

# **BOROUGH OF BARROW-IN-FURNESS**

## **EXECUTIVE COMMITTEE**

Meeting, Wednesday, 2nd December, 2015  
at 2.00 p.m. (Committee Room No. 4)

**NOTE:** Group Meetings at 1.15 p.m.

## **A G E N D A**

### **PART ONE**

1. To note any items which the Chairman considers to be of an urgent nature.
2. To receive notice from Members who may wish to move any delegated matter non-delegated and which will be decided by a majority of Members present and voting at the meeting.

3. **Admission of Public and Press**

To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.

4. **Declarations of Interest**

To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

5. To confirm the Minutes of the meeting held on 21st October, 2015 (Pages 1-7).
6. Apologies for Absence/Attendance of Substitute Members.

### **FOR DECISION**

- (D/R)** 7. Recommendations of the Housing Management Forum, 26th November, 2015 (TO FOLLOW).

- (R) 8. Council Finances Quarter 2 2015-2016 (Pages 9-14).
- (R) 9. HRA Balance (Pages 15-16).
- (R) 10. Establishment Change (Pages 17-18).
- (R) 11. Barrow and District Credit Union deposit (Pages 19-20).
- (R) 12. Members' Allowances Scheme – Report of the Independent Remuneration Panel (Pages 21-22).
- (D) 13. Appointments on Outside Bodies, Panels, Working Groups etc. (Pages 23-24).
- (D) 14. Prevent Duty (Pages 25-27).
- (D) 15. Extending Mandatory Licensing of Houses in Multiple Occupation (HMOs) and Related Reforms (Pages 28-30).
- (D) 16. Energy Company Obligation – Proposed Contract with Npower (Pages 31-32).
- (R) 17. Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (Pages 33-35).
- (R) 18. Letting Agents – Requirement to Belong to a Redress Scheme (Pages 36-38).
- (D) 19. Health and Safety Policy Statement and Management Arrangements (Pages 39-40).
- (D) 20. Woodbridge Haven, Cavendish Dock Road, Barrow-in-Furness (Pages 41-42).
- (D) 21. Performance Management Quarter 2 2015-2016 (Pages 43-47).
- (R) 22. Members Travelling on Council Business (Pages 48-49).
- (R) 23. Absence Management Policy and Procedure (Pages 50-51).
- (R) 24. Licensing Committee – Review of Statement of Gambling Policy (Pages 52-54).
- (R) 25. Licensing Committee – Review of Statement of Licensing Policy (Pages 55-56).

**NOTE (D) - Delegated  
(R) - For Referral to Council**

**Membership of Committee**  
**Councillors**

Councillors Pidduck (Chairman)  
Sweeney (Vice-Chairman)  
Barlow  
Biggins  
Brook  
Hamilton  
R. McClure  
Maddox  
Pemberton  
Roberts  
Williams  
One Vacancy

**For queries regarding this agenda, please contact:**

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## **EXECUTIVE COMMITTEE**

Meeting: Wednesday 21st October, 2015  
at 2.00 p.m.

PRESENT:- Councillors Sweeney (Vice-Chairman), Barlow, Brook, Hamilton, McEwan, R. McClure, Maddox, Pemberton and Williams.

Also Present:- Phil Huck (Executive Director), Sue Roberts (Director of Resources) and Jon Huck (Democratic Services Manager and Monitoring Officer).

### **57 – The Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985 and Access to Information (Variation) Order 2006**

Discussion arising hereon it was

RESOLVED:- That under Section 100A(4) of the Local Government Act, 1972 the public and press be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 (Minute No. 64) of Part One of Schedule 12A of the said Act.

### **58 – Declarations of Interest**

Councillor McEwan declared an interest in Agenda Item 13 – Resubmission of Nomination of MS Centre, Schneider Road, Barrow-in-Furness (Minute No. 63). He was the Chairman of the Ormsgill Youth and Community Association and left the meeting during consideration of the item.

Councillor R. McClure declared an interest in Agenda Item 10 – Statement of Policy – Determination of Criminal Convictions in Relation to Animal Licences (Minute No. 67) and Agenda Item 11 – Zoo Licensing Act 1981 (as amended) – Policy for Recharging Zoo Licensing Fees within Barrow Borough Council (Minute No. 68). He was a personal friend of the owner of South Lakes Safari Zoo and left the meeting during consideration of the items.

### **59 – Minutes**

The Minutes of the meeting held on 9th September, 2015 were agreed as a correct record.

### **60 – Apologies for Absence/Attendance of Substitute Members**

Apologies for absence were received from Councillors Pidduck and Roberts.

Councillor McEwan substituted for Councillor Pidduck for this meeting only.

## **61 – 2016-2017 Holiday Dates**

The Director of Resources reminded the Committee that the bank holidays and additional days that the Council would be closed. Staff would be required to take either a holiday (annual leave) or flexi-day for 30th December, 2016:

### **Other bank holidays**

Monday 2nd May, 2016, Early May bank holiday  
Monday 30th May, 2016, Spring bank holiday  
Monday 29th August, 2016, Summer bank holiday

### **Christmas and New Year**

Monday 26th December, 2016, Boxing Day bank holiday  
Tuesday 27th December, 2016, Christmas Day (substitute) bank holiday  
Wednesday 28th December, 2016, Council Day  
Thursday 29th December, 2016, Council Day  
Friday 30th December, 2016, annual leave or flexi-day to be taken  
Monday 2nd January, 2017, New Year's Day (substitute) bank holiday

RESOLVED:- To agree the 2016-2017 holiday dates as outlined in the report.

## **62 – Nomination for Inclusion on the List of Assets of Community Value: Cemetery Cottages Club**

The Executive Director informed the Committee that he had received a nomination valid from 28th September 2015 to include the Cemetery Cottages Club, Schneider Road, Barrow on the Borough's List of Assets of Community Value. The request was from an unincorporated body which was acceptable in the regulations provided the nomination was accompanied by a list of 21 local people who appeared on the Electoral Roll. He confirmed that the nomination had been checked and that test had been met. The application form was considered by the Committee.

Members were reminded that this was the second application under S87 of the Localism Act 2011 and its accompanying 2012 Regulations in recent months. He reported at the last meeting on an application in Ormsgill where Members had agreed to recommend several procedural matters on future application to Council. These procedures, if approved by Council on 13th October, would result in the decision on the nomination being delegated to the Executive Committee.

As a valid community nomination for land within its administrative area, the Council was required to consider the nomination and accept it if the asset was of community value. For circumstances where the asset to be protected was still operating S88 of Localism Act sets out two tests a) that the actual current use of the land furthers the social interest or social well-being of the local community and b) it was realistic to think that there can continue to be a non-ancillary use of the land which would further the social well-being or social interest of the local community.

Having met the signatory to the nomination, he was in no doubt that it met test a) as it had offered a place to meet and socialise for a wide range of ages and interest groups. A definitive view on whether the nomination met test b) was more difficult. The premises were currently tenanted and were trading though, an outline planning consent for demolition and erection of eight properties on the site had been recently approved by Planning Committee. That would suggest the current owner believed viability of the club was at best in doubt. However, whether the premises could realistically be operated by another organisation (the signatory to the nomination had confirmed they would form a Community Interest Company if the nomination was successful) so as to continue the social well-being or social interest was also a relevant consideration. The nomination was not required to be accompanied by a business plan or any information that would allow a more informed judgement. On balance he was of the view that, although there were significant challenges, it may be possible to continue to operate it as a viable community asset.

Members noted that inclusion on the List of Community Assets did not revoke or invalidate planning consent. The value of the land as a residential site with outline planning consent would be reflected in its valuation if the premises were placed on the market.

He had written to the freehold owner of the premises to notify them of the nomination and requested details of the current tenant, but to date no response had been received.

RESOLVED:- To agree that the Cemetery Cottages Club be included in the Borough List of Assets of Community Value under Section 87 of the Localism Act 2011.

### **63 – Resubmission of Nomination of MS Centre, Schneider Road, Barrow as An Asset of Community Value**

The Executive Director reminded the Committee that the application submitted by Ormsgill Youth and Community Association had been withdrawn prior to its ratification by Council and re-submitted as a fresh nomination. Ormsgill Youth and Community Association (OYCA) were concerned that expiry of the eight week deadline set out in the 2012 Regulations may have exposed the nomination to legal challenge. The re-submission was identical to the earlier application and forms.

