

Council

Tuesday 15th January
2013

8.00pm (or following the
ending of the Executive
Committee meeting,
should this be later)

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:
www.redditchbc.gov.uk

**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact
Ivor Westmore
Democratic Services**

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Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency **Assembly Area** is on **Walter Stranz Square**.



Council

15th January 2013

8.00pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs:	Alan Mason (Mayor)	Carole Gandy
	Wanda King (Deputy Mayor)	Adam Griffin
	Joe Baker	Bill Hartnett
	Roger Bennett	Pattie Hill
	Rebecca Blake	Roger Hill
	Michael Braley	Gay Hopkins
	Andrew Brazier	Phil Mould
	Juliet Brunner	Brenda Quinney
	David Bush	Mark Shurmer
	Michael Chalk	Yvonne Smith
	Simon Chalk	Luke Stephens
	Greg Chance	Debbie Taylor
	Brandon Clayton	Derek Taylor
	John Fisher	Pat Witherspoon
	Andrew Fry	

1. Welcome	The Mayor will open the meeting and welcome all present.
2. Apologies	To receive any apologies for absence on behalf of Council members.
3. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
4. Minutes Chief Executive	To confirm as a correct record the minutes of the meeting of the Council held on 26 th November 2012. (Minutes circulated in Minute Book 7 - 2012/13)
5. Announcements	To consider Announcements under Procedure Rule 10: a) Mayor's Announcements b) Leader's Announcements c) Chief Executive's Announcements. (Oral report)

<p>6. Questions on Notice (Pages 1 - 2) Chief Executive</p>	<p>To consider the following Question for the Leader, which has been submitted in accordance with Procedure Rule 9.2:</p> <p><u>“London Midland Cross City Line”</u> (Councillor Luke Stephens)</p> <p>(Question attached)</p>
<p>7. Motions on Notice (Pages 3 - 4) Chief Executive</p>	<p>To consider the following Motion submitted by Councillor Brandon Clayton in accordance with Procedure Rule 11:</p> <p>Living Wage.</p> <p>(Motion attached)</p>
<p>8. Executive Committee (Pages 5 - 28) Chief Executive</p>	<p>To receive the minutes and consider the recommendations and/or referrals from the following meetings of the Executive Committee:</p> <p><u>18th December 2012</u></p> <p>Matters requiring the Council’s consideration include:</p> <ul style="list-style-type: none">• Gambling Act 2005 - Review of Statement of Principles. <p>(Report and decision attached)</p> <p><u>15th January 2013</u></p> <p>Matters requiring the Council’s consideration include:</p> <ul style="list-style-type: none">• Medium Term Financial Plan 2014/15 – 2015/16;• Council Tax and NNDR Base 2013/14;• Council Tax Support Scheme;• Community Care Grants and Crisis Loans; and• Service Review for Print, Design and Communications. <p>(Reports attached to Executive Committee agenda)</p> <p>(Minutes of the meeting on 18th December 2012 circulated in Minute Book 7 – 2012/13. Referrals from the meeting on 15th January 2013 to be communicated to Council on the evening)</p>

<p>9. Regulatory Committees Chief Executive</p>	<p>To formally receive the minutes of the following meetings of the Council's Regulatory Committees:</p> <p>Audit & Governance Committee 27th November 2012</p> <p>Licensing Committee 17th December 2012</p> <p>Planning Committee 28th November 2012</p> <p>The one outstanding recommendation for the Council will be considered earlier on the agenda, during the preceding item, Executive Committee.</p> <p>(Minutes circulated in Minute Book 7 – 2012/13)</p>
<p>10. Street Trading and Pedlary Laws - Consultation by Department for Business Innovation and Skills (Pages 29 - 34) Head of Legal, Equalities and Democratic Services</p>	<p>To consider a response to a joint consultation on draft regulations to repeal the Pedlars Acts (UK wide) and make changes to the street trading legislation in England, Wales and Northern Ireland</p> <p>(Report attached)</p> <p>All Wards;</p>
<p>11. Urgent Business - Record of Decisions Chief Executive</p>	<p>To note any decisions taken in accordance with the Council's Urgency Procedure Rules (Part 6, Paragraph 5 and/or Part 7, Paragraph 15 of the Constitution), as specified.</p> <p>(None to date).</p>
<p>12. Urgent Business - general (if any)</p>	<p>To consider any additional items exceptionally agreed by the Mayor as Urgent Business in accordance with the powers vested in her by virtue of Section 100(B)(4)(b) of the Local Government Act 1972.</p> <p>(This power should be exercised only in cases where there are genuinely special circumstances which require consideration of an item which has not previously been published on the Order of Business for the meeting and/or on the Leader's Forward Plan.)</p>

13. Exclusion of the Public

Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting in relation to any items of business on the grounds that exempt information is likely to be divulged it may be necessary to move the following resolution:

“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (*to be specified*) of Part 1 of Schedule 12 (A) of the said Act, as amended.”

