



## Licensing Committee

Mon 20 Jul  
2015  
7.00 pm

Committee Room 2  
Town Hall  
Redditch

**REDDITCH** BOROUGH COUNCIL

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- 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:  
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**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**

**Pauline Ross  
Democratic Services Officer**

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# Welcome to today's meeting.

## Guidance for the Public

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### **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 Democratic Services 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**

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# Licensing Committee

Monday, 20th July, 2015

7.00 pm

Committee Room 2 Town Hall

## Agenda

### Membership:

Cllrs:	Pat Witherspoon (Chair)	Gay Hopkins Wanda King
	Andrew Fry (Vice-Chair)	Antonia Pulsford Rachael Smith
	Tom Baker-Price Roger Bennett	Jennifer Wheeler
	Natalie Brookes Anita Clayton	

<p><b>1. Apologies</b></p>	<p>To receive the apologies of any Member who is unable to attend this meeting.</p>
<p><b>2. Declarations of Interest</b></p>	<p>To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.</p>
<p><b>3. Minutes</b> (Pages 1 - 4)</p>	<p>To confirm as a correct record the minutes of the meeting of the Licensing Committee held on 2nd March 2015.  (Minutes attached)</p>
<p><b>4. Gambling Act 2005 - Review of Statement of Principles</b> (Pages 5 - 24)</p>	<p>To consider the revised Draft Gambling Act 2005 - Statement of Principles for the purpose of consultation with relevant parties.  <b>All Wards</b></p>
<p><b>5. Draft Sex Establishment Policy - Consultation Results</b> (Pages 25 - 62)</p>	<p>To consider a report detailing the draft Sex Establishment Licensing Policy and Guidelines following consultation with relevant stakeholders and the general public.  <b>All Wards</b></p>
<p><b>6. Deregulation Act 2015 - Update on Licensing Implications</b> (Pages 63 - 68)</p>	<p>To consider a report that provides an update on the Deregulation Act 2015 and to set out the licensing implications contained within this legislation.  <b>All Wards</b></p>

<b>7. Licensing Annual Report</b> (Pages 69 - 74)	To consider an update on the functions carried out under the Licensing Act 2003, Gambling Act 2005 and other aspects of Licensing.
<b>8. Licensing Committee Work Programme 2015/2016</b> (Pages 75 - 76)	To consider the Committee's Work Programme for the current municipal year 2015/2016.



# Licensing Committee

Monday, 2 March 2015

## MINUTES

### Present:

Councillor Pattie Hill (Chairman), Councillor Alan Mason (Vice-Chair) and Councillors Roger Bennett, Natalie Brookes, Andrew Fry and John Witherspoon

### Officers:

K Barnett and D Etheridge

### Democratic Services Officer:

Jess Bayley

### 15. APOLOGIES

Apologies for absence were received on behalf of Councillors Gay Hopkins and Paul Swansborough.

### 16. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 17. MINUTES

The Chair apologised for the delay in providing the minutes which had not been included in the agenda pack for consideration.

### RESOLVED that

**the minutes of the meeting of the Licensing committee held on Monday 3rd November 2014 be confirmed as a correct record and signed by the Chair.**

### 18. DRAFT SCRAP METAL LICENSING POLICY AND GUIDELINES - CONSULTATION RESPONSES

Further to the meeting of the Licensing Committee held on 3rd November 2014 the Committee received a report detailing the final Scrap Metal Licensing Policy and Guidelines. During consideration of the content of this report the following matters were discussed:

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Chair

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- As requested at the previous meeting of the Committee Officers had consulted on the proposed content of the Scrap Metal Licensing Policy and Guidelines.
- Only one response had been received; from the British Metals Recycling Association (BMRA). The association's responses had been taken into account when Officers finalised the content of the policy.
- The difficulties involved in displaying scrap metal dealers' licences on vehicle plates. Licences applied to the dealer rather than to the vehicle and many dealers operated across local authority boundaries and obtained multiple licences from different Councils.
- Public awareness of the policy and the potential for a press release to be issued in order to raise awareness.
- Methods of payment for scrap metal that could be used by dealers under the policy and the need for an audit trail.
- Criminal activities involving scrap metal.
- The process for verifying the identity of the person selling scrap metal to a dealer.
- The potential for Licensing Officers to enforce compliance with the payment requirements amongst scrap metal dealers and the additional powers provided to Officers in this regard in recent legislation.
- The additional restrictions that could be imposed on licensed scrap metal dealers and / or site managers if either was convicted of an offence.
- The process for disposing of scrap metal. Members were advised that there were specialist sites where scrap metal could be melted and the majority of dealers tended to transport metal to these sites rather than to melt metal as part of their core business.
- The referral of criminal offences to the local magistrate's court.
- Members were advised that if the suitability of an individual to continue to hold an existing licence was brought into question this matter might be referred to the Licensing Sub-Committee for further consideration.
- The need to issue closure notices to an appropriate authority figure on site and the action that could be taken to identify persons in a position of responsibility. Members were advised that there had been no problems to date with unlicensed scrap metal dealers in Redditch.

Prior to the conclusion of this item the Chair requested that in future appendices to reports presented for the consideration of the Committee be clearly marked for ease of reference.



**RESOLVED that**

**the finalised Scrap Metal Licensing Policy and Guidelines be approved.**

**19. DRAFT SEX ESTABLISHMENT POLICY AND GUIDELINES**

The Committee considered a report detailing the draft Sex Establishment Licensing Policy and Guidelines for the purpose of consultation with relevant stakeholders and the general public. During the discussion of this report the following matters were considered:

- Redditch Borough Council did not have a licensing policy for sex establishments. However, having a policy for this purpose was considered to be best practice as it provided consistency and transparency in the Licensing process.
- Sex establishments included venues such as pole dancing clubs but not businesses that primarily sold lingerie. The key consideration for Officers when determining whether a venue should be classified as a sex shop was the retail product.
- The potential provided through the policy for the public to express their views about any applications for a sex establishment licence.
- There were currently no licensed sex establishments in the Borough.
- The need for fees for applications for a sex establishment licence to be set at a level that would cover the costs of processing the license.
- The appropriate location for sex establishments and the need for the Licensing Sub-Committee to take into account the proximity of any schools, residential premises and other relevant premises when considering applications.
- Action that could be taken by applicants if their application was turned down. Members were advised that there was no right of appeal in cases where a licence for a sex establishment was turned down; an applicant could use alternative methods such as applying for a judicial review.
- The reasons why the Licensing Sub-Committee might turn down an application, on both mandatory and discretionary grounds.
- The suitability of an applicant would be partly assessed based on their previous relevant knowledge and experience. This would include consideration of whether the applicant had ever held a licence with the Council and whether they had complied with the terms of the licence.
- The probability that applicants with unspent convictions would not receive a licence.

# Licensing Committee

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- Protection available to staff employed at sex establishment venues. The standard conditions applicable to licences for sexual entertainment venues addressed issues such as provision of dressing rooms.
- The need for all licences for sex establishments to be considered in accordance with the terms of the policy and guidance. Local authorities could not apply any moral judgement when assessing such applications.

**RESOLVED that**

**the draft Sex Establishment Licensing Policy be approved for the purpose of consultation with relevant stakeholders and the general public.**

**20. LICENSING COMMITTEE WORK PROGRAMME 2014/2015**

Members were advised that the following items were due to be considered by the Licensing Committee at a meeting on 20th July 2015:

- Draft Sex Establishment Policy (Consultation Results); and
- Hackney Carriage and Private Hire Driver Licensing Policy Amendments.

