROUND

- 2.1** The UK is at the forefront of the response to the crisis in Syria and this expansion is part of the comprehensive approach to help refugees in the region, recognising that, for some people, the only solution is to bring them to countries like the UK.
- 2.2** The UK already has significant experience of resettling vulnerable people and the existing domestic resettlement mechanisms provide a basis for a relatively quick increase in numbers.
- 2.3** Over the coming weeks and months, the government will work with local authorities, the UN High Commissioner for Refugees (UNHCR) and others to put in place the full structures to ensure that the arrangements can be scaled up to meet the aim of bringing up to 20,000 Syrians over the lifetime of this Parliament.
- 2.4** The Syrian Vulnerable Person Repatriation is based on need, it prioritises those who cannot be supported effectively in their region of origin: women and children at risk; people in severe need of medical care and survivors of violence and/or torture; refugees with legal and/or physical protection needs; refugees with medical needs or disabilities; children and adolescents at risk; persons at risk due to their sexual orientation or gender identity; and refugees with family links in resettlement countries.

3.0 ELIGIBILITY AND SECURITY CHECKS

- 3.1** There will be three security checks made by the Home Office, along with border control, checks through Department of Work and Pensions (DWP) database, and biometric tests, to check against the Government’s Contest Strategy. Medical checks will be carried out by the Home Office. The intention is to buddy families up with Syrians and Refugees who are already living in the country. Cases will then be passed to local authorities who have indicated they will participate in the scheme. The local authority can accept or reject cases.

4.0 FUNDING

4.1 Funding has been secured through the Comprehensive Spending Review process to assist local authorities with costs. The first 12 months of refugees resettlement costs are funded on a tariff basis by the Government using the overseas aid budget and a guarantee has been made that funding would be available for year's two to five. The Chancellor has now confirmed that the Government will provide additional funding to assist with costs that they believe will be incurred by local authorities.

4.2 Year two funding will be allocated on a tariff basis over four years, tapering from £5,000 per person in year two to £1,000 per person in year five. The funding includes support for integration such as additional English language training as well as social care. Special cases will be provided with additional support for the most vulnerable persons.

5.0 GLOUCESTERSHIRE APPROACH

5.1 Within Gloucestershire, many districts and Registered Housing Providers have offered to house families. Properties will need to be carefully chosen based on access to services already provided in Cheltenham and Gloucester for refugees e.g. language lessons, faith groups, churches and charities.

5.2 The Leader of the County Council Mark Hawthorne and Richard Harrington MP, the Minister, has challenged the County of Gloucestershire to take a number of refugee families before Christmas. As a result, Gloucestershire has currently agreed on a coordinated countywide approach to Syrian Refugees and Stewart Edgar, Chief Fire Officer is the lead. Gloucestershire Action for Refugees and Asylum Seekers (GARAS), will lead on the support required to assist refugees as it has over 16 years of experience in dealing with this matter and is well placed to provide effective support.

5.3 Tewkesbury Borough Council, as a non-stock (housing) holding authority would have a very limited role.

5.4 As such, Officers have had discussions with our principal local social housing provider, Severn Vale Housing Society, and agreement has been reached that it would house one family from its stock in the early part of the New Year, subject to evaluation of how the process has worked and how the family fit in, and would consider further families on a one by one basis. Careful management of letting properties will take place to ensure that families already registered on Gloucestershire Homeseeker would not be disadvantaged. A maximum number of approximately five families are being considered an appropriate number.

5.5 Regular information sharing and coordination within the Public Service Centre to include all our partner agencies in the resettlement is ongoing, as Health, Police and Care Services are all required by Government to participate.

6.0 OTHER OPTIONS CONSIDERED

6.1 None

7.0 CONSULTATION

7.1 None

8.0 RELEVANT COUNCIL POLICIES/STRATEGIES

8.1 None

9.0 RELEVANT GOVERNMENT POLICIES

9.1 Syrian Vulnerable Persons Scheme.

10.0 RESOURCE IMPLICATIONS (Human/Property)

10.1 None

11.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

11.1 None

12.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

12.1 None

13.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

13.1 None

Background Papers: None

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Appendices: Appendix 1 – Syrian Refugee Settlement Programme



Home Office

Syrian Resettlement Programme

How many additional people will you resettle?