[Subject to the “public interest” test, information relating to:

- **Para 1 – any individual;**
- **Para 2 – the identity of any individual;**
- **Para 3 – financial or business affairs;**
- **Para 4 – labour relations matters;**
- **Para 5 – legal professional privilege;**
- **Para 6 – a notice, order or direction;**
- **Para 7 – the prevention, investigation or prosecution of crime;**

may need to be considered as ‘exempt’.]

(Note: Anyone requiring copies of any previously circulated reports, or supplementary papers, should please contact Committee Services Officers in advance of the meeting.)

REDDITCH BOROUGH COUNCIL**COUNCIL**

15th January 2013

QUESTIONS TO THE LEADER**“LONDON MIDLAND – CROSS CITY LINE”**

The following Question to the Leader has been submitted in accordance with Procedure Rule 9.2 by Cllr Luke Stephens:

Would the Leader of the Council join me in condemning the shoddy performance of London Midland Trains in their running of our local service on the Cross-City Line which has been particularly hard hit by the much publicised spate of train cancellations?

These cancellations are in my view a direct result of the company's policy of paying lower rates of pay to their drivers than other companies.

Will the Leader, please write to the Chief Executive of London Midland and the Department for Transport on behalf of Redditch passengers to demand that:

"Action be taken to ensure the Cross-City Line from Redditch to Lichfield Trent Valley operate their service to the timetable. Should a train be cancelled or terminated before it reaches its destination, alternative transport should be provided rather than leaving passengers stranded".

REDDITCH BOROUGH COUNCIL**COUNCIL**15th January 2013**NOTICE OF MOTION – LIVING WAGE**

Relevant Portfolio Holder(s)	Cllr Phil Mould
Relevant Head of Service	Head of Legal, Equalities & Democratic Services
Not a Key Decision	

The following Notice of Motion has been submitted in accordance with Procedure Rule 11 by Councillor Brandon Clayton:

"This council recognises the case for all employees to be paid the living wage of £7.45 per hour as a minimum.

In addition the council also recognises the case for all those employed under any future contracts for works undertaken on behalf of the Council by third parties to aim to be paid according to the same policy.

We welcome the recent comments in the local papers from the leader of the council for recognising the issues.

The coalition government have taken a number of people out of the tax bracket by increasing the threshold but more needs to be done.

We ask that this be referred to the Overview and Scrutiny committee to investigate the proposals with a view to bring back a report to the executive committee on the full implication for staffing and financial costs."

Proposed by: Cllr Brandon Clayton

Seconded by: Cllr Michael Braley

REDDITCH BOROUGH COUNCIL

COUNCIL

15th January 2012

112. **GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES**

RECOMMENDED that

the 2012-2016 Statement of Gambling Principles be adopted from 31st January 2013.

**EXECUTIVE
COMMITTEE**18th December 2012**GAMBLING ACT 2005 STATEMENT OF PRINCIPLES REVIEW**

Relevant Portfolio Holder	Councillor Rebecca Blake
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To advise members of the outcome of the recent consultation exercise undertaken with stakeholders in relation to the 2013 -2016 Statement of Gambling Principles and invite Members to make a recommendation that the updated Statement be adopted.

2. RECOMMENDATIONS

The Executive Committee is requested to **RESOLVE** that

- 1) the outcome of the consultation exercise and the views of the Council's Licensing Committee (to be reported on the night) be noted; and

RECOMMEND that

- 2) the 2013 -2016 Statement of Gambling Principles be adopted from 31st January 2013.

3. KEY ISSUES**Financial Implications**

- 3.1 There are no financial implications associated with this report, other than statutory consultation with licence holders and other interested parties.

Legal Implications

- 3.2 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies.

**EXECUTIVE
COMMITTEE**18th December 2012

- 3.3 The statement of Policy will last for a maximum of three years but can be reviewed and revised by the authority at any time. The statement must be produced following consultation with the bodies specified in section 349(3) of the Gambling Act.
- 3.4 In addition to the legislative requirements guidance issued by the Gambling Commission sets out certain information that the Commission considered should be included in all licensing authority Statements of Policy.
- 3.5 If it is anticipated that there may be changes to the Gambling Act before the next Statement is published. Any relevant changes will be brought to the attention of the Licensing Committee by way of report.

Service / Operational Implications

- 3.6 The Gambling Act requires the Council to carry out a review of its Gambling Act 2005 – Statement of Gambling Principles which is used to determine all applications made under the terms of the Act, every three years.
- 3.7 The Council adopted its current Statement of Principles in December 2009. A review of the current document has now been completed. In conducting the review the Council as Licensing Authority consulted with all interested parties to ensure that the policy continues to reflect the local balance between the commercial interests of the licensed trade and the communities they serve and impact on.
- 3.8 The current Statement of Gambling Principles is due to expire in December 2012 and a new Statement of Principles must be in place by 31st January 2013.
- 3.9 The Statement of Gambling Principles was originally written in conjunction with the County Licensing Group representing all the district councils within Worcestershire. Since the introduction of Worcestershire Regulatory Services (WRS) in June 2010 the responsibility for overseeing gambling issues generally rests with officers from WRS.
- 3.10 A copy of the 2013 -2016 Statement of Gambling Principles is attached at **APPENDIX 1**. Officers can advise that there have been no significant changes to the legislation or guidance affecting gambling since the previous Statement of Principles was adopted by the Council. Members will see that subject to a limited number of very minor changes the new document that has been consulted on and is to be adopted is essentially the same in content as the previous version.