The Committee was informed that the Deregulation Bill which had resulted in the need for amendments to the Hackney Carriage and Private Hire Driver Licensing Policy would also be addressed in the Licensing training that was scheduled to be delivered to Members in 2015/16.

**RESOLVED that**

**the Licensing Committee Work Programme 2014/15 be noted.**

The Meeting commenced at 7.01 pm  
and closed at 7.56 pm

**LICENSING  
COMMITTEE**20<sup>th</sup> July 2015**GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

The Council's current Statement of Principles under the Gambling Act 2005 took effect on 31<sup>st</sup> January 2013. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every three years. Therefore a new Statement of Principles must be published by 31<sup>st</sup> January 2016.

As part of the process of preparing a Statement of Principles for the three year period beginning on 31<sup>st</sup> January 2016, the Licensing Committee are asked to approve a draft revised Statement of Principles for the purpose of consultation with relevant parties.

**2. RECOMMENDATIONS**

**Members are asked to RESOLVE;**

**To approve the revised draft Statement of Principles at Appendix 1 for the purpose of consultation with relevant parties.**

**3. KEY ISSUES****Financial Implications**

- 3.1 The costs involved in carrying out the consultation would be met from existing budgets held by Worcestershire Regulatory Services.

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**Legal Implications**

- 3.2 Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.
- 3.3 The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.
- 3.4 When revising its Statement of Principles, the Council is required 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.

**Service / Operational Implications**

- 3.5 Redditch Borough Council is a licensing authority in accordance with the provision of the Gambling Act 2005.
- 3.6 Each licensing authority is required before each successive three year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority's Statement of Principles.
- 3.7 The Council's current Statement of Principles took effect on 31<sup>st</sup> January 2013 and therefore a new Statement of Principles must now be prepared and published ready to take effect on 31<sup>st</sup> January 2016.
- 3.8 There have been no significant changes to the provisions of the Gambling Act 2005 since the last Statement of Principles took effect.
- 3.9 The Gambling Commission is currently carrying out consultation on revised guidance to licensing authorities, but it is not clear when the revised version of this guidance will be published. Given the requirement to prepare and publish a new Statement of Principles by 31<sup>st</sup> January 2016, the Council cannot wait for publication of the revised guidance before proceeding with this consultation.

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- 3.10 The following minor amendments have been included in the revised draft Statement of Principles.
- 3.11 The population figure for the district has been updated in the introduction. The new figure is taken from the latest census information released by the Office for National Statistics.
- 3.12 Reference to the HM Government Code of Practise on Consultation has been replaced with reference to the Government's published Consultation Principles, which has replaced the former document.
- 3.13 The policy has been updated so it now refers to the Council's strategic purposes as set out in the Council plan rather than the previously identified "key objectives" of the Council.
- 3.14 The policy has been updated to reflect the change in name of the Financial Services Authority to the Financial Conduct Authority and also to reflect the merger of the National Lottery Commission with the Gambling Commission.
- 3.15 A section has been included to set out the principles the Council has applied in designating a body which is competent to advise the authority about the protection of children from harm. This is a requirement of current regulations.
- 3.16 A section has been included to explain how the Council would decide whether to pass a resolution not to issue casino premises licences. This is recommended in the Gambling Commission's current guidance to licensing authorities.
- 3.17 The section on enforcement now makes reference to the Regulators' Code, which came into effect in April 2014 and to which the Council must have regard when carrying out its regulatory functions.
- 3.18 The list of consultees has been revised and updated.
- 3.19 Consultation on the revised draft Statement of Principles will take place with all relevant parties including:
- The Chief Officer of West Mercia Police
  - The Gambling Commission
  - All other responsible authorities identified under the Act
  - Relevant Trade Associations
  - Organisations working with people who are problem gamblers
  - Parish Councils
  - The general public

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- 3.20 The consultation will also be made available for comment via the Council's website and publicised via social media and also through the local press. Given the modest number of changes being proposed to the Council's existing Statement of Principles, it is proposed that consultation take place over a period of 8 weeks.
- 3.21 Any responses received during the consultation exercise will be reported back to the Licensing Committee later this year.

**4. RISK MANAGEMENT**

- 4.1 Failing to prepare and publish a new Statement of Principles by 31<sup>st</sup> January 2016 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Gambling Act 2005.

**5. APPENDICES**

Appendix 1 – Revised Draft Statement of Principles

**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 84,300 (2011 Census) and covers an area of around 21 square miles 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 is committed to providing residents with effective and efficient services that not only meet their needs but understand them too. 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 July and October 2015 in line with current published Government consultation principles. The policy was approved at a meeting of the Full Council on DATE. Should you have any comments with regards to this policy statement please send them via email or letter to: [wrsenquiries@worcsregservices.gov.uk](mailto:wrsenquiries@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 and aims to support our strategic purposes, as set out in the Council Plan.

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. The “National Lottery” is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

## 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.

- 7.7 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.

These 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 Worcestershire Safeguarding Children Board for this purpose.

## 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 **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 **was not** identified as a suitable location for a casino; consequently the Licensing Authority **is currently prevented** from granting a Casino Premises Licence.

- 8.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.
- 8.7 The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 8.8 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.
- 8.9 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.
- 8.10 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.
- 8.11 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.
- 8.12 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.
- 8.13 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 8.14 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.
- 8.15 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](http://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, Canal and River Trust, 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](http://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 We will also have regard to the Regulators' Code 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 Gambling Commission
  - 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:

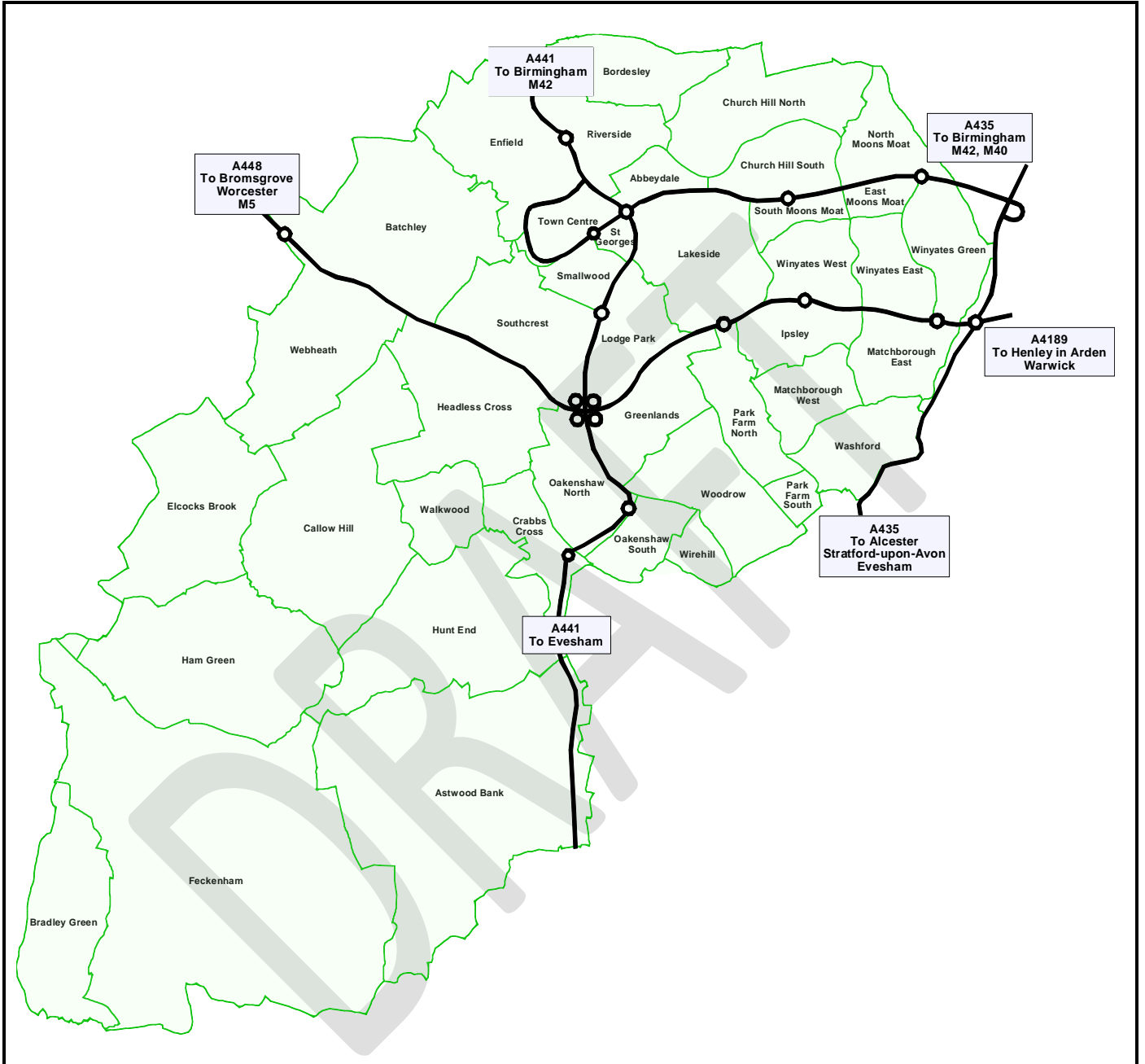
- Equal treatment regardless of race, gender, age, disability, sexual orientation, religion or belief, with reasonable adjustments where necessary in line with the Disability Discrimination Act.
- Working to eliminate **unlawful** discrimination.

- **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.

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**Redditch Borough Council Boundary**



List of Consultees

Chief Officer of West Mercia Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005

District Councillors

Parish Councils

Holders of Premises Licences issued by the Council under the Gambling Act 2005

Gambling Trade Associations:

Association of British Bookmakers

British Amusement Catering Trade Association

Bingo Association

National Casino Forum

Lotteries Council

Hospice Lotteries Association

Organisations working with those who have a gambling problem:

GamCare

Gamblers Anonymous

**LICENSING COMMITTEE**20<sup>th</sup> July 2015**DRAFT SEX ESTABLISHMENT LICENSING POLICY**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

Redditch Borough Council does not currently have an adopted Policy on the licensing of Sex Establishments. The Licensing Committee has considered a draft Policy and approved it for the purposes of consultation with relevant stakeholders and the general public in March. This consultation has now taken place and the responses received are reported to the Licensing Committee.

**2. RECOMMENDATIONS**

**Members are asked to RESOLVE;**

**To adopt the draft Sex Establishment Licensing Policy (attached at Appendix 1) with effect from 1<sup>st</sup> August 2015.**

**3. KEY ISSUES****Financial Implications**

- 3.1 The costs involved in carrying out the consultation were met by existing budgets held by Worcestershire Regulatory Services.

**Legal Implications**

- 3.2 The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”), as amended, allows local authorities to adopt provisions concerning the regulation of sex establishments. Under the Act there is no legal requirement for the Council to adopt a policy on how it proposes to license sex establishments under the Act. However, it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

**LICENSING COMMITTEE**20<sup>th</sup> July 2015

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**Service / Operational Implications**

- 3.3 The Local Government (Miscellaneous Provisions) Act 1982, when originally enacted, allowed for the licensing of Sex Establishments (i.e. sex shops and sex cinemas) by those local authorities, like Redditch Borough Council, that adopted Schedule 3 of the Act.
- 3.4 The Council resolved to adopt the original provisions at a meeting on 25<sup>th</sup> October 1982.
- 3.5 On 9<sup>th</sup> August 2010 the Council resolved to adopt the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which were amended by virtue of Section 27 of the Policing and Crime Act 2009.
- 3.6 The adoption of the provisions as amended by the Policing and Crime Act 2009 meant that “sexual entertainment venues” in the Borough are subject to the same licensing requirements as sex shops and sex cinemas.
- 3.7 The new controls strengthened the role that local communities can play in deciding whether, for example, a lap dancing premises is appropriate for the locality. The adoption of the amended provisions brought lap dancing and other similar premises in line with other sex establishments such as sex shops and sex cinemas and recognised that local people have legitimate concerns about where such premises are located.
- 3.8 Despite having adopted controls over sex establishments, the Council does not currently have an adopted Policy on the licensing of sex establishments under the Local Government (Miscellaneous Provisions) Act 1982.
- 3.9 Members of the Licensing Committee have considered a draft Policy and approved it for the purposes of consultation with relevant stakeholders and the general public.
- 3.10 A draft Sex Establishment Licensing Policy is attached at Appendix A. The draft Policy sets out how Redditch Borough Council would approach its licensing functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
- 3.11 It will provide guidance to Members and Officers when considering applications and will inform potential applicants, relevant stakeholders and the general public of the principles which will be applied by the Council when carrying out its licensing functions.



**LICENSING COMMITTEE**20<sup>th</sup> July 2015

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- 3.12 The draft Sex Establishment Licensing Policy has been subject to consultation with relevant stakeholders and the general public. Those contacted regarding the consultation included the Police, the local MP, Redditch Borough Councillors, Feckenham Parish Council, Trading Standards, Environmental Health, Fire Safety, Public Health, the Worcestershire Safeguarding Children Service, Safer Redditch, the Local Enterprise Partnership and other groups and bodies representing local businesses.
- 3.13 The consultation documents were also hosted on the Council's website and advertised via social media channels.
- 3.14 A response was received during the consultation from Trading Standards who confirmed that they were happy to be consulted on applications received and provide any relevant information that they are in possession of about the applicant or premises concerned.
- 3.15 A further response was received from a member of the public who expressed the view that the Council should not grant any licences for sex establishments in Redditch as it would lower the tone of the town and encourage "doubtful characters" interested in "deviant sex activities" to visit the town turning it into a "seedy dive."
- 3.16 This response appears to be based on a fundamental moral objection to the concept of sex establishments rather than making any points pertinent to the draft policy. Members should be aware that the Council should disregard moral arguments regarding the operation of sex establishments, which are a lawful enterprise.
- 3.17 The Licensing Committee are now asked to note the consultation responses received and resolve to adopt the draft policy with effect from 1<sup>st</sup> August 2015.

**4. RISK MANAGEMENT**

- 4.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Consultation with relevant stakeholders will minimise the risk of challenge.