Since the earlier application, a meeting with the MS Society with Local and National representation had taken place, notwithstanding the meeting OYCA wished the nomination to stand.

Information submitted by the MS Society in response to the original nomination was considered by the Committee.

He commented that there was no doubt that the building was in the Council area and that OYCA were a registered charity operating in the Borough and eligible to nominate. The land nominated did not fall into either residential or operational land exemptions set out in the Assets of Community Value (England) Regulations, 2012 and the application contained all the information necessary. The only outstanding issue, was whether the MS Centre constituted a community asset?

In that context there was relatively little guidance on what constituted a community asset for inclusion on the list other than: it must be in the local authorities area; that the actual use of the building furthers the social wellbeing or social interests of the local community; and it was realistic to think the social wellbeing or social interest could continue from the site. If a community nomination was made the local authority was obliged to include it on the list if it met these tests.

Social wellbeing had not been defined in the Act or Regulations, but Social Interests included particularly, cultural, recreational or sporting interests.

The submitted information stated that Dial-a-Ride had given notice to cease operations and the Schneider Road Pre-school/Nursery – a regulated nursery who used the building mornings in term-time had been the main users of the building since 1979.

The information also stated that the service was particularly valued by the local community due to the distance and less frequent services provided by alternative sites.

Although it was an unusual case in that the owner of the building was not the primary user, he believed it did meet the criteria of social wellbeing and there was no reason to think it would not be capable of continuing into the future.

For the above reasons, the Council were obliged to place it on the List of Assets of Community Value.

**RESOLVED:-** To accept the nomination submitted by Ormsgill Youth and Community Association to place the MS Centre, Schneider Road, Barrow-in-Furness on the list of Assets of Community Value.

**64 – Staffing Matter**

The Committee considered a report regarding a staffing matter concerning Postholder OHS060.

**RESOLVED:-** To agree to extend the full sick pay entitlement of Postholder OHS060, due to extenuating circumstances, on compassionate grounds for three months only.

<p><b>REFERRED ITEM</b></p> <p><b>THE FOLLOWING MATTERS ARE REFERRED TO COUNCIL FOR DECISION</b></p>
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**65 – Acting as Accountable Body**

The Director of Resources reminded the Committee that at its meeting on 20th May, 2015 it had recommended that the Council act as the Accountable Body for the Coastal Communities Fund Supply Chain Strengthening Project. The report had outlined the project, including responsibilities, potential risks and the project finances. A key item of consideration was the project value of £1.2m and the arrangements for the Council’s ability to control costs and to generate the project’s co-financing whilst eliminating any unknown financial liability to the Council.

Prior to the Supply Chain Project, the Farm Street Recreation Area funded by Big Local Trust (Lottery) had agreed to act as the Accountable Body; that was a £0.2m project delivered on behalf of the Barrow Island Community Trust, with multiple funding sources.

More recently, the Council had been approached by Art Gene to support a bid to form a Coastal Community Team with a grant of £10k awarded to help establish the group and develop an Economic Plan for the area, which would be published by the end of January 2016. That was not brought to Members for approval as it fell within the budget supplement provisions within the Financial Regulations as matching income and expenditure with no net impact on the General Fund and carried low risk as it was a clearly defined scope with no potential for overrun. The Team would be able to bid for the Coastal Communities Fund and also bid for up to a £50k share of a new £3 million Coastal Revival Fund to support or restore local heritage and facilities which benefit the wider community and the surrounding economy.

The Committee considered the Accountable Body provisions within the Financial Regulations.

The Committee agreed to delete from the recommendation “Involved a Single Funding Source”.

**RECOMMENDED:-** To recommend the Council to agree the following Accountable Body principles:

The Council may act as Accountable Body without formal approval by Full Council where the project was no more than £50k and satisfied the requirements of the Financial Regulations; Management Board retained the option to request Full Council approval.

## **66 – Establishment Change**

The Director of Resources informed the Committee that the Dock Museum staffing operated on a four week rota with a small bank of casual staff used for cover. Recent changes in personnel had prompted a review of the allocation of hours within the four week rota as a number of staff had a small number of core hours. The review had been submitted by the Premises Manager to Management Board and alterations had been agreed.

There was one item which required a change to the establishment that was outside the scope of delegation to Officers.

It was proposed that Council approved the creation of a permanent part time Maintenance Assistant on Scale 1 (£13,500 to £15,207 per annum); 2.5 average weekly hours. There were no budget implications as that post was created from other alterations within the overall Dock Museum staffing. The duties of that new post had been separated from an existing post and in order to offer a permanent contract to a separate individual, it was necessary to create the new post on the establishment of the Council.



RECOMMENDED:- To recommend the Council to approve the creation of a permanent part-time Maintenance Assistant on Scale 1.

### **67 – Statement of Policy – Determination of Criminal Convictions in Relation to Animal Licences**

The Committee considered a detailed report of the Assistant Director (Regeneration and Built Environment) regarding the Statement of Policy – Determination of Criminal Convictions in Relation to Animal Licences.

The Committee was informed that legislation was in place that required licences to be held by those who owned or looked after animals for commercial gain and it was the duty of the Licensing Authority to manage such licences. The various pieces of enabling legislation detailed the types of convictions or disqualifications that, if held and unspent, may, and in some cases shall, render a person unsuitable for holding such a licence.

The policy brought all the relevant information together in one document and was intended to promote consistency, transparency and fairness for all stakeholders involved in the animal licensing process.

RESOLVED:- To recommend the Council that the Statement of Policy Determination of Criminal Convictions in Relation to Animal Licences as amended be adopted.

### **68 – Zoo Licensing Act 1981 (as amended) – Policy for Recharging Zoo Licensing Fees within Barrow Borough Council**

The Committee considered a report regarding the Zoo Licensing Act 1981 (as amended) Policy for Recharging Zoo Licensing Fees within Barrow Borough Council.

The Committee was informed that at its meeting on 3rd September, 2015 the Licensing Regulatory Committee had taken account of comments received during a consultation for the above policy and had approved changes in line with Officer recommendations for points 6 (Cost Setting) and 7 (Variation in Maintenance Costs).

The amended policy was considered by the Committee.

Members also agreed to recommend the policy only to the Executive Committee to recommend that the Council adopt the policy.

It was not the purpose of the report to set the actual fees, but to approve the policy only, and recommend to Council that it be adopted.

The Minute of the Licensing Regulatory Committee of 3rd September 2015 was also considered by the Committee.

RECOMMENDED:- To recommend the Council to approve the Policy for Recharging Zoo Licensing Fees within Barrow Borough Council.

## **68 – St Francis Church**

The Electoral Registration Officer reminded the Committee that at its last meeting a nomination had been received from Ormsgill Youth and Community Association to include the MS Centre, Schneider Road on the List of Assets of Community Value.

As the situation with Richard Cave MS Centre was uncertain it had been necessary to find an alternative polling station for Polling District/Polling Place FB in Ormsgill ward.

The main access to the St Francis Church was stepped however, a temporary ramp would be installed. The polling station would be located in a room at the rear of the church.

The Parochial Church Council were happy with the church building being used as a polling station.

RECOMMENDED:- To recommend the Council to designate St Francis Church as the Polling Station for Polling District/Polling Place FB instead of the Richard Cave MS Centre for the Ormsgill Ward.

## **70 – Reviewing the Member Development Strategy**

The Committee were informed that the Member Training Working Group had revised the Member Development Strategy to ensure continuation of effective Member Development. The Strategy was reviewed on a biennial basis in conjunction with the Democratic Services Manager, the Democratic Services Officer (Member Support) and the Member Training Working Group.

The Member Training Working Group had revised the Strategy document and referred it to this Committee for approval. A copy of the revised Strategy was considered by the Committee.

RECOMMENDED:- To recommend the Council to approve the revised Member Development Strategy.

The meeting ended at 2.50 p.m.