**EXECUTIVE
COMMITTEE****18th December 2012**

3.11 Members of the Licensing Committee received an earlier report on this matter on 2nd July 2012 and authorised officers to proceed with a 12 week consultation exercise. The consultation period commenced and closed on 17th October 2012. During the Consultation process, the following bodies were consulted -

- The Chief Police Officer for the Borough
- Hereford & Worcestershire Fire Authority
- Worcestershire County Council – Child Protection
- Persons representing the interests of those carrying on gambling businesses in the Borough
- Persons representing the interests of those who are likely to be affected by the exercise of Redditch Borough Councils functions under the Gambling Act 2005.
- All Borough Councillors
- Feckenham Parish Council
- Consultation document was also featured on the Council web page.

3.12 Each Licensing Authority in Worcestershire has conducted a review of their Statement of Gambling Principles. Officers can confirm that no responses were received within the consultation period countywide.

3.13 A response was received from Redditch Community Safety Partnership which expressed concerns of a Crime and Disorder nature that so far have not been an issue in the administration of the Gambling function. Unfortunately this response was out of time and Officers explained that the Gambling Commission vetted all applicants; and that the Licensing Authority was responsible for ensuring the premises were fit for the licensable activity that the applicant intended to carry out.

4. RISK MANAGEMENT

Failure to consult on the Statement of Gambling Principles will result in the Council failing to exercise its duty under the requirements of the Gambling Act 2005.

5. APPENDICES

Appendix 1 2013 -2016 Statement of Gambling Principles

**EXECUTIVE
COMMITTEE**

18th December 2012

6. BACKGROUND PAPERS

Gambling Commission Guidance to Local Authorities.

AUTHOR OF REPORT

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Gambling Act 2005

Statement of Principles

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Appendices

Appendix A Map of the Borough of Redditch

Appendix B List of Consultees

Statement of Principles – Gambling Act 2005

1.0 Introduction

1.1 Redditch Borough Council is situated in the County of Worcestershire, which contains 6 District Councils in total. The Council area has a population of 78,807 (2001 Census) and covers an area of 5,435 hectares (13,430 acres) making it the smallest in the County in terms of population and area.

The Borough of Redditch consists of 2 distinct areas:-

- An essentially urban area, which includes a vibrant and thriving town centre and smaller centres within local districts; and
- An essentially rural area, which includes the villages of Astwood Bank, Feckenham, Elcocks Brook and Ham Green.

The Borough and its address districts are shown in the map at Appendix 'A'.

1.2 Redditch Borough Council's overall vision is "an enterprising community which is safe, clean and green" This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are central to the regulatory regime created by the Act. These are:

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

1.3 The Licensing Authority has produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that the Licensing Authority have consulted. The Licensing Authority consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between June and October 2012 in line with HM Government Code of Practice on Consultation. The policy was approved at a meeting of the Full Council on XXXXXXXXX. Should you have any comments with regards to this policy statement please send them via email or letter to: wrslicensing@worcsregservices.gov.uk.

This statement must be published at least every three years. The statement may also be reviewed from 'time to time' and any amended parts re-consulted upon.

1.4 The Licensing Authority intends that this document should provide information and guidance on the general approach that the Licensing Authority will take to licensing. A series of advice sheets with more specific guidance is available on request; advice tailored to individuals is available by phone or to personal callers.

1.5 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

2.0 Gambling Act 2005

- 2.1 This policy reflects our key priorities to be a well managed organisation; with a vision statement of an enterprising community which is safe, clean and green to provide sustainable culture and leisure opportunities; and to work with the public and our partners.
- 2.2 The Act provides for gambling to be authorised in a number of different ways. Our main functions are to:
- licence premises for gambling activities, including the issue of provisional statements;
 - regulate and grant permits for gambling and gaming machines in clubs, including commercial 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;
 - receive and endorse notices given for the temporary use notices;
 - receive occasional use notices for betting at tracks;
 - register small societies lotteries;
 - Maintain public registers; and
 - Provide information to the Gambling Commission on issued licences.
- 2.3 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. Spread betting is regulated by the Financial Services Authority. The “National Lottery” is regulated by the National Lottery Commission.

3.0 Authorised Activities

- 3.1 ‘Gambling’ is defined in the Act as 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 whether anything is true or not, and
 - a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

4.0 General Statement of Principles

- 4.1 In carrying out the licensing functions in accordance with the Act, particularly with regard to premises licences, the Licensing Authority 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, and
 - reasonably consistent with the licensing objectives.
- 4.2 The Licensing Authority will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.