**LICENSING COMMITTEE**

20<sup>th</sup> July 2015

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**5. APPENDICES**

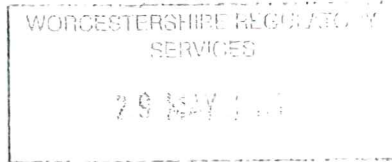
Appendix 1 – Draft Sex Establishment Licensing Policy

**AUTHOR OF REPORT**

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Worcestershire Regulatory Services

E Mail: [dave.etheridge@worcsregservices.gov.uk](mailto:dave.etheridge@worcsregservices.gov.uk)

Tel: (01905) 822799



Dear Sir or Madam, As family members and with grand-children, none of us want any part of the 'industry' in Redditch, therefore, we don't want you to grant any licences.

Apart from the odd occasion at the Palace Theatre, you have managed to keep Redditch quite decent so far.

I like a pint of beer, but the town centre has more than enough pubs, too many takeaways, and all we need to turn Redditch into a seedy dive is to be visited by doughtful characters from miles around who wish to indulge in some form of deviant sex activities.

Yours faithfully,





# **Sex Establishment Licensing Policy**

**FOREWORD**

Redditch Borough is within the County of Worcestershire and borders Warwickshire County to the east and southeast. It is surrounded by Bromsgrove District to the west and north, Stratford District to the east and southeast and Wychavon District to the southwest.

The Borough is situated at the outer edge of the Green Belt boundary for the West Midlands. Redditch offers easy access to the countryside and prominent local areas, including culturally rich areas such as Stratford upon Avon and naturally rich areas such as the Cotswolds.

The Borough lies 15 miles south of the Birmingham conurbation and Birmingham airport is approximately a 25 minute drive away.

Redditch Borough consists of the main town of Redditch, the villages of Astwood Bank and Feckenham and several other hamlets. It covers an area of 5,435 hectares (13,430 acres) with a population of 84,214 (2011 Census).

The Borough is split into the urban area of Redditch in the north, accounting for 50% of the area and 93% of the population; and the rural area to the south with 7% of the population. The rural area consists predominantly of Green Belt land, but also open countryside, as well as the villages of Astwood Bank and Feckenham.

Through considering what really matters to our residents we have produced a set of six strategic purposes, which are:

- Keep my place safe and looking good
- Help me run a successful business
- Provide good things for me to see, do and visit
- Help me to be financially independent (including education & skills)
- Help me to live my life independently (including health & activity)
- Help me find somewhere to live in my locality

This policy statement aims to support the Council in working to these strategic purposes.

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## 1. INTRODUCTION

### 1.1 The Policy

1.1.1 This document states Redditch Borough Council's policy on the regulation of sex establishments.

1.1.2 This Policy was consulted upon between DATE and DATE and approved on DATE.

1.1.3 Consultation was carried out with local residents, relevant trade organisations, the Chief Officer of Police and other relevant organisations.

1.1.4 In developing this Policy Statement, we took into account the legal requirements of the 1982 Act and our duties under:-

- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
- (b) The Regulators Compliance Code (set out under the legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- (c) The Provisions of Services Regulations 2009 to ensure requirements are:
  - (i) Non-discriminatory
  - (ii) Justified by an overriding reason relating to the public interest
  - (iii) Proportionate to that public interest objective
  - (iv) Clear and unambiguous
  - (v) Objective
  - (vi) Made public in advance, and
  - (vii) Transparent and accessible.

1.1.5 This Policy should be read in conjunction with, and without prejudice to, other existing National and European Union legislation, such as the Human Rights Act 1998 and the Disability Discrimination Act 1995.

### 1.2 The Law

1.2.1 The Local Government (Miscellaneous Provisions) Act 1982 introduced a licensing regime to control "sex establishments". Redditch Borough Council adopted Schedule 3 on 25<sup>th</sup> October 1982. This meant that the Council controlled and regulated the operation of "sex shops" and "sex cinemas" within the district from this date.

1.2.2 The Local Government (Miscellaneous Provisions) Act 1982 was amended by the Policing and Crime Act 2009 to extend the licensing regime to include "sexual entertainment venues" within the definition of sex establishments. Redditch Borough Council adopted the amended provisions of Schedule 3 on 9<sup>th</sup> August 2010. This meant that the Council now controls and regulates all types of sex establishment – sex shops, sex cinemas and sexual entertainment venues.



- 1.2.3 A list of definitions of the key terms used throughout the legislation and this Policy can be found at **Annex A** to this Policy.
- 1.2.4 No sex establishment can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will restrict how that premises may trade.
- 1.2.5 The Council does not take any moral stand in adopting this Policy. The Council recognises that Parliament has made it lawful to operate Sex Establishments, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

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## **2. LICENCE APPLICATIONS**

### **2.1 Right to Waiver**

- 2.1.1 Redditch Borough Council may, upon application, waive the requirement for a licence in any case where it considers that to require a licence would be unreasonable or inappropriate.
- 2.1.2 Each application for a waiver will be considered on its own merits, however, any establishment that would normally require licensing under the provisions of the Act is unlikely to be granted a waiver other than in exceptional circumstances.
- 2.1.3 A waiver may be for such period as the Council think fit. Where the Council grant an application for a waiver, it will give the applicant for the waiver notice that they have granted the application.
- 2.1.4 The Council may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

### **2.2 Application Details**

- 2.2.1 The applicant will be required to make their application in accordance with Clause 10, Schedule 3, of the Act.
- 2.2.2 To apply for the grant of a new sex establishment licence, an applicant must submit:-
- A completed application form;
  - A plan to the scale of 1:100 of the premises to which the application relates showing (inter alia) all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.
  - A site plan scale 1:1250.
  - Drawings showing the front elevation as existing and as proposed to a scale of (1:50).
- 2.2.3 All applications must be accompanied by the relevant fee. In the event of an application being refused, the application fee may be refunded less an appropriate charge for the administrative process undertaken in determining the application, including any hearing before the Licensing Committee.

### **2.3 Consultation Arrangements - Public**

- 2.3.1 The applicant must advertise any application for grant of a new licence or renewal, transfer or variation of an existing licence in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

2.3.2 This states that:-

- An applicant for the grant, renewal or transfer of a licence shall give public notice of the application.
- Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area
- The publication shall not be later than 7 days after the date of the application.
- Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
- Every notice which relates to premises shall identify the premises
- Every such notice which relates to a vehicle, vessel or stall shall specify where it is to be used as a sex establishment.
- A notice shall be in such form as the appropriate authority may prescribe. (The form prescribed by Redditch Borough Council for such notices is shown at **Annex B** to this Policy)

## 2.4 Consultation Arrangements – Relevant Bodies

2.4.1 The Council will also notify all applications for grant, renewal, transfer or variation of a licence to the following bodies who may comment on or object to the application within 28 days of the date of the application:-

- Chief Officer of Police
- Local Safeguarding Children Board
- Fire Safety Officer
- Trading Standards
- Planning Authority
- Any relevant Parish Council
- Relevant Redditch Borough Council Ward Members

## 2.5 Objections

2.5.1 When considering an application for the grant, renewal, variation or transfer of a Sex Establishment Licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.

2.5.2 Any person can object to an application but the objection should be relevant either to the **mandatory grounds** for refusal set in **Section 3.3** or to the **discretionary grounds for refusal** set out in **section 3.4** below.

2.5.3 Objections should not be made on moral grounds or values. Any decision to refuse a licence will be relevant to one or more of the grounds in **3.3 and 3.4** below.