<b>EXECUTIVE COMMITTEE</b>		<u>Part One</u> <b>(R)</b> <b>Agenda</b> <b>Item</b> <b>8</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Director of Resources</b>	
<p><b>Title: Council Finances Quarter 2 2015-2016</b></p> <p><b>Summary and Conclusions:</b></p> <p>This report sets out the Council finances for period ended the 30<sup>th</sup> September, 2015. The report includes the General Fund, Capital Programme, Treasury Management, Reserves and Balances and the Housing Revenue Account.</p> <p><b>Recommendations:</b></p> <p>To recommend the Council:</p> <ol style="list-style-type: none"> <li>1. To approve the inclusion of the replacement Housing Management System as a project of £240,433 with agreed funding in the Capital Programme; and</li> <li>1. To approve the use of £10,000 from the budget contingency reserve for new Chapel furniture.</li> </ol>		

## Report

### **A. General Fund Revenue Budget**

The General Fund Revenue Budget was last reported on 9th September, 2015, as £12,056,090. The current budget is £12,068,910 and the budget increase of £12,280 is shown below:

- £10,000 Coastal Communities Team grant funding
- £2,820 Real Time Information (RTI) new burdens grant funding

The movements in the budget subjective headings from 9th September, 2015, to date are shown at **Appendix 1**. The movements have increased the direct costs by £44,910 (from £10,443,620 to £10,488,530) and this is funded from:

- Additional grants £2,820
- Budget variations £69,110
- Less a net contribution to reserves £27,020

The reserves are set out later in this report. The budget variations remain within the £30,000 set with the original budget. The additional grants are £2,820 as a

net impact on direct costs as the RTI expenditure is funded by a New Burdens grant which is not part of the service income.

The full list of additional grants received is:

- Discretionary housing payments £75,700
- Big Lottery grant for Farm Street £16,090 )
- KOFAC funding £5,000 )
- DWP New Burdens RTI £2,820 ) Totalling £24,140
- DWP LA Data Sharing £230 )

### **Subjective Analysis**

The direct costs compared to the current budget, as at 30<sup>th</sup> September, 2015, are shown in the following table. Benefits are shown for completeness, to match the direct costs in **Appendix 1**.

<b>Item</b>	<b>Budget £</b>	<b>Actual £</b>	<b>Proportion</b>
Staff pay	4,758,420	2,310,396	49%
Other staff costs	124,340	59,570	48%
Transport	103,810	42,323	41%
Property	2,023,040	981,901	49%
Supplies & services	3,529,410	1,781,541	50%
Contracts	6,648,820	3,285,117	49%
External income	(6,882,300)	(3,655,688)	53%
<b>Total</b>	<b>10,305,540</b>	<b>4,805,160</b>	
Benefits (net of subsidy)	182,990	(829,986)	
<b>Direct costs</b>	<b>10,488,530</b>	<b>3,975,174</b>	

The proportion is expected to be around 50%. Those with significant variance have been reviewed and are summarised below:

#### Transport

The main underspend relates to the reimbursement of officers for work-related travel. The claims to the end of quarter 2 are about £8,000 below the half year budget. This is not unusual as officers will sometimes submit claims for multiple months if they are on leave over the summer. I will review the pattern for potential reduction, with quarter 3. Taking this into account the expenditure is within the expected profile.

#### External income

Income from planning applications is £140,000 ahead of the half year budget. This income is required to fund the Local Plan process (2016-2017) and to support current levels of service delivery; the budget will be adjusted to reflect this in the quarter 3 report. Taking this into account the income is within the expected profile.

## **Objective Analysis**

The direct costs can also be presented against the service areas within Management Board. Revenues and Benefits are shown for completeness, to match the direct costs in **Appendix 1**:

<b>Service Area</b>	<b>Budget £</b>	<b>Actual £</b>	<b>Proportion</b>
Corporate, Democratic and Support Services	3,471,050	1,724,308	50%
Community Services	3,767,730	1,788,414	47%
Regeneration and the Built Environment	957,070	246,207	26%
<b>Total</b>	<b>8,195,850</b>	<b>3,758,929</b>	
Revenues and Benefits	2,292,680	216,245	
<b>Direct costs</b>	<b>10,488,530</b>	<b>3,975,174</b>	

The proportion is expected to be around 50%. Those with significant variance have been reviewed and are summarised below:

### Regeneration and the Built Environment

The £140,000 income from planning applications is within this service area; this together with £13,000 of building control income ahead of profile, £29,000 of property cost expenditure behind profile, and £20,000 of employee costs saved into staff turnover, brings the net expenditure within the expected profile.

### Revenues and Benefits

The expenditure and income within this heading can be adjusted to a half-year position, but rather than adjust the figures each quarter any exceptional items at variance will be reported. There are no exceptional items to report as at 30<sup>th</sup> September, 2015.

## **B. Commercial Properties**

The non-ring-fenced commercial property rent income for 2015-2016 is budgeted to be £1.4m. During the period to 30<sup>th</sup> September, changes in the rentals and NNDR liabilities have achieved a net gain of £130,205; this is built into the current budget.

## **C. Capital Programme**

There is one variation to the capital programme for approval subject to the replacement Housing Management System being agreed earlier in this meeting. Members are asked to recommend that Council approve the project of £240,433 and agreed funding are added to the Capital Programme.

## **D. Treasury Management**

The Council's existing borrowing of £39.5m is all fixed rate PWLB loans maturing over the mid to long term. The debt belongs to the General Fund £13.4m and the HRA £26.1m. No loans are maturing in 2015-2016.

The total interest on the loans is £1.45m for the year with each loan having interest payments at six month intervals.

The limit for external debt for 2015-2016 is £55m and this has not been exceeded.

The interest receivable on matured temporary surplus cash deposits for the first half of 2015-2016 is £66,322. As at 30<sup>th</sup> September, 2015, the Council's funds were placed with:

<b>Financial institution</b>	<b>Deposited</b>	
<b>Building Societies:</b>		
Manchester Building Society	£2m	
National Counties Building Society	£3m	
Newcastle Building Society	£3m	
Nottingham Building Society	£2m	
Principality Building Society	£3m	
Progressive Building Society	£3m	
Skipton Building Society	£3m	
West Bromwich Building Society	£1m	
<b>Total of fixed term deposits</b>		<b>£20.0m</b>
HSBC overnight deposit account		£2.5m
<b>Total funds invested</b>		<b>£22.5m</b>

## **E. General Fund Reserves and Balances**

The General Fund financial reserves are currently estimated to be:

	<b>1 April 2015 £k</b>	<b>Allocated £k</b>	<b>Added £k</b>	<b>Current £k</b>
General Fund balance	2,300	-	-	2,300
Medium Term Financial Plan support	2,870	-	-	2,870
Service transformation	778	(50)	-	728
Renewals reserve	1,990	(1,543)	-	447
Insurance reserve	100	(20)	-	80
Losses reserve	631	-	-	631
Budget contingency reserve	1,371	(375)	276	1,272
Ring-fenced reserves	606	(47)	150	709
Other earmarked reserves	484	(154)	-	330
Earmarked revenue grants	691	(166)	-	525
<b>Total</b>	<b>11,821</b>	<b>(2,355)</b>	<b>426</b>	<b>9,892</b>

A revenue bid has been received for £10,000 for new Chapel furniture. This includes new interlocking chairs, a new lectern, new curtains and a new cross. These furnishings will complement the improvements to the Chapel and the bid is supported by Management Board. Members are asked to approve the one-off use of £10,000 from the Budget Contingency Reserve; this is not reflected in the reserves table.

#### **F. Medium Term Financial Plan**

There are no material adjustments to the current Medium Term Financial Plan from the in-year monitoring of 2015-2016; the Plan will be updated following the Autumn Statement and financial settlement.

	<b>2016-2017</b> <b>£m</b>	<b>2017-2018</b> <b>£m</b>	<b>2018-2019</b> <b>£m</b>	<b>2019-2020</b> <b>£m</b>
Current net shortfall	0.1	0.9	0.7	0.4

The shortfall over the period is supported by an earmarked reserve.

#### **G. Housing Revenue Account**

The Housing Revenue Account budget was set as balanced on 3<sup>rd</sup> March, 2015. The main items of income and expenditure are reported to the Housing Management Forum and are not duplicated here.