- 4.3 The Licensing Authority will ensure that in dealing with applications under the Act the Licensing Authority follows the required procedures, and only takes into account issues that are relevant. Specifically the Licensing Authority will not have regard to “demand” when considering applications for gambling premises; nor will the Licensing Authority consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). The Licensing Authority will not reject an application on moral grounds. If the Licensing Authority decides to reject an application, the Licensing Authority will make known the reasons for doing so.
- 4.4 The Council has delegated its licensing function to its Licensing Sub-Committee and Licensing Officers. In the remainder of this Statement of Principles they are referred to collectively as the ‘Licensing Authority’.
- 4.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 4.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 4.7 If there are objections that can't be resolved informally, or the Licensing Authority intends to impose extra conditions, the Licensing Authority will hold a public hearing at which the licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 4.8 This 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.

5.0 Preventing gambling from being a source of crime and disorder

- 5.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before the Licensing Authority will issue a licence to use premises for gambling.
- 5.2 The Licensing Authority will not issue a premises licence to someone who does not hold an operator's licence, the Licensing Authority is not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.
- 5.3 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 Licensing Authority 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 Security Industry Authority registered door supervisors.
- 5.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where 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; the Licensing Authority will then consider 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.

5.5 “Disorder” is generally a matter for the Police; the Licensing Authority will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.

5.6 When making decisions relating to disorder, the Licensing Authority will give due weight to comments made by the police.

6.0 Ensuring gambling is conducted in a fair and open way

6.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.

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

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

7.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are ‘adult-only’ environments.

7.2 Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.

7.3 The Licensing Authority expects steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.

7.4 When determining a premises licence or permit the Licensing Authority will consider whether any additional 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 like pubs, clubs and betting tracks.

7.5 In seeking to protect vulnerable people the Licensing Authority 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.

7.6 The Licensing Authority 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 these considerations against the overall principle of aiming to permit the use of premises for gambling.

8.0 Premises licences

8.1 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

- 8.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.
- 8.3 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. The Licensing Authority will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. The Licensing Authority will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.
- 8.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. The Licensing Authority would also expect customers to be able to participate in the activity named on the premises licence.
- 8.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Redditch has not been identified as a suitable location for a casino; consequently the Licensing Authority will be prevented from granting a Casino Premises Licence.
- 8.6 The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 8.7 Other than an application for a betting premises licence for a track, the Licensing Authority are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 8.8 When considering applications for premises licences the Licensing Authority will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 8.9 The Licensing Authority are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 8.10 The Licensing Authority will only issue a premises licence once the Licensing Authority are satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a

premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made.

- 8.11 The Licensing Authority will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
 - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.
- 8.12 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 8.13 Applicants for 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.
- 8.14 The Licensing Authority will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9am until 5pm.

9.0 Responsible authorities

- 9.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that the Licensing Authority recognises are listed below, contact details for each of the responsible authorities identified are available on our website www.redditchbc.gov.uk, and will be sent on request.
- The Gambling Commission
 - The Chief of Police for the area
 - Fire & Rescue Service
 - Redditch Planning Department
 - Environmental Services Department
 - Worcestershire Safeguarding Children Board
 - HM Revenue and Customs
 - Redditch Licensing Department
 - Any other bodies identified in Regulation by the Secretary of State,
 - For vessels, the Environment Agency, British Waterways Board, Secretary of State.
- 9.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

10.0 Interested Parties

10.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
- has business interests that might be affected by the authorised activities; or
- represents persons in either of the two groups above.

10.2 The Licensing Authority will generally require written evidence that a person/body '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 representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

10.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, the Licensing Authority 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 complainant
- the potential impact of the premises

10.4 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, and
- whether the person making the representation has business interests in the catchment area that might be affected

10.5 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 Licensing Authority 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.

10.6 The Licensing Authority may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises an issue relevant to the licensing objectives, or
- whether it raises issues specifically to do with the premises which are the subject of the application.

11.0 Licence conditions

11.1 In particular cases the Licensing Authority may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale

and type of premises and reasonable in all other respects. The Licensing Authority will not have recourse to a pool of standard conditions.

- 11.2 The Licensing Authority will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.
- 11.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. The Licensing Authority will also expect the applicant to offer their own suggestions as to way in which the licensing objectives can be promoted effectively.
- 11.4 The Licensing Authority will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;
 - relating to gaming machine categories or method of operation;
 - which specify that membership of a club or other body is required; or
 - in relation to stakes, fees, winnings or prizes.
- 11.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.
- 12.0 Gaming Machines**
- 12.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.
- 12.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 12.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:
- Casinos;
 - bingo premises;
 - betting premises, (including tracks);
 - adult gaming centres;
 - family entertainment centres;
 - clubs;
 - pubs and other alcohol licensed premises;
 - travelling fairs.
- 12.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.
- 12.5 The Licensing Authority will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

13.0 Temporary Use Notices

- 13.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. The Licensing Authority would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.
- 13.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

14.0 Occasional Use Notices

- 14.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

15.0 Lotteries

- 15.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission - unless they are 'exempt' lotteries as defined by the Act. One of those exemptions is for "small society lotteries," which the Licensing Authority will allow, after registration. The Licensing Authority will maintain a register of small society lotteries.
- 15.2 A society will be allowed to register with us if it is 'non-commercial', in other words, if it is established and conducted:
- for charitable purposes ;
 - for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or
 - for any other non-commercial purpose other than for private gain.