2.5.4 Objectors must give notice of their objection in writing, stating the general terms of the objections.

2.5.5 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

## **2.6 Variation of a Licence**

2.6.1 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

2.6.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

## **2.7 Renewal of a Licence**

2.7.1 The holder of a Sex Establishment Licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.

2.7.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## **2.8 Transfer of a Licence**

2.8.1 A person may apply for the transfer of a licence at any time.

2.8.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

### **3. DETERMINATION OF APPLICATIONS**

#### **3.1 Decision Making – Delegation of Functions**

3.1.1 Decisions relating to Sex Establishment licensing will be delegated in accordance with the table of delegated functions shown at **Annex C**.

#### **3.2 General Principles**

3.2.1 In determining an application relating to a sex establishment licence the Council will assess the application on its merits having regard to the content of this Policy, the relevant legislation and any relevant guidance that may be issued from time to time.

3.2.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing Committee may authorise a departure from the policy if it feels it appropriate for a specific application.

3.2.3 In determining an application for the grant, renewal, transfer or variation of a licence, the Council will have regard to any representations that it has received that are relevant to the grounds set out in **3.3 and 3.4**.

3.2.4 The Council will consider granting licences of 12 months duration or for a shorter term if deemed appropriate.

#### **3.3 Mandatory Refusal of Applications**

3.3.1 A licence under the Act cannot be granted —

- to a person under the age of 18; or
- to a person who is for the time being disqualified having had a licence revoked in the past 12 months; or
- to a person, other than a body corporate, who is not resident in an European Economic Area state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate which is not incorporated in an European Economic Area state; or
- to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

### 3.4 Discretionary Refusal of Applications

3.4.1 The Council may refuse an application for grant or renewal of a licence on one or more of the grounds specified below:-

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality (nil may be an appropriate number);
- (d) that the grant or renewal of the licence would be inappropriate, having regard—
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.4.2 The Council may refuse an application for the transfer of a licence on either or both of the grounds specified below:-

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

### 3.5 Applicant Suitability

3.5.1 In determining applicant suitability for the grant of a new licence, renewal of a licence, or the transfer of an existing licence, the Council will take the following into account:

- Previous relevant knowledge and experience of the applicant;
- Any evidence of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other District or Borough;
- Any report about the applicant and management of the Premises received from objectors.

3.5.2 In particular the Council will liaise closely with the Police and any other relevant appropriate agencies in determining the fitness of the applicant.

3.5.3 Whilst every application will be considered on its merits, the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent relevant criminal convictions.

### **3.6 Location of the Premises**

3.6.1 In accordance with relevant case law, the Council shall decide on the suitability of a particular locality for a sex establishment as a matter of fact to be determined by the particular circumstances of each case and not by the prescription of boundaries as stated on a map.

3.6.2 The Council is mindful of its power to determine that no sex establishments should be located in a particular locality.

3.6.2 In determining whether the proposed location of a sex establishment is appropriate, the Council will have regard to all of the relevant circumstances including the following:-

- The general character of the relevant locality
- The proximity of residential premises
- The proximity of any places of public religious worship
- The proximity of any schools or other educational establishments
- The proximity of any playing fields and play areas
- The proximity of any leisure centres or swimming pools
- The proximity of any libraries or other public buildings
- The proximity of any youth clubs
- The proximity of any other licensed sex establishments
- The proximity of any premises authorised under the Licensing Act 2003 for the sale or supply of alcohol for consumption on the premises.

### **3.7 Renewal Applications**

3.7.1 When considering an application for renewal of a sex establishment licence the Council will have due regard to how long the premises have existed and been licensed.

**4. POWER TO PRESCRIBE STANDARD CONDITIONS**

- 4.1 Schedule 3 Section 13 of the Act provides a power for the Council to specify Standard Conditions in relation to sex establishment licences.
- 4.2 The Council's Standard Conditions for sex shops and sex cinemas are detailed in **Annex D** of this Policy. The Council's Standard Conditions for sexual entertainment venues are detailed at **Annex E** of this Policy.
- 4.3 All licences will be granted, renewed, transferred or varied subject to these Standard Conditions unless expressly excluded, varied or added to by a Licensing Sub-Committee.

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**5. HEARINGS**

- 5.1 Where the Council is required to determine an application by reference to a Licensing Sub-Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 5.3 Hearings will be carried out in accordance with the Council's agreed procedure for Licensing Hearings, which is shown at **Annex F**.
- 5.4 The Licensing Sub-Committee will normally communicate their decision at the end of the hearing and all parties will also receive written confirmation of the decision taken by the Licensing Sub-Committee.

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**6 OPERATION AND MANAGEMENT OF PREMISES**

- 6.1.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions and health and safety regulations.
- 6.1.2 In terms of the management of licensed Premises, the Council strongly encourages where possible and appropriate, that licensees:
- a) Work with statutory agencies such as the Police, and the Council in order to create and maintain a safe environment, both within licensed Premises and in the environs around them;
  - b) Particularly those licence holders whose Premises are located in areas with high levels of recorded crime, develop crime prevention strategies in consultation with the Police and the Council.
  - c) In terms of the management of licensed Premises, the Council strongly encourages and where possible and appropriate all licensees to develop strategies and procedures to increase access for disabled people to the Premises.
  - d) In terms of the employment of staff in licensed Premises, the Council requires that all relevant staff be appropriately trained in areas such as health and safety, first aid, and fire precautions.

## **7. ENFORCEMENT**

### **7.1 General**

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.
- 7.1.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Corporate Enforcement Policy. This has been drafted with reference to the Statutory Regulator's Compliance Code.
- 7.1.3 The responsibility for the overall supervision of sex establishment licensing lies with the Head of Worcestershire Regulatory Services.

### **7.2 Offences**

- 7.2.1 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that schedule and include:
- Knowingly causing or permitting the use of any premises as Sex Establishment without a licence;
  - Being the holder of a licence, knowingly employing a person in a Sex Establishment who is disqualified from holding a licence;
  - Being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
  - Being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
  - Being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 years to enter the establishment;
  - Being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.
- 7.2.2 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.
- 7.2.3 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.

**8. REVOCATION OF LICENCES**

- 8.1 The Council may, after giving the holder of a licence an opportunity of appearing before and being heard by them, at any time revoke the licence on any of the following grounds:-
- (a) that one of the mandatory grounds for refusing to grant a licence exists and has come to light since the grant of the licence.
  - (b) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (c) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself
- 8.2 The Council will consider whether or not to revoke a licence upon a request to do so from the Police or at the recommendation of the Head of Worcestershire Regulatory Services following representations from any other person or body.

**9. AMENDMENTS TO THIS POLICY**

- 9.1 Any significant amendment to this policy will only be implemented after further consultation with the trade and the public. All such amendments to this Policy will be undertaken in accordance with the Council's Constitution.
- 9.2 For the purpose of this section, any significant amendment is defined as one that:
- a) is likely to have a significant financial effect on licence holders, or
  - b) is likely to have a significant procedural effect on licence holders, or
  - c) is likely to have a significant effect on the community.