The Housing Revenue Account budget remains balanced. The capital project for the replacement Housing Management System requires funding from the Housing Revenue Account balance and this will be factored into the quarter 3 projections.

There have been some variations within the Account where items of one-off expenditure have been offset by additional one-off income; the overall impact does not impact on the Fund balance at this time.

##### **(i) Legal Implications**

The recommendation has no significant implications.

##### **(ii) Risk Assessment**

The recommendation has no significant implications.

##### **(iii) Financial Implications**

The financial implications are set out in the body of the report.

##### **(iv) Health and Safety Implications**

The recommendation has no significant implications.



(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Wellbeing Implications

This recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

# APPENDIX No. 1

## General Fund Budget 2015-2016

Quarter 2: period ended 30th September 2015

	Budget in Q1 report	Additional grants	Reserves	Budget variations	Matched supplements & virements	Current Budget
Staff pay	4,737,770		25,230		(4,580)	4,758,420
Other staff costs	113,220		4,100	4,520	2,500	124,340
Transport	103,640			930	(760)	103,810
Property	2,004,300		3,670	30,120	(15,050)	2,023,040
Supplies and services	3,383,020	24,140	56,380	34,470	31,400	3,529,410
Contracts	6,649,870				(1,050)	6,648,820
Benefits	21,745,670	75,700				21,821,370
Benefits grants	(21,638,380)					(21,638,380)
External income	(6,655,490)	(97,020)	(116,400)	(930)	(12,460)	(6,882,300)
<b>Direct Costs</b>	<b>10,443,620</b>	<b>2,820</b>	<b>(27,020)</b>	<b>69,110</b>	<b>0</b>	<b>10,488,530</b>
Internal income from HRA & capital	(745,090)					(745,090)
Capital charges	1,375,170					1,375,170
<b>Indirect Costs</b>	<b>630,080</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>630,080</b>
<b>Net Expenditure</b>	<b>11,073,700</b>	<b>2,820</b>	<b>(27,020)</b>	<b>69,110</b>	<b>0</b>	<b>11,118,610</b>
External interest earned	(50,000)		(70,000)			(120,000)
External interest paid	584,640					584,640
Minimum revenue provision	896,830					896,830
Revenue contribution to capital	460,630		452,850			913,480
Capital charges	(1,375,170)					(1,375,170)
Pension fund	1,186,740					1,186,740
Movements in reserves	(954,620)		(355,830)			(1,310,450)
Budget variances	92,340			(69,110)		23,230
Unbudgeted grants	141,000	10,000				151,000
<b>Net Revenue Budget</b>	<b>12,056,090</b>	<b>12,820</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12,068,910</b>

<b>EXECUTIVE COMMITTEE</b>		<u>Part One</u> <b>(R)</b> <b>Agenda</b> <b>Item</b> <b>9</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Director of Resources</b>	
<p><b>Title: HRA Balance</b></p> <p><b>Summary and Conclusions:</b></p> <p>This report seeks approval to fund the agreed settlement of the uplift, agreed additional works and inflation thereon for the housing maintenance contract from the HRA balance. The HRA balance has had the benefit of these unpaid amounts for each year of the contract. The amounts could not be accrued within the accounts as they were not at a firm enough stage to make a reasonable estimate. The approval is sought in principle so that Officers may continue discussions and make payment once settlement is agreed.</p> <p><b>Recommendations:</b></p> <p>To recommend that Council agree that the HRA balance be used to fund the settlement of the housing maintenance contract uplift incorporating agreed additional works and inflation thereon, and that Officers make payment once settlement is agreed.</p>		

### Report

The Housing Revenue Account balance reflects the statutory obligation to maintain a revenue account for local authority Council housing provision in accordance with Part VI of the Local Government and Housing Act 1989. It contains the balance of income and expenditure as defined by the 1989 Act that is available to fund future expenditure in connection with the Council's landlord function.

The housing maintenance contract covering the period 2011 to 2015 was a target cost contract with an annual review, a mechanism for agreeing additional works and inflation included; this allows the target cost to reflect the annual impacts of changes in materials, labour and transport (market forces). In practice, the annual review, agreed additional works and inflation thereon have not been agreed between the Council and the contractor for any of the contract years.

The Council has had positive discussions with the contractor and retained advisors in reaching an agreed annual uplift to incorporate agreed additional works.

This report seeks approval to fund the agreed settlement for the contract period from the HRA balance. The HRA balance has had the benefit of the unpaid uplift incorporating agreed additional works and inflation thereon for each year of the contract. The amounts could not be accrued within the accounts as they were not at a firm enough stage to make a reasonable estimate. The approval is sought in principle so that officers may continue discussions and make payment once settlement is agreed.

The HRA balance is sufficient to cover the settlement of the contract's target cost review, agreed additional works and inflation as these amounts have been added to that balance from each year that was not settled; the maintenance budget was underspent in those years.

(i) Legal Implications

The recommendation has no legal implications.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

The HRA balance is sufficient to fund settlement of the uplift, agreed and inflation thereon having had the benefit of the underspends added in those years.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

<b>EXECUTIVE COMMITTEE</b>	<b>(R) Agenda Item 10</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Director of Resources</b>	
<p><b>Title: Establishment Change</b></p> <p><b>Summary and Conclusions:</b></p> <p>This report sets out an establishment change within Development Services. There are no net budget implications as the post will be funded from additional unbudgeted income; all establishment changes require approval by Council.</p> <p><b>Recommendations:</b></p> <p>To recommend the Council:-</p> <ol style="list-style-type: none"> <li>1. To approve the creation of a full time Temporary Administrative Assistant on Scale 2/3 (£15,207 to £17,372 per annum) in Development Services, for two years. This is funded by additional unbudgeted income; and</li> <li>2. To agree that the short-term temp recruited in the interim, be offered the remaining term of the two year period; there would be no further recruitment process.</li> </ol>	

### **Report**

This report sets out an establishment change within Development Services. There are no net budget implications as the post will be funded from additional unbudgeted income; all establishment changes require approval by Council.

#### **Temporary Administrative Assistant – New Post**

The workload within Development Services continues at levels which exceed current resources. At the Executive Committee of the 20<sup>th</sup> May, 2015, Members supported a temporary twelve month addition to the resources of the centralised Development Services administration team and Management agreed an increase in part time officers' working hours.

Whilst the current levels of demand are not seen as a long-term position for the service, it is Management's opinion that the current activity levels will sustain for the next two years. In order to support the centralised Development Services administration team in managing workload and time pressures, Members are asked to approve the creation of a full time Temporary Administrative Assistant

on Scale 2/3 (£15,207 to £17,372 per annum), for two years; funded from additional unbudgeted income generated by the service.

The pressures on the Development Services administration resource have been raised to Management as particularly acute at this time. In order to maintain service delivery it has been necessary to recruit a short-term temp to fulfil this role. It is proposed that, subject to the usual assurances, this candidate be offered the remaining term of the two year period; there would be no further recruitment process.

In total, including the short-term temp, the proposed post would be on the establishment of the Council for a two year period.

(i) Legal Implications

The recommendation has no implications.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

The financial implications are set out in the body of the report; there is no net cost to the General Fund.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

<b>EXECUTIVE COMMITTEE</b>	<b>(R) Agenda Item 11</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Director of Resources</b>	
<p><b>Title: Barrow and District Credit Union deposit</b></p> <p><b>Summary and Conclusions:</b></p> <p>This report requests Members continue the corporate membership of the Barrow and District Credit Union and delegate some aspects of the operational matters to the Director of Resources.</p> <p><b>Recommendations:</b></p> <p>To recommend the Council:</p> <ol style="list-style-type: none"> <li>1. To agree to continue to place £10,000 as a corporate deposit with the Barrow and District Credit Union;</li> <li>2. To agree that the annual review of the corporate deposit be performed by the Director of Resources with any concerns reported to the Executive Committee at the first opportunity; and</li> <li>3. To delegate the withdrawal of funds from the Council's corporate deposit to the Director of Resources or the Executive Director, subject to the notice period.</li> </ol>	

## **Report**

At the meeting of Full Council on 23<sup>rd</sup> July, 2013, it was resolved that the Council support the Barrow and District Credit Union (the Credit Union) by becoming a corporate member. The Council deposited £10,000 for one year in December 2013. The deposit was funded from the Restructuring Reserve.