16.0 Exchange of Information

- 16.1 To ensure the licensing objectives are met, the Licensing Authority will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.
- 16.2 Subject to the provisions of the Data Protection Act 1998, the Licensing Authority will share any information it receives through the application process with the Gambling Commission and any relevant responsible authority. In doing so The Licensing Authority will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that The Licensing Authority holds about them by contacting our Information Management Officer.

16.3 The Licensing Authority is committed to being open about what it does and how The Licensing Authority comes to decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from Redditch our Information Management Officer or via the Council's website www.redditchbc.gov.uk.

16.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.

16.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that The Licensing Authority accepts will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

17.0 Enforcement Protocols

17.1 The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

17.2 The Licensing Authority will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.

17.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.

17.4 The Licensing Authority will also be mindful of future developments as regard the work of the Better Regulation Executive whilst carrying out our regulatory functions.

17.5 The Licensing Authority will endeavour to be proportionate; accountable; consistent; transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.

18.0 Reviews

18.1 A review of a premises licence can be made by interested parties or responsible authorities, however, The Licensing Authority will decide if the review is to be carried out on the basis of the following:

- In accordance with any relevant Code of Practice and/or guidance issued by the GC
- Consistent with the licensing objectives
- In accordance with our statement of principles.

- 18.2 The Licensing Authority will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether the Licensing Authority would wish to alter/revoke or suspend the licence.
- 18.3 The Licensing Authority can also initiate a review of a premises licence on the basis of any reason which The Licensing Authority think is appropriate, including if 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.
- 18.4 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 the statutory consultation period. The purpose of the review will be to determine whether The Licensing Authority should take any action in relation to the licence. The options available are:
- Add, remove or amend a licence condition;
 - Remove or amend a default condition, such as opening hours;
 - Suspend the premises licence for a period not exceeding 3 months;
 - Revoke the licence.

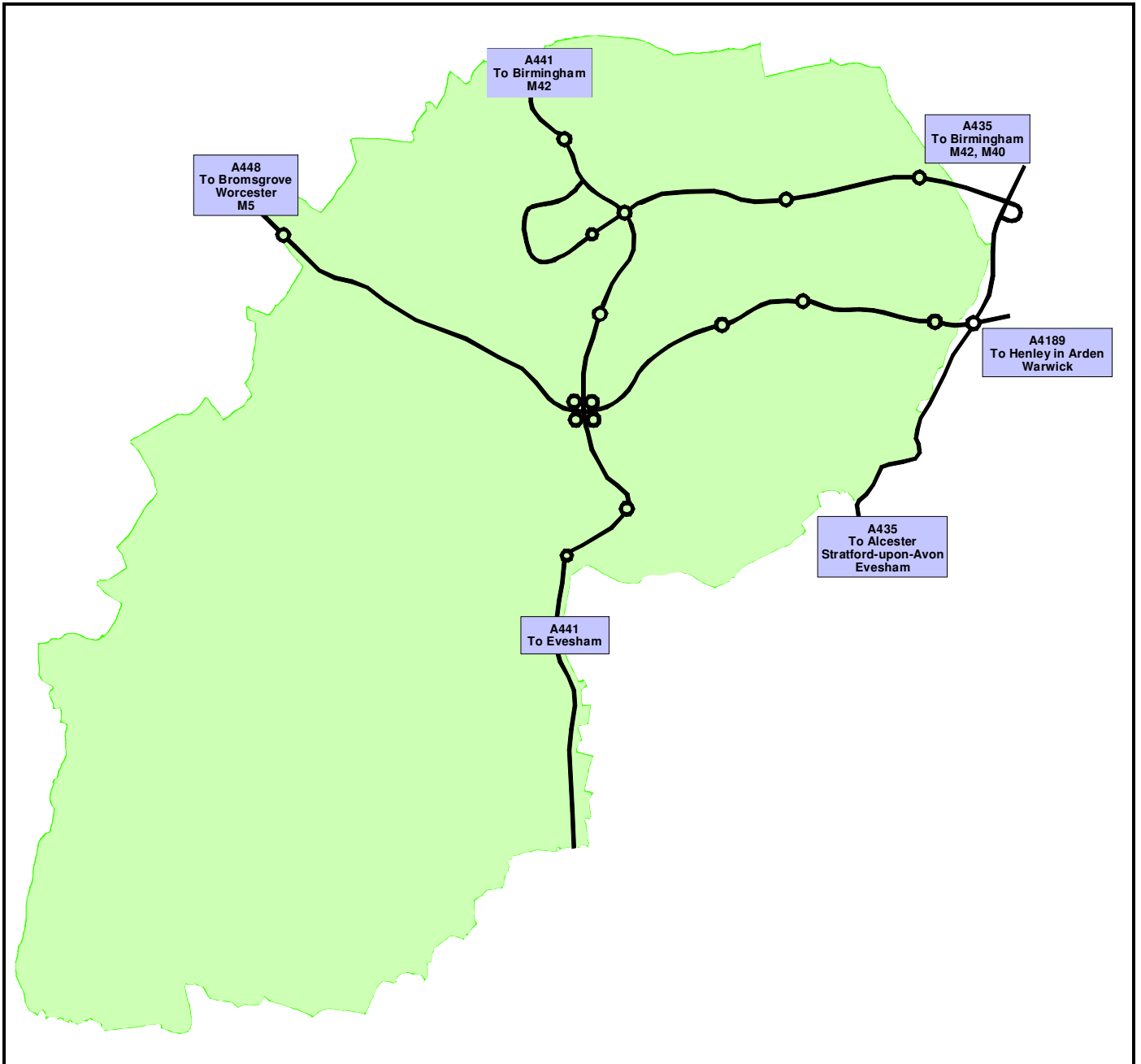
REDDITCH BOROUGH COUNCIL EQUAL OPPORTUNITIES STATEMENT

This statement is intended to operate within the Council's commitment to equalities and diversity including:

- Equal treatment regardless of race, gender, age, disability, sexual orientation, religion or belief, with reasonable adjustments where necessary in line with the Disability Discrimination Act.
- Working to eliminate **unlawful** discrimination.
- **Promoting equal opportunities**
- Promoting community cohesion, **including good relations between people from different racial groups.**
- Providing reasonable access to interpretation or support on request.
- Responding to the needs of all, and working to engage all sections of the community.

This statement will be assessed as part of a rolling programme of reviews to ensure that it does not have a detrimental or disproportionate effect on any group. Any concerns that the policy is operating in a way that could be construed as discriminatory should be passed to the responsible Manager and will be dealt with as part of the official Complaints Procedure, in line with the Council's Equality Schemes.

Redditch Borough Council Boundary



List of Consultees**REDDITCH BOROUGH COUNCIL****GAMBLING ACT 2005 – STATEMENT OF POLICY****LIST OF CONSULTEES****Statutory Consultees**

- Licensing Officer, West Mercia Police, Police Station, Grove Street, Redditch, B98 8DD.
- Hereford & Worcester Fire & Rescue, North District, Kidderminster Fire Station, Castle Road, Kidderminster, DY11 6TH
- The Gambling Commission, 4th Floor, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- Customs and Excise, HM Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ.
- Service Development Manager (Safeguarding), Pavilion J/2 Children's Services, County Hall, Spetchley Road, Worcester, WR5 2NP.

Trade Associations

- Flint Bishop Solicitors, St Michaels Court, St Michaels Lane, Derby, DE1 3HQ.
- Leisureline, 10 Severn Road, Stourport, DY13 9EZ.
- Recaf Equipment Ltd, Stone Pointon Way, Stonebridge Cross Business Park, Droitwich, WR9 0LW.
- Gamestec Leisure Ltd, Low Lane, Horsforth, Leeds, LS18 4ER.
- Bromyard Automatics, Areley Farm, Burnthorne Lane, Dunley, Stourport, Worcs. DY13 0TL.
- Town & County Leisure Ltd, Langham House, 23 Bickford Road, Aston, Birmingham, B6 7EE.
- Crown Leisure Ltd, 139 Brookfield Place, Walton Summit Centre, Bamber Bridge, Preston, PR5 8BF.
- Punch Taverns Plc, Jubilee House, Second Avenue, Burton-Upon-Trent, Staffs, DE14 2WF
- Bathams Delph Limited, Delph Brewery, Delph Road, Brierley Hill, West Midlands, DY5 2TN
- Admiral Taverns Ltd, Suite H3, Steam Mill Business Centre, Steam Mill Street, Chester, CH3 5AN
- Enterprise Inns Plc, Monkspath Hall Road, Shirley, Solihull, B90 4SJ
- Premier Automatic Machines Ltd. Unit 9 Ninian Park, Ninian, Wilncote.
- M S Entertainments, 23a Hagley Road, Halesowen. B63 3AU.
- Claremont Automatics Ltd, 19 Churchill Way, Fleckney, Leicestershire, LE8 8UD.
- Games Media Licensing , 99 Green Lane, Hounslow, TW4 6BW.
- Sceptre Leisure Solutions Ltd, 139 Brookfield Place, Walton Summit Centre, Bamber Bridge, Preston, PR5 8BF.

- SPR Sports Bookmakers Ltd, 10 Matchborough Centre, Matchborough Way, Redditch, Worcestershire, B98 0EP.
- Lodge Park Racing Ltd, 5A Shakespeare Avenue, Redditch. Worcestershire B98 7LB.
- Wilf Gilbert, 9 Alcester Street, Redditch. Worcs. B98 8AE,
- William Hill, 169 Batchley Road, Redditch, Worcs. B97 6JB.
- William Hill 19-21 Unicorn Hill, Redditch, Worcs. B97 4QR
- T & R Sports, 106 Evesham Road, Redditch, Worcs. B98 5ES.
- William Hill, 7 Woodrow Centre, Redditch, Worcs. B98 7RY.
- Coral 8-10 Unicorn Hill, Redditch, Worcs.
- SPR Sports Bookmakers Ltd, 1196a Evesham Road, Redditch, Worcs. B96 6AA.

Director of Services

- Acting Chief Joint Executive, Redditch Borough Council.
- Acting Deputy Chief Executive, Redditch Borough Council.
- Director of Environment and Planning, Redditch Borough Council.
- Director of Housing, Leisure and Customer Services, Redditch Borough Council.