- The Government will expand the existing Syrian Vulnerable Person Scheme and intends to resettle 20,000 Syrians in need of protection during this Parliament.
- The UK is at the forefront of the response to the crisis in Syria and this expansion is part of our comprehensive approach designed as far as possible to help refugees in the region but recognising that for some vulnerable people the only solution is to bring them to countries like the UK.

How will the arrival of 20,000 be spread out?

- It will take several months to reach full capacity but when we do we would expect to bring in roughly several hundred refugees each month over the course of the Parliament, subject to continuing need and capacity.

How else is the Government supporting Syrians in need of protection?

- Our priorities are on continuing to provide humanitarian aid to those most in need in the region and actively seeking an end to the crisis. We believe this approach is the best way to ensure that the UK's help has the greatest impact for the majority of refugees who remain in the region and their host countries.
- As the brutal conflict continues in Syria, millions of people continue to be in need. Hundreds of thousands have been killed in the conflict between the Assad regime, extremist groups and moderate opposition groups. In response to the crisis, the UK has allocated over £1.1 billion since 2012 to meet the immediate needs of vulnerable people in Syria and of refugees in the region – more than any other country in the world except the United States. The UK is the only major country in the world that has kept its promise of spending 0.7% of our national income on aid and we should be proud of this. By the end of March 2015, UK support had delivered over 18 million food rations, each of which feeds one person for one month, provided access to clean water for 1.6 million people (peak month), and over 2.4 million medical consultations in Syria and the region.

How will the expansion of the programme operate?

- We already have significant experience of resettling vulnerable people and our existing domestic resettlement mechanisms provide a basis for a relatively quick increase in numbers. And we are already working with existing partners to ensure that we can begin to increase numbers as quickly as possible. Over the coming weeks and months, we will work with local authorities, the UNHCR and others to put in place the full structures to ensure we can scale up the current arrangements so that we can meet the aim of bringing up to 20,000 Syrians over the lifetime of this Parliament and deliver on the expansion that has been announced.

How long will the expansion take?

- Although we have simplified the process as much as we can the UNHCR must still assess each individual case before referring them to the Home Office. The Home Office must conduct visa checks and at the same time a place must be found in a local authority. We do all this already but it is important we get it right and scaling up a system like this in a way that protects the interests of all concerned, including local communities, will take a little bit of time.

How do you choose who comes to the UK?

- The Syrian VPR is based on need. It prioritises those who cannot be supported effectively in their region of origin: women and children at risk, people in severe need of medical care and survivors of torture and violence amongst others. We work closely with the UNHCR to identify cases that they deem in need of resettlement and we will continue this work to ensure we deliver our commitment to provide refuge to 20,000 Syrians.
- The UNHCR identifies people in need of resettlement based on the following criteria: women and girls at risk; survivors of violence and/or torture; refugees with legal and/or physical protection needs; refugees with medical needs or disabilities; children and adolescents at risk; persons at risk due to their sexual orientation or gender identity; and refugees with family links in resettlement countries.

How does the process work?

- UNHCR refer cases to the Home Office. We check they meet our eligibility criteria and carry out medical and security checks. We arrange exit visas from the host country and entry visas into the UK. At the same time, we pass the cases to a local authority who has asked to participate in the scheme. The Local Authority is asked to accept or reject cases. The referral forms give detail on family make up, age and specific needs. Further detail on any medical needs will follow shortly after via a full medical health assessment report. On accepting a case, local authorities then need to arrange housing, school places etc. In parallel we would agree an arrival date. We are working to make this process as quick as possible.

What if an area is new to resettlement?

- Local authorities will need to think carefully about whether they have the infrastructure and support networks needed to ensure the appropriate care and integration of these refugees. It would be worth speaking to existing resettlement areas to learn best practice. Regional Strategic Migration Partnerships can put you in touch.

How can local authorities find out more about the profiles and needs of the refugees they will be hosting?

- All cases will differ and it is very difficult to generalise. We do not have detail of the cases before UNHCR refer them to us. As soon as a local authority wants to participate, we will send these referrals that give detailed information on the individual cases. If authorities want a particular make up of cases, they should state this and we will do our best to match cases.

Will the 20,000 be on top of existing schemes?