At the meeting of the Executive Committee on 3<sup>rd</sup> December, 2014, the corporate membership was continued until February 2016.

It is time to consider the corporate membership continuing and also to consider the operation of this deposit. The factors to consider in continuing the corporate membership focus on the Credit Union as a going concern:

- The Credit Union now has around 1,000 members.
- The accounts for the year ended 30<sup>th</sup> September, 2014, produced a dividend.

- Products are continually reviewed and improved.
- The Common Bond now covers areas from just outside Barrow-in-Furness along to Grange-over-Sands.
- Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

There are no matters that raise concern of the security and liquidity of the Council's deposit with the Credit Union.

It is proposed that the corporate membership/deposit remain with the Credit Union and that the annual review be performed by the Director of Resources. Should any concerns be identified, these will be reported to the Executive Committee at the first opportunity. Members are also asked to delegate the withdrawal of funds from the Council's deposit to the Director of Resources or the Executive Director, subject to the notice period.

(i) Legal Implications

The recommendation has no implications.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

The financial implications are set out in the body of the report.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil



<b>EXECUTIVE COMMITTEE</b>		<b>Part One (R) Agenda Item 12</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Director of Resources</b>	
<p><b>Title: Members' Allowances Scheme – Report of the Independent Remuneration Panel</b></p> <p><b>Summary and Conclusions:</b></p> <p>Government regulations require that any amendment to the Scheme of Allowances for a local authority should be made following the consideration of a report by its Independent Remuneration Panel (IRP).</p> <p><b>Recommendations:</b></p> <p>To recommend the Council either accept or vary the recommendations of the Independent Remuneration Panel for inclusion in the scheme.</p>		

### **Report**

A Council can amend its scheme of allowances as long as any proposals are in accordance with the regulations governing Members' Allowances and the Council has considered the views of its IRP on the proposals.

The adopting of an allowances scheme for Members is a function of the Council (Article 4.02 of the Constitution).

The Council's Members' Allowances Scheme along with the Mayoral Personal Allowance was last reviewed in 2012. The current scheme expires on 31st March, 2016.

The Scheme of Allowances sets out the rates payable to Members for Basic, Special Responsibility, Travel and Subsistence, Co-optees and Dependents' Carers' Allowances. Where reference is made to reasonable expenses the Executive Director will use the County Council's guide to reasonableness.

The Independent Remuneration Panel met on 21st October, 2015. A copy of their report with their recommendations is attached at **Appendix 2**.

(i) **Legal Implications**

The recommendation has no legal implications.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

The recommendation has no significant financial implications.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil.

**REPORT OF THE INDEPENDENT REMUNERATION PANEL**  
**BARROW-IN-FURNESS BOROUGH COUNCIL MEMBERS' ALLOWANCES**  
**SCHEME**

Introduction

This report deals with the work undertaken by the Independent Remuneration Panel and deals with the matters which have been considered and presents the recommendations of the Panel.

Before an authority makes or amends a scheme it shall have regard to the recommendations made in relation to it by its Independent Remuneration Panel.

The Panel comprises –

Mr J.L. Winder (Chairman) – J.L. Winder and Co. Chartered Accountants;  
Mrs M. Burrow M.B.E. - Barrow and District Disability Association; and  
Mr J. Slater.

Remit

The regulations provide for an Independent Remuneration Panel to have the following functions and to make recommendations to an authority:-

- As to the amount of basic allowance that should be payable to its elected Members.
- About the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such an allowance.
- About the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance.
- As to the amount of co-optees' allowance.
- As to whether the authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependants and if it does make such a recommendation the amount of this allowance and the means by which it is determined.
- On whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended.
- As to whether the annual adjustments of allowance levels may be made by reference to an index and, if so, for how long such a measure should run.

In summary, the allowances which are or may be payable to Members are as follows:-

- Basic Allowance (mandatory)
- Special Responsibility Allowance (discretionary)
- Dependants' Carers' Allowance (discretionary)
- Travelling and subsistence allowance (discretionary)

A scheme may also provide:

- For the payment of a co-optees' allowance to a person who is not a member of the authority but is a member of a Committee or Sub-Committee.

## **RECOMMENDATIONS**

The panel had regard to the decision making arrangements provided for in the Council's Constitution and to the roles undertaken by office-holders.

### Basic Allowance

A scheme of allowances should include a basic flat rate allowance payable to all members of the authority. The allowance must be the same for each member.

Basic allowance is intended to recognise the time commitment of all Councillors including such inevitable calls on their time as meetings with officers and constituents and attendance at all political group meetings. It is also intended to cover incidental costs such as the use of their homes.

Published guidance advises that regard should be had as to what Councillors do and the hours which are devoted to these tasks and that a view be taken on the rate at which and the number of hours for which councillors ought to be remunerated. However guidance also advises that it is important that some elements of the work of members continues to be voluntary – that some hours are not remunerated.

Conclusions along these lines were drawn in the Panel's 2009 report and reiterated in the 2012 report. These were that the basic allowance should be based on an average of five hours per week over a 50 week period and that for the purpose of determining the basic allowance a rate of £9.392 per hour be applied. Any hours in excess of the foregoing would reflect the voluntary element of a members duties in relation to service to the community recognising that monetary considerations were not a pre-requisite to seeking election as a Councillor and that service to the community was in itself part of the reward derived.

The effect of the 2009 and 2012 recommendations, subsequently accepted by the Council was to increase the basic allowance to £2,348.07 per annum subject to uprating the allowances in accordance with the increases applying to employees from annual national salary awards. There has since been one increase to the basic allowance in line with the annual national salary award to employees and the current basic allowance is £2,423.76

The Panel are of the opinion that the conclusions reached in 2009 and 2012 remain valid. No increase is therefore recommended.

### **Recommendation No.1**

**That the present amount of basic allowance (£2,423.76) remain unchanged but continue to be subject to annual adjustments in accordance with the increases applying to employees from annual national salary awards as referred to in recommendation No. 5.**

## Special Responsibility Allowance

A special responsibility allowance (SRA) may be paid to those members who have significant responsibilities over and above the generally accepted duties of a Councillor. The regulations do not limit the number of special responsibility allowances which may be paid nor do the regulations prohibit the payment of more than one special responsibility allowance to any one member.

Authorities are advised to consider very carefully the additional roles of members and the significance of these roles both in terms of responsibility and real time commitment before deciding which will warrant a payment of special responsibility allowance.

Authorities are also advised that it does not necessarily follow that a particular responsibility borne by a particular member is a significant additional responsibility for which an SRA should be paid. Such duties may not lead to a significant extra work load for any one particular member above another. Authorities are advised that these responsibilities should be recognised as a time commitment to council work which is acknowledged within the basic allowance and not responsibilities for which an SRA should be recommended.

Authorities are advised to look carefully at the nature of their constitutions when determining a scheme.

Guidance also suggests that one way of calculating SRAs may be to take the agreed level of basic allowance and recommend a multiple of this allowance as an appropriate SRA for others. This approach was used in the 2009 and 2012 reviews.

The Panel have had regard to the responsibilities borne by the holders of posts to which SRAs are presently attached. The Panel are of the opinion that the conclusions reached in 2009 and 2012 remain valid. No increase is therefore recommended.

Although the regulations do not prohibit the payment of more than one special responsibility allowance to any one Member, the Panel considered that no Councillor should be entitled to be paid more than one Special Responsibility Allowance at any one time and in the event that a Councillor undertakes more than one Special Responsibility at a time, then the entitlement shall be to the SRA with the highest rate.