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**ANNEX A - KEY DEFINITIONS**

<b>TERM</b>	<b>DEFINITION</b>
the Act	Local Government (Miscellaneous Provisions) Act 1982
Authorised Officer	any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
the Council	Redditch Borough Council
he, his	all references to 'he' or 'his' also include 'she' or 'hers'
Licence Holder	a person who holds a Sex Establishment Licence under the Act
this Policy	Redditch Borough Council's Sex Establishment Licensing Policy
Premises	A building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a Sex Establishment Licence granted under the Act
Sex Establishment	As defined in Schedule 3 of the Act (as amended)  A sex establishment means a sex shop, sex cinema or sexual entertainment venue as defined below in extracts from the Act.
Sex Cinema	As defined in Schedule 3 of the Act (as amended)  3. — (1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which— (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage— (i) sexual activity; or (ii) acts of force or restraint which are associated with sexual activity; or (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted. (2) No premises shall be treated as a sex cinema by reason only— (a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (which the meaning of section 136 of that Act), of their use in accordance with that authorisation; or (b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of

the Cinemas Act 1985.

Sex Shop

As defined in Schedule 3 of the Act, as amended

4. —

(1) In this Schedule “sex shop” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating—

- (a) sex articles; or
- (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging—
  - (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity.

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

(3) In this Schedule “sex article” means—

- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging—
  - (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies—

- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- (b) to any recording of vision or sound, which—
  - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
  - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sexual Entertainment Venue

As defined in Schedule 3 of the Act (as amended)

2A

(1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph “relevant entertainment” means—

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(3) The following are not sexual entertainment venues for the purposes of this Schedule—

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
  - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
  - (ii) no such occasion has lasted for more than 24 hours; and
  - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

“audience” includes an audience of one;

“display of nudity” means—

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

(a) the relevant entertainment; or

(b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;



**ANNEX B - FORM OF PUBLIC NOTICE****Local Government (Miscellaneous Provisions) Act 1982****Schedule 3****NOTICE OF APPLICATION FOR GRANT / RENEWAL/ VARIATION / TRANSFER  
OF A SEX ESTABLISHMENT LICENCE**

Name/s of Applicant/s	
Postal address of premises including name of the premises and post code (where possible) or a description to enable the location to be identified.	
Summary of application (hours of trading, type of licence, etc):	
<p><b>NOTICE IS HEREBY GIVEN</b> that an application has been made to Redditch Borough Council for a licence to use the above premises as a sex establishment.</p> <p>Copies of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a licence) and of the application may be inspected at the Town Hall, Walter Stranz Square, Redditch, Worcestershire, B97 9SB between 9.00 am and 5.00 pm (Monday to Friday except public holidays).</p> <p>Any objections in respect of the above application must be made in writing to the council at the above address by</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(28 days after the date of the application)</p> <p>It is an offence knowingly or recklessly to make a false statement in connection with an application punishable on summary conviction by a maximum fine of £5,000.</p>	

**ANNEX C - TABLE OF DELEGATED FUNCTIONS**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Approval of any sex establishment licensing policy	All cases		
Setting of all fees in relation to sex establishment licences	All cases		
Application for a new sex establishment licence		In all cases	
Application for variation of a sex establishment licence		In all cases	
Application for transfer of a sex establishment licence		Where objections are received	In all other cases
Application for renewal of a sex establishment licence		Where objections are received	In all other cases
Application for waiver from the requirement for a licence		In all cases	
Consideration of the revocation of a sex establishment licence		In all cases	

**ANNEX D****STANDARD CONDITIONS****APPLICABLE TO LICENCES FOR SEX SHOPS AND SEX CINEMAS****Definition**

1. In these conditions save when the context otherwise requires the following expressions shall have the following meanings:-
  - (i) "Sex Establishment" "Sex Cinema" "Sex Shop" and "Sex Article" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
  - (ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building, or part of a building which is the subject of a Licence for a Sex Establishment granted under the said Third Schedule.
  - (iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
  - (iv) "Approved" means approved by the Council in writing.
  - (v) "The Council" means Redditch Borough Council.
  - (vi) "Film" shall have the meaning ascribed to it in the Films Acts 1960 – 1980.

**General**

2. In the event of a conflict between these Regulations and any special conditions contained in a Licence relating to a Sex Establishment the special conditions shall prevail.
3. The grant of a Licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
4. The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof.

**Hours of opening**

5. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public before 9.30 a.m. and shall not be kept open after 6.00 p.m. on Mondays to Saturdays inclusive (Fridays to 8.00 p.m.).
6. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public on Sundays or any Bank Holidays or any public holidays.

**Conduct and Management of Sex Establishments**

7. Where the Licensee is a body corporate or an unincorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
8. The Licensee, or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the Premises during the whole time they are open to the public.
9. The name of the person responsible for the management of a Sex Establishment shall be the Licensee or a Manager approved by the Council and shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.
10. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence, and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised Officers of the Council.
11. The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
12. The Licensee shall maintain good order in the Premises.
13. No person under the age of 18 shall be admitted to the Premises or employed in the business of a Sex Establishment.
14. The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by the Council.
15. No part of the Premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling.
16. Neither the Licensee nor any employee or to the person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the Premises.
17. The Licensee shall comply with all statutory provisions and any regulations made thereunder.
18. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council, indicating his name and that he is an employee.
19. The copy of the Licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the Licence required to be

displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

### **Use**

20. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
21. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
22. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
23. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

### **Goods Available in Sex Establishments**

24. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
25. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.
26. No film or video film shall be exhibited sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
27. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling in matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

### **External Appearance**

28. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:-
  - (i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any condition of a Licence granted by the Council.

- (ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
29. The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises invisible to passers by.
30. Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

### **State Condition and Layout of the Premises**

31. The Premises shall be maintained in a good repair and condition.
32. Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
33. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-
- (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".
  - (ii) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "private".
  - (iii) Save in the case of an emergency no access shall be permitted through the Premises to any unlicensed premises adjoining or adjacent.
34. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
35. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
36. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
37. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting, or layout of the Premises shall not be made except with the prior approval of the Council.
38. All parts of the Premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

**Safety**

39. The Licensee shall take all reasonable precautions for the safety of the public and employees.
40. The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.
41. The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

**ANNEX E****STANDARD CONDITIONS****APPLICABLE TO LICENCES FOR SEXUAL ENTERTAINMENT VENUES****General**

1. Only activities which have previously been agreed in writing by the Licensing Authority shall take place
2. The agreed activities shall take place only in designated areas approved by the Licensing Authority
3. Dressing rooms will be provided for entertainers and access to these will be restricted by management in accordance with approved arrangements – before, during and after the entertainment
4. The entertainment will be provided only by the entertainers and no members of the audience shall be permitted to participate
5. No audience participation shall be permitted
6. There must not be any contact by the performer with the patron immediately before, during and immediately after the performance of striptease except:
  - (a) the leading of a patron hand in hand to and from a chair or to and from a designated dance area
  - (b) the simple handshake greeting
  - (c) the placing of monetary notes or dance vouchers into the hand or garter worn by the performer
  - (d) the customary kiss on the cheek of the patron by the dancer at the conclusion of the performance
  - (e) if the contact is accidental
7. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden
8. Entertainers or performers not performing must not be in a licensed area in a state of undress
9. A clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating “No persons under the age of 18 years will be admitted.
10. No entertainers under the age of eighteen shall take part in the entertainment, and an adequate record must be maintained of the names, addresses and dates of birth of all performers including adequate identity checks
11. No person under the age of eighteen will be allowed on the premises where the entertainment is taking place