- The Government will expand the existing Syrian VPR Scheme and we expect to resettle up to 20,000 Syrians in need of protection during this Parliament. This is in addition to those we resettle under Gateway and Mandate and the thousands who receive protection in the UK under normal asylum procedures.

How will these people be accommodated? Where will they go when they are here?

- The UK has been operating resettlement schemes for many years and we already have established and effective networks to accommodate and support resettled people. However, we recognise that the increase in numbers will require an expansion of current networks and the impact on local communities and infrastructure will need to be managed carefully. That is why we are working with a wide range of partners including local authorities and civil society organisations to ensure that people are integrated sensitively into local communities.
- Our existing dispersal policy is aimed at ensuring an equitable distribution of refugees across the country so that no individual local authority bears a disproportionate share of the burden. We are working closely with local authorities to ensure that this remains the case.

How will you ensure refugees are dispersed fairly and in a way that manages the impacts on local communities and services?

- We are determined to ensure that no local authority is asked to take more than the local structures are able to cope with. That is why we will be talking to local authorities and other partners over the coming weeks to ensure that capacity can be identified and the impact on those taking new cases can be managed in a fair and controlled way.

How will schools be supported to provide language support for refugee children?

- Financial support for English as an Additional Language (EAL) pupils is a matter for local discretion. The funding arrangements enable local authorities to allocate a proportion of their funding to schools on the basis of the number of pupils in each school who have EAL and who have been in the school system for a maximum of three years. The pupil rate for this is also decided locally and can therefore reflect specific challenges in the area. Schools can also use the additional money they receive through the pupil premium to raise the attainment of disadvantaged EAL pupils.
- Local authorities have the freedom to take account of high migration in their local funding formula, to address the additional costs of having a large number (over 10%) of pupils arriving at unusual times in the school year.
- Schools can access information about good practice in meeting the needs of EAL pupils - Ofsted has published some case studies showing good practice at schools with high proportions of pupils with EAL. Resources are also available from the National Association for Language Development in the Curriculum, an organisation that seeks to promote effective teaching and learning for EAL pupils in UK schools.

How will you ensure that there are enough schools places in areas where refugees are resettled?

- We have committed to investing £7bn on new school places over the next six years, and in the last Parliament funding for school places doubled to £5bn to create 445,000 additional places. Local Authority's are allocated funding for school places based on their own local data on school capacity and pupil forecasts, in which they take account of factors including rising birth rates, housing development, trends in internal migration and migration to England from elsewhere in the United Kingdom and from overseas. We continue to work with LAs to make sure that every child has a school place.

How can I become a foster carer for a refugee child?

- We are not expecting the refugees arriving in the first months of the scheme to include unaccompanied children, but if you are interested in finding out more about fostering, you might wish to contact your local authority. They can provide you with details about applying to foster for them. You can also find out more about fostering by contacting Fosterline, a government funded service providing independent advice and support for people considering becoming foster carers. In addition, you might wish to look at information about applying to foster that Fostering Network give on their website at: <http://www.couldyoufoster.org.uk/>.
- Further information for foster carers is also available on GOV.UK : <https://www.gov.uk/foster-carers>. This page sets out the process people should follow and explains how much financial support and training foster carers can get.

I am interested in adopting an unaccompanied refugee child?

- We are not expecting the refugees arriving in the first months of the scheme to include unaccompanied children. Even if we do support unaccompanied children in the future it is unlikely that adoption will be an appropriate option for these children. The United Nations and other humanitarian charities advise that no new adoption applications should be considered in the period after a disaster or from a war zone before the authorities in that State are in a position to apply the necessary safeguards. This is especially true when civil authority breaks down or temporarily ceases to function.
- It is not uncommon in an emergency or unsettled situation for children to be temporarily separated from their parents or other family members who may be looking for them. Moreover, parents may send their children out of the area for their safety. Premature and unregulated attempts to organise the adoption of such a child abroad should be avoided and resisted with efforts to reunite children with relatives or extended family being given priority. So whilst some lone refugee children may come to the UK for temporary care, we would wish to support them to be reunited with their parents or other relatives where this is possible.

How can people help now?