## **Recommendation No. 2**

**(i) That the following Special Responsibility Allowances be paid by applying the multipliers shown to the basic allowance:-**

<b>Special Responsibility</b>	<b>Multiplier</b>	<b>£</b>
<b>The Leader of the Council</b>	<b>X 6</b>	<b>£14,542.56</b>
<b>Deputy Leader of the Controlling Group</b>	<b>X 2.5</b>	<b>£6,059.40</b>
<b>Leader of the Opposition</b>	<b>X 2.5</b>	<b>£6,059.40</b>
<b>Chairmen of the Executive, Planning and Licensing Committees</b>	<b>X 2</b>	<b>£4,847.52</b>
<b>Chairmen of the Overview and Scrutiny and Audit Committees</b>	<b>X 1.6</b>	<b>£3,878.02</b>
<b>Chairman of the Housing Management Forum</b>	<b>X 1.6</b>	<b>£3,878.02</b>
<b>Vice Chairmen of Committees and the Mayoral Personal Allowance</b>	<b>X 1.2</b>	<b>£2,908.51</b>

*(The above amounts are inclusive of the basic allowance but should be subject to annual adjustment in accordance with the increases applying to employees from annual national salary awards. The figures may be rounded for monthly payroll purposes)*

- (ii) That no Councillor should be entitled to be paid more than one Special Responsibility Allowance at any one time and in the event that a Councillor undertakes more than one Special Responsibility at a time, then the entitlement shall be to the Special Responsibility Allowance with the highest rate.

#### Travelling and Subsistence Allowance

Provision may be made for the payment of travelling and subsistence allowances to members including co-opted members. This may include the provision for the payment of allowances to those members who travel by bicycle or other non motorised transport. The Panel may recommend which duties shall attract travel and subsistence allowances and the levels of any such allowance.

#### Public Transport

Normally lowest available standard fare on the day of booking. Members are asked to notify Democratic Services of their travel requirements as early as possible so that the Council can benefit from discounts for advance booking where available. Exceptionally, members may purchase their own tickets at short notice, but reimbursement will only be made on production of the rail tickets used or a receipt for payment. Tickets purchased by members themselves must also be the lowest available standard fare.

First class fare is payable only where the cost is no greater than the lowest available standard fare or where the agreement of the Leader of the Council has been obtained in advance of the duty being undertaken. Such agreement will normally be given where first class travel is necessary or desirable because of the need to undertake Council business on the train or the length of the journey.

Owing to the vagaries of ticket pricing it can sometimes be the case that the cost of a first class ticket is less than the standard fare. Where this is the case Democratic Services will note the two prices at the time of booking and obtain the cheaper fare. If a first class ticket is the cheaper this will be noted by Democratic Services for audit purposes so that it can be demonstrated that members travelled in the most economical way at the time.

### Rail Supplements

In addition to the rail fare, Members may claim the following supplementary allowances not exceeding expenditure actually incurred on:

- (a) Reservation of seats and deposit or portorage of luggage;
- (b) Sleeping accommodation engaged by a member for an overnight journey, subject however to reduction by one-third of any subsistence allowance payable for that night;
- (c) Tube fares where not included in the main ticket for the journey;
- (d) A senior citizen's railcard (upon request, and only if primarily for use in connection with travel on Council business). There is a potential financial saving to the Council because the use of a railcard normally enables the cost of all train journeys to be reduced by one third of the original price;
- (e) The cost of meals or refreshments taken on **out of County** train journeys, except where included in the price of a rail ticket.

### Private Car etc.

The rate for travel by a member's own private motor car (or one belonging to a member of their family or otherwise provided for their use) in circumstances which involve a substantial saving in time or where it is in the interests of the Council, or is otherwise reasonable that the member should so travel rather than by public transport, shall not exceed:

#### **For a Car**

Engine Size	Inside the Borough	Outside the Borough	After 8,500 miles
451cc to 999cc	40p per mile	30p per mile	13.7p per mile
1000cc to 1199cc	40p per mile	30p per mile	14.4p per mile
1200cc to 1450cc	40p per mile	30p per mile	16.4p per mile

#### **For a Motor Cycle**

Engine Size	Price per mile
All Engine Sizes	30p per mile

Allowances paid to Members for travel by car or motor cycle should mirror that paid to Officers of the Council be adjusted accordingly upon any amendments made to Officer's rates.

Members are encouraged to car share wherever possible. The mileage rates above may be increased by a further sum of 5.0p per mile for each passenger, not exceeding four, to whom a travelling allowance would otherwise be payable, and by the amount of any expenditure incurred in tolls, ferries or parking fees, including overnight garaging,

Members are responsible for ensuring that their insurance covers use of the vehicle on Council business.

In deciding whether to travel by car or by public transport for long journeys, members should have regard to the relative costs of travel and the business needs of the Council.

### Taxis

Where no public transport is reasonably available, or in cases of urgency, members may claim the actual cost of a taxi journey and a modest gratuity. In other cases, the amount of the fare for travel by appropriate public transport can be claimed. Receipts will be required.

A taxi shall not be used for journeys extending outside the Borough, except with the Leader of the Council's approval.

### Pedal Cycles

That no allowance be made for pedal cycles.

### Subsistence

That the actual and reasonable costs of meals and/or accommodation be paid.

### Telephone and Broadband

A maximum Telephone and Broadband allowance of £20 per month be paid.

### **Recommendation No. 3**

- (i) Public Transport – Reimbursement of actual costs;**
- (ii) That travelling allowance be paid in respect of relevant duties approved by the Council under Regulation 8 (2003 Regulations) as follows:-**

#### **For a Car**

<b>Engine Size</b>	<b>Inside the Borough</b>	<b>Outside the Borough</b>	<b>After 8,500 miles</b>
<b>451cc to 999cc</b>	<b>40p per mile</b>	<b>30p per mile</b>	<b>13.7p per mile</b>
<b>1000cc to 1199cc</b>	<b>40p per mile</b>	<b>30p per mile</b>	<b>14.4p per mile</b>
<b>1200cc to 1450cc</b>	<b>40p per mile</b>	<b>30p per mile</b>	<b>16.4p per mile</b>



- (iii) The rates in (ii) above may be increased by a sum 5.0p per mile for each passenger up to a maximum of four passengers, to whom a travelling allowance would otherwise be payable;
- (iv) Councillor shall be entitled to claim the following allowances for use of their own motor cycle for any duty approved by the Council under Section 8 of the Regulations:-

Engine Size	Price per mile
All Engine Sizes	30p per mile

- (v) The rates in (ii) and (iv) above should mirror that paid to Officers of the Council and adjusted accordingly upon any amendments made to Officer's rates.
- (vi) That no allowance be paid in respect of the use of pedal cycles;
- (vii) That the actual and reasonable costs of meals and/or accommodation be paid; and
- (viii) That a maximum Telephone and Broadband allowance of £20 per month be paid.

#### Dependent Carers' Allowance

A scheme may include the payment of a dependent carers' allowance to those Councillors who incur expenditure for the care of children or other dependants whilst undertaking particular duties. The Panel may recommend that such allowances be made available and recommend the amount of this allowance

#### **Recommendation No.4**

**A Child Care and Dependent Carers' Allowance shall be payable based upon reimbursement of actual receipted costs up to a maximum of £10 per hour for up to 10 hours per week, subject to prior agreement by the Director of Resources, in respect of Child Care for children up to the age of 14 or in the case of severely disabled dependents, the dependent is to be certified by a medical or social services practitioner as requiring attendant care. The allowance is payable to any Member who incurs expenditure whilst undertaking the qualifying duties specified in Schedule 1. The allowance will not be payable where the care is provided by a member of the claimant's own household, nor where the care is already being paid for by another agency.**

### Annual Adjustments of Allowance Levels

Provision may be made for an annual adjustment to allowances to be ascertained by reference to an index as specified and contained in the scheme.

Where a Panel makes a recommendation that allowance levels should be determined according to an index it has to make a recommendation as to how long the index should run before reconsideration. In any case an index may not run for more than four years before a further recommendation on it is sought from the Independent Remuneration Panel.

#### **Recommendation No.5**

- (i) That annual adjustments be made to the basic allowance and special responsibility allowances so as to increase such allowances from 1<sup>st</sup> April, 2016 and annually thereafter in accordance with the increases applying to employees from annual national salary awards;**
- (ii) That annual adjustments be made to travelling allowance from 1<sup>st</sup> April, 2016 and annually thereafter to fully reflect the rates of reimbursement to Officers of Barrow-in-Furness Borough Council; and**
- (iii) That the provision for adjustments referred to in (i) and (ii) should apply for a period of three years**

### Mayoral Allowance/Honorarium

The Panel reviewed their decision made at the meeting held in October, 2012 regarding the Mayoral Personal Allowance and agreed that the present amount paid (£2,908.51) remain unchanged but continue to be subject to annual adjustment as referred to in recommendation No.5.