Interested Parties

- All Council Members, Redditch Borough Council
- All other relevant Council Officers. (Legal, Committee Services)

Solicitors

- Roger Etchells Chartered Surveyors, The Old Bank, Kilwarby Street, Ashby De La Zouch, Leicestershire, LE65 2FR
- TLT Solicitors 1 Redcliff Street, Bristol. BS1 6TP
- Flint Bishop Solicitors, St Michaels Court, St Michaels Lane, Derby DE1 3HQ.
- Gosschalks Solicitors, Queens Gardens, Hull, HU1 3DZ.
- Bryan Colley & Co, 16 New Street, Stourport, Worcs. DY13 8UW.
- Kenneth Curtis & Co, 3 Alcester Street, Redditch, Worcs.
- Ian McLachlan Solicitor, 12 Church Green East, Redditch.
- Kerwoods Solicitors, 7 Church Road, Redditch, Worcs. B7 4AD.
- Thursfields, 14 Church Street, Kidderminster, Worcs. DY10 2AJ.
- Davis Priest & Co, Solicitors 24 Church Green East, Redditch, B98 8DE
- Browning & Co, Alcester Street, Redditch, Worcs.
- John Gaunt & Partners, Omega Court, 372 Cemetery Road, Sheffield, S11 8FT.
- Maitland Walker, 19 Imperial Square, Cheltenham, Gloucestershire, GL50 1QZ
- Poppleston Allen, 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS.
- Locket & Co, Lockett House, 13 Church Street, Kidderminster, Worcs. DY10 2AH.

Bingo Halls

- Shipleys Luxury Bingo Club, The Quadrant, Redditch, Worcs. B98 8AE.

Amusement Arcades within Redditch

- Shipleys Amusement Centre, 21-22 Church Green East, Redditch, Worcs. B98 0DE..

Other Consultees

- Gamblers Anonymous, Bromsgrove Methodist Centre, 19 Stratford Road, Bromsgrove, Worcs. B60 1AS.
- Citizens Advice Bureau, Redditch CAB, Suite E, Canon Newton House, Kingfisher Shopping Centre, Redditch, B97 4HA.
- Redditch Borough Crime & Disorder Reduction Partnership.
- Drug Alcohol Action Team, Worcester County Council, County Hall, Worcester, Worcs., WR5 2NP
- Licensing Section, Wychavon District Council.
- Licensing Section, Wyre Forest District Council
- Licensing Section, Worcester City Council.
- Licensing Section, Malvern Hills District Council.
- Licensing Section, Bromsgrove District Council.

COUNCIL

15th January 2013

STREET TRADING AND PEDLARY LAWS – CONSULTATION BY DEPARTMENT FOR BUSINESS INNOVATION AND SKILLS.

Relevant Portfolio Holder	Councillors P Mould, Portfolio Holder for Corporate Management and R Blake, Portfolio Holder for Community Safety and Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Department for Business Innovation and Skills is consulting on the repeal of the Pedlars Acts 1871 and 1881 and changes to street trading legislation. The proposals are as a result of agreement by European Union Member States that the retail sale of goods is a service activity within the EU Directive 2006/123/EC. The consultation is available on the website of the Department for Business, Innovation and Skills at <https://www.gov.uk/government/consultations/street-trading-and-pedlary-laws-a-joint-consultation-on-draft-regulations-to-repeal-the-pedlars-acts-uk-wide-and-make-changes-to-the-street-trading-legislation-in-england-wales-and-northern-ireland>
- 1.2 Publicity around the proposals has raised concern that the repeal of the Pedlary Acts will lead to an increase in door-to-door cold calling and increase the risks of rogue traders and mis-selling.
- 1.3 The Local Government Association has also expressed concern that proposals to amend the street trading legislation will limit Local Authorities' discretion to manage street trading applications in the best interests of their local areas.
- 1.4 Council is asked to consider responding to the consultation. There are 17 questions in the consultation document, many of which are technical. We therefore suggest that the Council's response is co-ordinated by Regulatory Services.

2. RECOMMENDATIONS

The Council is asked to RESOLVE that

Councillors pass their feedback to the Head of Regulatory Services to be included in his response on behalf of the Council.

3. KEY ISSUES**Financial Implications**

3.1 There are no direct financial implications arising from this report.

Legal Implications

3.2 The Government considers that amendments to the Street Trading legislation and repeal of the Pedlary laws are necessary in order to comply with the European Directive 2006/123/EC. In 2012 the interpretation of the Directive changed to include the retail sale of goods. At that time the Government indicated the current consultation proposals would be necessary.

3.3 The primary aim of the European Directive is to make it easier for service businesses to set up or sell services anywhere in the European Union. It distinguishes between the service providers established in the UK (an "established trader") and those seeking to establish themselves, either based in the UK or elsewhere in Europe (a "temporary trader").

3.4 Article 9 of the Directive applies to established traders and prevents Member States from making access to, or carrying out of, a service activity subject to an authorisation scheme unless certain conditions are satisfied. These include not discriminating against the provider; the need for the authorisation scheme being justified by an overriding public interest such as public policy (but only in specific circumstances) public health, public safety and protection of the environment and urban environment; and if there is no less restrictive measure available.