12. The entertainment shall under no circumstances be visible to members of the public from outside the premises
13. Any external advertising at the premises shall be in a form acceptable to the Council
14. The licensee or a nominated manager shall be present on the premises at all times whilst the entertainment is taking place
15. A nominated person shall be present to oversee the activities of performers
16. A register shall be maintained and kept on the premises and be available for inspection at any time by police or officers of the Licensing Authority at all times, to clearly record the identity of the licensee(s) on duty, the day and times of start and finish of the duty, and the record shall be retained for a period of not less than 12 months after the last entry in the register

### **CCTV**

17. A CCTV system shall cover all areas where dancing will take place including any dancing booths provided. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping.
18. Tape recordings shall be made available to an authorised council officer or a police officer together with facilities for viewing
19. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice

### **Door supervisors**

20. Whilst dancing takes place at least two trained door supervisors shall be employed in those parts of the premises used for dancing, unless otherwise agreed by the Licensing Authority and the Police
21. Any individual employed on the Premises to conduct a security activity (within the meaning of schedule 2 of the Private security Industry Authority) must be licensed by the Security Industry Authority

### **Club rules**

22. A code of conduct for dancers shall be produced by the licensee together with a disciplinary procedure for breaches of the code which shall be implemented if approved in writing by the Council. The code of conduct for dancers shall prohibit activities that might be thought to lead to prostitution or other unlawful activities. No amendments shall be made to the code or disciplinary procedure without the prior written consent of the Council
23. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

24. In relation to points 5 and 6 above, these procedures and rules must be produced for inspection by the Licensing Authority and the Police within 14 days of issue of the licence.

**Admission of Authorised Officers**

25. Officers of the Council, Police, and other agencies having authorisation (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.

DRAFT

**ANNEX F – HEARINGS PROCEDURE****Licensing Sub-Committee**

## Procedure at meetings

1. The Chairman will briefly explain the procedure to members of the public
2. The Licensing Officer will open the hearing with an outline of the relevant details of the application
3. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Committee
4. The Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Again opportunities to ask questions will be afforded to all of those present.
5. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
6. At the conclusion of the hearing, the stage at which the Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information, or clarification, all parties at the hearing must be invited to return.
7. When the Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence.



**LICENSING  
COMMITTEE**20<sup>th</sup> July 2015**DEREGULATION ACT 2015**  
**UPDATE ON LICENSING IMPLICATIONS**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

To provide an update to Members on the Deregulation Act 2015 and to set out the licensing implications contained within this legislation.

**2. RECOMMENDATIONS**

**Members are asked to RESOLVE;**

**That the contents of the report and Appendix 1 be noted.**

**3. KEY ISSUES****Financial Implications**

- 3.1 Some of the amendments to existing legislation may have an impact on the licence fee income that the Council receives from applicants. The full financial implications of the changes will be set out in future reports dealing with specific provisions contained in the Deregulation Act 2015.

**Legal Implications**

- 3.2 The Council is required to respond to and implement the provisions of the Deregulation Act 2015 in order to meet its legal obligations.

**Service / Operational Implications**

- 3.3 The Deregulation Act 2015 is described in its preamble as *“an Act to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes”*

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- 3.4 The Deregulation Act 2015 contains some provisions that relate to the deregulation of licensing functions carried out by Worcestershire Regulatory Services on behalf of the Council. The functions affected are those carried out under the Licensing Act 2003 (alcohol, entertainment and late night refreshment licensing) and taxi and private hire licensing.
- 3.5 The Act received Royal Assent on 26<sup>th</sup> March 2015 and a number of commencement dates have been confirmed for various provisions contained in the Act.
- 3.6 The table at Appendix 1 provides a summary of the relevant provisions contained in the Act along with information on commencement dates and a commentary on the actions required by the Council as a result.
- 3.7 Further reports will be brought before the Committee in due course in order to consider any decisions required by the Council as the various provisions are commenced and require implementation.
- 3.8 The Committee are asked to note the contents of this report and Appendix 1.

**4. RISK MANAGEMENT**

- 4.1 None

**5. APPENDICES**

- 5.1 Appendix 1 – Summary of Licensing Related Provisions in the Act

**AUTHOR OF REPORT**

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## Deregulation Act 2015 – Licensing Related Provisions

Provision	Commencement Date	Action Required by the Council
<p>Section 10 – taxi and private hire – duration of licences</p> <p>Provides that the standard duration of licences to drive hackney carriage and private hire vehicles be three years and that the standard duration of licences to operate private hire vehicles be five years.</p>	<p>1<sup>st</sup> October 2015</p>	<p>The Council currently issues driver licences and operator licences for a period of one year. The Council will need to amend its policies and procedures in this regard and review its licence fees in order to move to issuing licences for the new standard durations.</p>
<p>Section 11 – private hire vehicles – sub-contracting</p> <p>Private hire operators will be allowed to sub-contract work to an operator licensed by a different local authority. This has not previously been lawful.</p>	<p>1<sup>st</sup> October 2015</p>	<p>Awareness needs to be raised amongst officers and the private hire trade about this change.</p>
<p>Section 67 – Community and ancillary sellers notices</p> <p>Provides the statutory framework to the Secretary of State to create a new form of authorisation process for people selling alcohol at community events and as an ancillary part of a wider business.</p>	<p>Unknown – requires secondary legislation that has yet to be produced and consulted upon</p>	<p>Awaiting secondary legislation. Once this is in place as assessment of the actions required by the Council can be made.</p>
<p>Section 68 – Temporary Event Notices – Increase in Maximum Number of Events Per Year</p> <p>This will increase the number of TENs that can be served in respect of each premise from 12 to 15 per calendar year from 2016.</p>	<p>26<sup>th</sup> May 2015  (comes into effect for the calendar year 2016)</p>	<p>Any relevant guidance notes and web-based information needs to be updated and awareness raised amongst officers and those that serve Temporary Event Notices.</p>

<p>Section 69 – Personal licences – no requirement to renew</p> <p>Personal licences issued under the Licensing Act 2003 will last indefinitely any person holding a valid personal licence on 1<sup>st</sup> April 2015 will no longer need to renew it. Previously personal licences lasted for 10 years and then expired and required renewal.</p>	<p>1<sup>st</sup> April 2015</p>	<p>Licences issued on or after 1<sup>st</sup> April 2015 no longer show an expiry date.</p> <p>Awareness raised amongst those that hold existing valid personal licences that their licences no longer need to be renewed.</p> <p>Database updated to remove expiry dates from existing personal licences on record.</p>
<p>Section 70 - Sale of liqueur confectionery to children under 16: abolition of offence</p> <p>The offence of selling liqueur confectionery to children under the age of 16 to be removed from the Licensing Act 2003</p>	<p>26<sup>th</sup> May 2015</p>	<p>Awareness raised amongst officers with responsibility for enforcement of Licensing Act 2003 offences.</p>
<p>Section 71 – Late night refreshment</p> <p>Provides the statutory framework for the Secretary of State to pass regulations allowing licensing authorities to exempt certain supplies of late night refreshment from licensing requirements.</p>	<p>Unknown – requires secondary legislation that has yet to be produced and consulted upon</p>	<p>Awaiting secondary legislation. Once this is in place as assessment of the actions required by the Council can be made.</p>
<p>Section 72 - Removal of requirement to report loss or theft of licence etc to police</p> <p>The requirement for a licence holder under the Licensing Act 2003 to report the loss or theft of a licence to the police before a copy could be issued to them has been removed.</p>	<p>26<sup>th</sup> May 2015</p>	<p>Any relevant guidance notes and web-based information updated and awareness raised amongst officers dealing with requests for copies of licences.</p>