#### **Recommendation No.6**

- (i) That the Mayoral Personal Allowance remains in line with the Vice-Chairmen of Committees (x 1.2) Special Responsibility Allowances Multiplier;**
- (ii) That the Allowance be paid equally, every quarter in advance;**
- (iii) That annual adjustments be made to this allowance so as to increase from 1<sup>st</sup> April, 2016 and annually thereafter in accordance with the increases applying to employees from annual national salary awards; and**
- (iv) That the allowance of the Mayor is over and above any entitlement as a Councillor.**

## SUMMARY OF RECOMMENDATIONS

### Recommendation No.1

That the present amount of basic allowance (£2,423.76) remain unchanged but continue to be subject to annual adjustments in accordance with the increases applying to employees from annual national salary awards as referred to in recommendation No. 5.

### Recommendation No. 2

(i) That the following Special Responsibility Allowances be paid by applying the multipliers shown to the basic allowance.

Special Responsibility	Multiplier	£
The Leader of the Council	X 6	£14,542.56
Deputy Leader of the Controlling Group	X 2.5	£6,059.40
Leader of the Opposition	X 2.5	£6,059.40
Chairmen of the Executive, Planning and Licensing Committees	X 2	£4,847.52
Chairmen of the Overview and Scrutiny and Audit Committees	X 1.6	£3,878.02
Chairman of the Housing Management Forum	X 1.6	£3,878.02
Vice Chairmen of Committees and the Mayoral Personal Allowance	X 1.2	£2,908.51

*(The above amounts are inclusive of the basic allowance but should be subject to annual adjustment in accordance with the increases applying to employees from annual national salary awards).*

(ii) That no Councillor should be entitled to be paid more than one Special Responsibility Allowance at any one time and in the event that a Councillor undertakes more than one Special Responsibility at a time, then the entitlement shall be to the Special Responsibility Allowance with the highest rate.

### Recommendation No. 3

(i) Public Transport – Reimbursement of actual costs;

(ii) That travelling allowance be paid in respect of relevant duties approved by the Council under Regulation 8 (2003 Regulations) as follows:-

#### For a Car

Engine Size	Inside the Borough	Outside the Borough	After 8,500 miles
451cc to 999cc	40p per mile	30p per mile	13.7p per mile
1000cc to 1199cc	40p per mile	30p per mile	14.4p per mile
1200cc to 1450cc	40p per mile	30p per mile	16.4p per mile

- (iii) The rates in (ii) above may be increased by a sum 5.0p per mile for each passenger up to a maximum of four passengers, to whom a travelling allowance would otherwise be payable;
- (iv) Councillor shall be entitled to claim the following allowances for use of their own motor cycle for any duty approved by the Council under Section 8 of the Regulations:-

Engine Size	Price per mile
All Engine Sizes	30p per mile

- (v) The rates in (ii) and (iv) above should mirror that paid to Officers of the Council and adjusted accordingly upon any amendments made to Officer's rates.
- (vi) That no allowance be paid in respect of the use of pedal cycles;
- (vii) That the actual and reasonable costs of meals and/or accommodation be paid; and
- (vii) That a maximum Telephone and Broadband allowance of £20 per month be paid.

#### **Recommendation No.4**

A Child Care and Dependent Carers' Allowance shall be payable based upon reimbursement of actual receipted costs up to a maximum of £10 per hour for up to 10 hours per week, subject to prior agreement by the Director of Resources, in respect of Child Care for children up to the age of 14 or in the case of severely disabled dependents, the dependent is to be certified by a medical or social services practitioner as requiring attendant care. The allowance is payable to any Member who incurs expenditure whilst undertaking the qualifying duties specified in Schedule One. The allowance will not be payable where the care is provided by a member of the claimant's own household, nor where the care is already being paid for by another agency.

#### **Recommendation No.5**

- (i) That annual adjustments be made to the basic allowance and special responsibility allowances so as to increase such allowances from 1<sup>st</sup> April, 2016 and annually thereafter in accordance with the increases applying to employees from annual national salary awards;
- (ii) That annual adjustments be made to travelling allowance from 1<sup>st</sup> April, 2016 and annually thereafter to fully reflect the rates of reimbursement to Officers of Barrow-in-Furness Borough Council; and

- (iii) That the provision for adjustments referred to in (i) and (ii) should apply for a period of three years.

**Recommendation No.6**

- (i) That the Mayoral Personal Allowance remains in line with the Vice-Chairmen of Committees (x 1.2) Special Responsibility Allowances Multiplier;
- (ii) That the Allowance be paid equally, every quarter in advance;
- (iii) That annual adjustments be made to this allowance so as to increase from 1<sup>st</sup> April, 2016 and annually thereafter in accordance with the increases applying to employees from annual national salary awards; and
- (iv) That the allowance of the Mayor is over and above any entitlement as a Councillor.

**SCHEDULE 1**

**LIST OF DUTIES WHERE TRAVELLING AND SUBSISTENCE IS PAID**

- (a) Attendance at a meeting of the authority or of any Committee or Sub-Committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any Committee or Sub-Committee of such a body.
  
- (b) Attendance at any other meeting the holding of which is authorised by the authority, or a Committee or Sub-Committee of the authority, or a Joint Committee of the authority and one or more other authorities, or a Sub-Committee of such a Joint Committee, provided that:-
  - (i) Where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited, or
  - (ii) If the authority is not so divided it is a meeting to which at least two members of the authority have been invited.
  
- (c) Attendance at a meeting of any association of authorities of which the authority is a member.
  
- (d) The attendance at a meeting of the Executive or a meeting any of its Committees, where the authority is operating executive arrangements.
  
- (e) Duties undertaken in pursuance of any standing order requiring a member or members to be present while tender documents are opened.
  
- (f) Duties undertaken in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises; or
  
- (g) Any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority, or of any of its Committees or Sub-Committees.

Signed .....	.....	.....
Mrs M. Burrow M.B.E.	Mr J.L Winder (Chairman)	Mr J. Slater
Barrow and District	J.L. Winder and Co.	
Disability Association	Chartered Accountants	

21<sup>st</sup> October, 2015

<b>EXECUTIVE COMMITTEE</b>	<b>(D) Agenda Item 13</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Executive Director</b>	
<p><b>Title: Appointments on Outside Bodies, Panels, Working Groups etc.</b></p> <p><b>Summary and Conclusions:</b></p> <p>The Council has given delegated authority to Committees to make appointments to Outside Bodies, Forums (except Housing Management Forum) Panels, Working Groups etc. in accordance with the number and allocation of seats to political groups agreed at the Annual meeting.</p> <p><b>Recommendation:</b></p> <p>To determine the appointment of a Member representative to the Barrow Wastewater Treatment Works Local Forum.</p>	

### **Report**

At the Annual meeting of Council on 18th May, 2015 the allocation of seats in respect of Forums, Panels, Working Groups etc. and certain Outside Bodies was delegated to appropriate Committees to make the necessary appointments.

At the meeting of the Executive Committee on 20th May, 2015, Councillor Graham was appointment as a Member representative on the Barrow Wastewater Treatment Works Local Forum.

As she resigned as a Councillor in September 2015 the Executive Committee are now requested to make the necessary appointment to the Barrow Wastewater Treatment Works Local Forum.

(i) **Legal Implications**

When Councillors are acting as representatives on another authority they must comply with their Code of Conduct.

(ii) **Risk Assessment**

The recommendation has no implications.

(iii) Financial Implications

The recommendation has no financial implications.

(iv) Health and Safety Implications

The recommendation has no implications.

(v) Equality and Diversity

Not Applicable.

(vi) Health and Well-being Implications

Not Applicable.