- People can already make donations to charities and volunteer to help local refugee support groups. We would encourage that to continue but we will also be consulting partners on options to do more - including ways to sponsor refugees alongside those supported by the government.
- People can also refer to the Government release on the GOV.UK website <https://www.gov.uk/government/news/syria-refugees-what-you-can-do-to-help--2>

The British Red Cross has created a Crisis Helpline on 0800 107 8727 to triage calls to appropriate organisations.

Key facts and statistics on resettlement

- The UK operates three resettlement routes, Gateway, Mandate and the Syrian Vulnerable Persons Relocation (VPR) Scheme, working closely with the UNHCR on each. The Gateway programme has run for 10 years and has resettled almost 6,400 people in that time, and aims to resettle around 750 people a year.
- On the VPR, we are working closely with the UN High Commissioner for Refugees to identify some of the most vulnerable displaced Syrians and bring them to the UK.
- The scheme is helping those in the greatest need who cannot be supported effectively in the region by giving them protection and support in the UK – the scheme prioritises people requiring urgent medical treatment, survivors of torture and violence, and women and children at risk. The current criteria for acceptance under the scheme will be expanded to ensure more of those in the greatest need are resettled in the UK.
- Since the first arrivals in March 2014 to the end of June 2015 (the last published figures), 216 people were relocated to the UK under the Syrian VPR scheme.
- Since the crisis began in 2011 we have granted asylum or other forms of leave to almost 5,000 Syrian nationals and dependants through normal asylum procedures.
- In response to the increase in asylum claims, the UK introduced a concession in October 2012 for Syrian nationals who are already legally present in the UK, allowing them to extend their leave or change immigration category without leaving the UK. This currently runs to 28 February 2016.

How does the current Syrian Vulnerable Persons Scheme work?

The UK sets the criteria and then UNHCR identifies and submits potential cases for our consideration. Cases are screened and considered on the papers and we retain the right to reject on security, war crimes or other grounds. Once the screening process has been completed a full medical assessment is conducted by the International Organisation for Migration (IOM) in the host country. Full details of the case and medical history are sent to the local authority for assessment of need, including whether suitable accommodation and care are available locally. The local authority then provides details of the estimated costs.

Eligibility is then confirmed and IOM start the visa application process. UK Visas and Immigration International issue UK visas (3 months Leave Outside of the Rules) and on arrival, arrangements are made for Biometric Residence Permits to be issued with 5 years' humanitarian protection.

Worldwide trends

How many refugees are there worldwide?

- The UNHCR reports that by the end of 2014, the number of forcibly displaced individuals worldwide stood at 59.5 million. There are 19.5 million refugees worldwide. 51% of refugees were under 18 years old.

Where do most refugees come from?

- Syria is the world's largest source country of both internally displaced people (7.6 million) and refugees (3.88 million at the end of 2014). Afghanistan (2.59 million) and Somalia (1.1 million) are the next biggest refugee source countries. This is followed by Sudan (648,900) and South Sudan (616,200).

What are the reasons for refugee flows?

- The humanitarian situation in **Syria** continues to deteriorate. The number of people in need of humanitarian assistance now stands at 12.2 million, and four in every five Syrians live in poverty. Flagrant human rights violations, indiscriminate attacks against densely populated areas and targeting of civilian infrastructure, in particular aerial bombardment by the Assad regime, continues in violation of international norms.
- **Afghanistan** remains one of the poorest countries in the world, with 1 in 3 people living below the poverty line and without access to basic services or opportunities to support their families. The ongoing insurgency across many parts of the country means people are facing violence as part of their daily lives and has given rise to a sharp increase in population displacement. As of December 2014, UNHCR listed over 2.5m Afghans as refugees and over 800,000 Afghans are internally displaced.
- **Somalis** are the third largest group, following Eritreans and Sudanese, arriving in Europe from the East African region. They make up 9% of migrants to Europe. The main causes of migration from Somalia are understood to be spikes in insecurity and humanitarian need (driven by conflict and Al-Shabaab activity). There are also likely to be a significant number of 'economic migrants' looking for better economic opportunity than exists in Somalia. Large diaspora communities in the UK (thought to be 3-500,000) and elsewhere in Europe create a pull factor.
- We believe that **Sudan** is primarily a country of transit, though there are refugees fleeing conflict in Darfur. Numbers of economic migrants from Sudan are unknown - if someone claims to be from Darfur it is difficult to prove otherwise. The security services have periodic clamp-downs on Eritreans in Sudan (usually in Khartoum) with some forcible returns for not having the correct paperwork.