<p>Section 76 - Exhibition of films in community premises</p> <p>Removes the exhibition of films in community premises from licensing requirements subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• The person arranging the exhibition has the written consent of the person(s) responsible for managing the community premises</li> <li>• The exhibition is not made with a view to profit</li> <li>• The exhibition takes place between 8am and 11pm</li> <li>• The audience is no more than 500</li> <li>• Film classification rules are followed</li> </ul>	<p>6<sup>th</sup> April 2015</p>	<p>Guidance notes and web-based information updated and awareness raised amongst officers.</p>
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**LICENSING  
COMMITTEE**20<sup>th</sup> July 2015**LICENSING ANNUAL REPORT**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

To provide a report on the activities under the Licensing Act 2003, Gambling Act 2005 and other aspects of Licensing and to inform the Committee on any issues anticipated in the ensuing year as required under the Council's Licensing Act 2003 and Gambling Act 2005 Policies.

**2. RECOMMENDATIONS**

**Members are asked to RESOLVE;**

**The contents of the licensing Annual Report 2014/2015 be noted.**

**3. KEY ISSUES****Financial Implications**

3.1 None.

**Legal Implications**

3.2 None

**Service / Operational Implications**

3.3 Since 1<sup>st</sup> June 2010 Worcestershire Regulatory Services Licensing Team has taken over operational delivery of the statutory functions of licensing and enforcement of regulated activities and businesses operating under the Licensing Act 2003 on behalf of Redditch Borough Council. These functions cover premises which sell and supply alcohol, provide regulated entertainment and late night refreshment, gambling premises, gaming machines and lotteries. The Licensing Team also deals with the operation and administration of Hackney Carriage/Private Hire vehicles, drivers and Operator's licenses, Street and House to House Collections. The Council retains full policy and statutory responsibility for all licensing functions.

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- 3.4 Under the terms of the Licensing Act 2003 and the Gambling Act 2005, each local authority is required to prepare and publish a licensing policy which has to be reviewed every five years. During 2014 the review of the Licensing Act 2003 policy was completed. The Gambling Act 2005 policy was reviewed during 2012 with minor amendments. Another review of the Gambling Act 2005 policy is due this year. It is anticipated that future reviews will further align the policies of the partner Councils.

**Licensing Act 2003**

- 3.5 The Licensing Act 2003 transferred the liquor licensing functions from the Magistrate's Court to the Local Authority and consolidated these activities with entertainment licensing legislation, the provision of late night refreshment, cinemas and theatres.
- 3.6 The number of new licenses issued and granted by Redditch Borough Council in the year 2014/15, together with the total number of licences issued, are:

Personal Licenses	New	47	Total	668
Premises Licenses	New	8	Total	209
Club Premises Certificates	New	0	Total	24
Temporary Event Notices			Total	76

- 3.7 The Licensing Sub Committee created by the Licensing Act 2003 to deal with applications, variations and reviews of licensed premises, met on two occasions during the year 2014/15 both within the statutory time limits. One of these hearings was in relation to a new application for a premises licence where objections could not be mediated, and the other hearing was to consider objections from the Police to five Temporary Event Notices.

**Gambling Act 2005**

- 3.8 Last year saw the Council continue its functions under the Gambling Act 2005. This legislation replaced most of the existing law relating to gambling in Great Britain and, much like the Licensing Act 2003, aimed to put in place an improved, more comprehensive structure of gambling regulation.

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Once implemented the Act transferred the licensing of gambling premises from the local Magistrates Court to the Council. The Licensing Team now issue premises licenses for the following; bingo halls, betting shops, adult gaming centres, family entertainment centres and casinos.

- 3.9 The numbers of premises which have continued to be licensed by this Authority under the Gambling Act are:

Betting Premises	New	0	Total	10
Bingo Premises	New	0	Total	2
Adult Gaming Centres	New	0	Total	2
Family Entertainment Centres	New	0	Total	0
Casinos	New	0	Total	0

- 3.10 All yearly maintenance fees as set out in the Gambling Act 2003, which have been set by the Local Authority for the year ending 2014/15, have been received by the Authority.

**Taxi Licensing**

- 3.11 The Licensing Team is also responsible for the operational function of the licensing and enforcement of Hackney Carriage and Private Hire Vehicles, drivers and Operators.

- 3.12 The number of licensed vehicles and drivers has remained fairly consistent and at present the following number of licences are valid.

	13/14	14/15
Hackney Carriage Vehicles	201	205
Private Hire Vehicles	146	169
Dual Hackney Carriage/Private Hire Drivers	415	408
Private Hire Operators	12	13

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- 3.13 At the Licensing Committee meeting on 11<sup>th</sup> November 2013 the Council introduced a requirement that all new applicants for driver licences would have to undertake disability awareness training conducted by Worcestershire County Council or demonstrate to the Council's satisfaction that they have undertaken equivalent disability awareness training. The Committee also resolved that with effect from 1<sup>st</sup> July 2014, any driver renewing their licence must have undertaken similar training.

**Scrap Metal Dealers**

- 3.14 In October 2013 the Scrap Metal Dealers Act 2013 came into force in the District. Under this new legislation the Council is responsible for issuing mobile scrap metal collector licences and scrap metal site licences. The Council has issued the following number of licences to date:

	<u>13/14</u>	<u>14/15</u>
Site Licences	6	6
Mobile Collector Licences	24	29

- 3.15 The Licensing Team has responsibility for enforcing the legislation in partnership with the Police and Environment Agency.
- 3.16 Worcestershire Regulatory Services Licensing Team members regularly attend and represent Redditch Borough Council at a number of local and regional meetings, such as the Institute of Licensing meetings, the Regional Taxi Licensing Forums and other neighbouring authority groups, which continue to prove to be invaluable, on providing information on national and regional licensing matters including upcoming changes in any licensing legislation.
- 3.17 Redditch Borough Council hosted the West Midlands Region of the Institute of Licensing's AGM and training day on 12<sup>th</sup> June 2015.

**4. RISK MANAGEMENT**

- 4.1 None

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**5. APPENDICES**

5.1 None

**AUTHOR OF REPORT**

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**LICENSING  
COMMITTEE****20<sup>th</sup> July 2015****LICENSING COMMITTEE WORK PROGRAMME 2015/16****20<sup>th</sup> July 2015**

- Review of Statement of Gambling Principles (Consultation Approval)
- Draft Sex Establishment Policy (Consultation Results)
- Deregulation Act 2015 – Update on Licensing Implications
- Annual Report
- Licensing Committee Work Programme 2015/2016

**2<sup>nd</sup> November 2015**

- Review of Statement of Gambling Principles (Consultation Results)
- Licensing Committee Work Programme 2015/2016

**7<sup>th</sup> March 2016**

- Licensing Committee Work Programme 2015/2016

**To Be Allocated To Suitable Available Dates**

- Hackney Carriage and Private Hire Driver Licensing Policy Amendments (as a result of the Deregulation Bill)