3.5 Article 16 refers to temporary traders and Member States are prohibited from making access to, or carrying out of a service activity which do not respect the following principles:

- Non-discrimination;
- Necessity – the requirement must be justified for reasons of public health, public security, public policy or the protection of the environment;
- Proportionality.

Repeal of the Pedlars Acts

3.6 Pedlars are currently regulated by the Pedlars Acts 1871 and 1881. A person intending to trade as a pedlar anywhere in the UK must apply for a Pedlars Certificate from the Police and must meet the following criteria (referred to as a certification scheme):

- s/he must have resided in the police area for where they apply for the certificate for at least one month before the application;
- be of good character;
- be above 17 years of age.

3.7 The Government's view is that this certification scheme does not comply with the Directive and cannot be retained because, among other things:

- The certification scheme for pedlars is untenable – it is viewed as too restrictive;
- Not only does the certification scheme contain a residency requirement (banned under the Directive) but the Government has no evidence to support the need to impose an authorisation regime based on a test of “good character”, which would be the most significant remaining criterion.

The Government also does not believe that pedlars should in general be regulated under other schemes. Its preference as set out in the consultation is that it should deregulate pedlary and help pedlars to be freer to trade across the UK.

3.8 The Government had received representations from pedlars to amend the Pedlars Acts rather than repeal them. However, given it does not consider it can retain the certification requirement; this would leave only the definition of Pedlary, which it wishes to modernise in any case.

Street Trading

3.9 The Government is consulting on amending Schedule 4 to the Local Government (Miscellaneous Provisions) Act which sets out the “national” street trading regime. This includes:

- A new definition of a Pedlar for the purposes of the pedlar exemption from the “national” street trading regime;
- A number of changes to the grounds for refusing and revoking street trading licences;
- A potential new power to designate a street as a licence/consent street for established traders and not for temporary traders.

3.10 The Government proposes that the new definition of a pedlar will continue to require them to:

- Travel and trade on foot;
- Either to trade by means of visiting from house to house or if s/he trades by other means (such as trading with pedestrians while travelling through the streets or partly trading on street and partly house to house) to comply with various requirements, which are quite technical and prescriptive in nature.

3.11 The requirements referred to above include carrying all their goods on their person or in a receptacle which is pushed or pulled and defining the size of the receptacle.

3.11.1 Three other limitations are proposed:

- A maximum period of time – 10 minutes – for which a pedlar can remain in a location with a view to trading;
 - A minimum period of time that must elapse before a pedlar can return to trade – 3 hours;
 - A minimum distance that a pedlar must travel between trading points – 50 metres.
- 3.12 When a Council designates a street as a licence street or a consent street, this makes the street subject to an “authorisation scheme” for the purposes of the European Directive.
- 3.13 Currently the designation of a street may only be made in relation to all categories of street trader. The consultation proposes to amend the designation power so that Local Authorities have the power, if appropriate, to designate a street as a licence street/consent street in relation to a more limited category of street trader – those who are not temporary traders. It asks whether local authorities envisage using this power if it was added to the current framework.
- 3.14 The consultation also proposes the following changes in relation to street trading:
- Removing the minimum age requirement (17) for street trading as it is suggested that sufficient protection for children exists in other legislation;
 - Repealing one of the seven discretionary refusal grounds for a street trading licence and amending two others;
 - Extending the duration of street trading licences beyond 12 months.
- 3.15 It is proposed to repeal the refusal ground that there are already enough shops/traders in the street who are trading in the applicant’s goods. The Government’s view is that it is unlikely this ground could be compatible with the Directive as protection of competitors is not an overriding reason relating to the public interest.
- 3.16 The consultation seeks views on whether it is necessary to insert a new refusal ground into the legislation which enables a local authority to refuse a licence application if they are of the view that the street is unsuitable for the trading in which the applicant desires to engage.
- 3.17 The two amended grounds relate to trading for too few days each week and failing to use a previous licence sufficiently.

Service/Operational Implications

- 3.18 If the proposals are implemented unchanged, they would impact adversely on the workload of Regulatory Services. This would be in terms of managing applications for street trading consents and particularly in enforcement of the new requirements for Pedlars, which appear very detailed and bureaucratic.

- 3.19 The proposed changes to Street Trading legislation, especially around the grounds for refusing applications, would require a review of the Council's Street Trading Policy. This seeks to ensure street trading is located where it can make a "positive contribution to add interest, vibrancy and diversity to the area and does not give rise to problems associated with crime and disorder".

Customer/Equalities and Diversity Implications

- 3.20 The Government has carried out its own impact assessment on the proposals in the consultation. However, the Council would need to carry out its own assessment once any changes to legislation are implemented as a result of this consultation.

4. RISK MANAGEMENT

There are no immediate risks for the Council since the proposals are only for consultation at this stage.

5. APPENDICES

None.

6. BACKGROUND PAPERS

Department for Business Innovation and Skills consultation on Street Trading and Pedlary Laws, November 2012.

AUTHOR OF REPORT

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