General Asylum Statistics

- There were 25,771 asylum applications (main applicants) in the UK in the year ending June 2015. (Including dependants, there were 32,508).
- In recent quarters, we have seen fewer applications from some countries with traditionally higher refusal rates (Pakistan, Bangladesh and Nigeria), and more from countries with higher grant rates (Eritrea, Syria, Sudan).
- In the year ending June 2015, the highest numbers of applications came from Eritrean (3,568), Pakistani (2,302) and Syrian (2,204) nationals (main applicants only). Including dependants, the largest number of asylum applications came from Eritrea (3,624), Pakistan (3,276) and Iran (2,533).
- Compared to the year ending June 2014, the number of initial decisions on asylum applications (main applicants) increased by 107% in the year ending June 2015, to 28,538 from 13,795. (Including dependants, initial decisions increased by 117%, to 38,373 from 17,697).
- The total number of outstanding initial decisions has fallen in recent quarters (main applicants only – Q3 2014: 18,149, Q4 2014: 17,067; Q1 2015: 12,878, Q2 2015: 12,368; main applicants and dependants – Q3 2014: 24,369, Q4 2014: 22,898; Q1 2015: 16,879, Q2 2015: 16,163).
- We are certifying more cases, thus refusing clearly unfounded cases a right of appeal in the UK. In the year ending June 2015, 14% of all refusals for main applicants were certified, unchanged from the year ending June 2014. (Including dependants, 15% of refusals were certified, compared with 14% in the previous year).

Support

- We currently support a total of over 36,000 asylum seekers (main applicants and dependants; sections 95, 98 & 4). At the end of June 2015, 30,457 asylum seekers and their dependants were being supported under Section 95.
- There are over 26,000 asylum seekers in dispersed accommodation, in over 200 local authorities. Our dispersal policy ensures a reasonable spread amongst those local authorities.

UASCs

- There were 2,168 asylum applications from Unaccompanied Asylum-Seeking Children (UASCs) in the year ending June 2015, an increase of 46% from the year ending June 2014 (1,488). These applications represented 8% of all main applications for asylum.
- Despite the recent increase in UASC applications, they remain below the peak of 3,976 in 2008.

Resettlement

- In the year ending June 2015, 166 Syrians were relocated to the UK under the VPR scheme (216 since the scheme began in March 2014). This is in addition to almost 5,000 Syrians (including dependants) who have been granted protection under our normal asylum rules since the crisis began in April 2011.

- In the year ending June 2015, we resettled 640 refugees under the Gateway Resettlement Programme. Since 2004, we have resettled 6,380 refugees under the programme and we met our target in the last financial year (April 2014 to March 2015), resettling over 750 refugees.

Removals

- In the last two years (July 2013 to June 2015) there were over 8,500 enforced removals of people who had sought asylum at some stage (including dependants). In the same period there were over 5,500 voluntary departures of people who had sought asylum at some stage.

International comparisons

- The number of asylum applications to the EU in the year ending June 2015 was the highest it has been since 2002.
- There were an estimated 754,700 asylum applications by main applicants and dependants to the 28 EU countries in the year ending June 2015 (an increase of 65% on the previous year). Of these, the UK received 32,600 (4% of EU asylum intake) compared to 259,300 in Germany, 92,600 in Hungary and 78,400 in Sweden. In 2010, the EU received 241,100 applications for main applicants and dependants, and of this the UK received 22,600 (9% of EU asylum intake).
- The UK had the seventh highest number of asylum applications within the EU in the year ending June 2015 (fifth in year ending June 2014). In the year ending June 2015, Germany, Hungary, Sweden, Italy, France and Austria received more asylum applications than the UK.
- Asylum claims in Germany were eight times those in the UK (259,300 vs 32,600) in the year ending June 2015. Hungary had the second highest number of applications in the year ending June 2015 after being ranked ninth during the previous 12 months.
- When the relative size of resident populations of the 28 EU countries is taken into account, the UK ranked 16th in terms of asylum seekers per head of the population in the year ending June 2015 (it was also 16th in the previous year).

Agenda Item 15

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