Background Papers

Nil



<b>EXECUTIVE COMMITTEE</b>		<b>Part One (D) Agenda Item 14</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Executive Director</b>	
<p><b>Title: Prevent Duty</b></p> <p><b>Summary and Conclusions:</b></p> <p>This report concerns the Prevent duty of the Council and sets out an offer of grant funding from the Home Office. The report proposes a County-wide pooling of the grant and co-ordination through the Safer Cumbria chairs group.</p> <p><b>Recommendations:</b></p> <p>To agree that the £10,000 Prevent duty grant is pooled and delivery co-ordinated through the Safer Cumbria chairs group.</p>		

### **Report**

The Counter-Terrorism and Security Act 2015 contains a duty on specified authorities to have due regard to the need to prevent people from being drawn into terrorism (the “Prevent duty”), which came into force for local authorities on 1st July, 2015. The guidance which local authorities must have regard to when complying with the duty can be found on the Government website.

These are the key points relating to the grant:

- The Home Office has allocated £10,000 to all local authorities (except existing priority areas);
- The money will be paid in arrears at the end of February 2016;
- This is a one-off payment for this financial year only;
- The money must be used specifically to implement the Prevent duty;
- If the Council doesn’t wish to draw on the money the Home Office should be notified as soon as possible;
- Further support is available, including access to free training and peer support group.

Examples of spend for the £10,000 allocated to each local authority include:

- bringing agencies together to co-ordinate Prevent activity;
- provision of additional training for local authority employees on Prevent related activity; or

- upgrading of IT systems to cover extremist material.

Local authorities can make local arrangements with each other on how they spend their allocation to improve efficiencies. However, a Grant Agreement and evidence of how the money has been spent is still required from each individual local authority.

Any funds drawn from the £10,000 must be spent by 31st March, 2016 and claimed by 30th April, 2016. Funds are drawn down through a claim and light touch monitoring form which need to be completed detailing how the monies have been spent.

The timelines for spending and claiming the money are:

- local authorities complete and return signed Grant Agreement to Home Office within 14 days of receiving it;
- by 31st January, 2016 – local claim form, along with a monitoring form, should be completed online to claim monies;
- by 29th February, 2016 – Home Office makes payment by BACS to local authorities;
- by 31st March, 2016 – final deadline to process any late claims and monitoring forms for payment.

Only defrayed expenditure may be claimed, so it may be that the full £10,000 is not drawn down; there is a relatively short timeline for expenditure to occur (December to January).

The Grant Agreement with the Home Office has been submitted and it is proposed that the Prevent duty grant within Cumbria be pooled and delivery co-ordinated through the Safer Cumbria chairs group, as that is where the Cumbria Safety Partnerships representation sits.

Members are asked to agree that the £10,000 Prevent duty grant is pooled and delivery co-ordinated through the Safer Cumbria chairs group. The project manager for the Council is the Assistant Director-Community Services.

(i) Legal Implications

The recommendation has no legal implications; the empowering Act is referenced in the report.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

Defrayed expenditure up to £10,000 can be funded from the Prevent duty grant. Expenditure must comply with the Grant Agreement in order to qualify.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

<b>EXECUTIVE COMMITTEE</b>		<b>Part One (D) Agenda Item 15</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Executive Director</b>	
<p><b>Title: Extending Mandatory Licensing of Houses in Multiple Occupation (HMOs) and Related Reforms</b></p> <p><b>Summary and Conclusions:</b></p> <p>The government is consulting on proposed reforms to the HMO licensing regime. A proposed response by the Council is suggested.</p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. To note the report; and</li> <li>2. To authorise officers to respond to the consultation supporting the basic principles that the consultation proposes, but highlighting the likely increase in workload and demand for resources that may be placed upon the Council.</li> </ol>		

### **Report**

Houses in multiple occupation are defined in the Housing Act 2004 (“the Act”) as buildings (or parts of buildings), not consisting of self-contained flats (other than in certain fairly specific circumstances), that are occupied as a main residence by persons who do not form a single household, and for which rent is payable.

Under Part 2 of the Act, certain HMOs are required to be licensed by the local authority (mandatory licensing). These are HMOs that accommodate five or more people in two or more households, and in addition consist of three or more storeys.

Under the selective licensing provisions of the Act, the local authority can in addition designate either part or all of its area as one where other HMOs are required to be licensed. It can do this if it considers that HMOs in the relevant area are being managed ineffectively. The Council has never introduced selective licensing in any of its area.

When considering an application for a licence under Part 2 of the Act, the local authority must consider whether the proposed licence holder (and manager of the property if this is a different person), is a fit and proper person to hold an HMO licence or manage the property as appropriate. It must also consider whether or not the management arrangements in place for the HMO are satisfactory. When granting a licence, the local authority must specify the maximum number of persons who can be accommodated in the HMO. The local authority may also

impose conditions when issuing a licence, for example to prohibit the use of parts of the building, to maintain installations in proper working order, or to make specified improvements within a given period of time. Licences can be granted for a maximum of three years. A person having control of or managing an HMO subject to mandatory licensing, who does not have a valid licence, or breaches a condition of a licence commits an offence for which there is a maximum fine of £20,000.

The mandatory licensing regime was put in place to deal with HMOs that were considered to have the highest risk.

The government is currently consulting on extending the mandatory licensing scheme, and making a number of other changes to the licensing regime.

The key changes that the government are considering are as follows:

1. Bringing two storey, and possibly even single storey HMOs with five or more occupants into the mandatory licensing scheme;
2. Bringing poorly converted blocks of flats (a term that is not defined more specifically than this) into the mandatory licensing scheme;
3. Making all HMOs in flats occupied above or below business premises subject to mandatory licensing where they are occupied by five or more people;
4. Introducing a mandatory minimum room size of 6.5m<sup>2</sup> for sleeping accommodation in HMOs. This is the same as the standard for overcrowding set out in the Housing Act 1985.

The government is also consulting on making procedural changes to the information the local authority has to request when considering an application for a HMO licence.

The consultation closes on 18th December, 2015.

### **Implications for Barrow**

The government's approach in relation to private sector housing is to target measures against the worst performing landlords, and the highest risk properties. This consultation recognises that there are many HMOs and poor flat conversions that fall outside the mandatory licensing scheme but nevertheless, if poorly managed, present a similar level of risk to HMOs that require a mandatory licence. In my view, this is a reasonable analysis of the situation. On this basis, the proposals should be supported in principle. However, from a practical point of view, there may be significant resource implications for the Council.

At the time of writing, there are 15 licensed HMOs in the Borough, with a further four applications being processed. We have also been made aware of proposals for a number of additional licensable HMOs, some of these being very large. Much of the growth in this sector of the housing market in Barrow appears to be driven by the increase in employment at BAE Systems. This represents an increase in workload under the current system. In addition, there will be an unknown number of HMOs in the Borough, which currently do not need a licence, but which may need a licence if the system is changed in the way that this consultation proposes.

At present it is not possible to quantify the number of HMOs that would require licenses under an amended scheme, but it may well be substantial. I would draw this potential workload issue to Members' attention, and recommend that we reply to the consultation along these lines.

(i) Legal Implications

The recommendation relates to a proposal to amend the legal duties of the Council.

(ii) Risk Assessment

The recommendation has minor implications for the Council being able to fulfil its statutory obligations.

(iii) Financial Implications

The recommendation has no direct financial implications. However, depending on the outcome of the government's consultation, there may be additional resource demands on the Council.

(iv) Health and Safety Implications

The recommendation has no implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

DCLG technical discussion document: Extending mandatory licensing of Houses in Multiple Occupation (HMOs) and related reforms

<b>EXECUTIVE COMMITTEE</b>		<b>Part One (D) Agenda Item 16</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Executive Director</b>	
<p><b>Title: Energy Company Obligation – Proposed Contract with Npower</b></p> <p><b>Summary and Conclusions:</b></p> <p>A mechanism is proposed for supporting the provision of free or subsidised home insulation and other energy efficiency measures for residents of the Borough through a partnership arrangement with Npower.</p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. To note the report; and</li> <li>2. To agree to enter into a contract with Npower to provide ECO measures in the Borough and to establish a Community Fund from payments made to the Council by Npower as a consequence of making carbon savings.</li> </ol>		

### **Report**

Energy companies have for some time been required to promote the implementation of energy efficiency measures in domestic properties, to achieve:

1. Reductions in carbon emissions;
2. Targeted interventions in low income areas identified by the indices of multiple deprivation and to low income households in rural areas;
3. Insulation and heating improvements to qualifying low-income and vulnerable households

These requirements have been set out in successive Energy Company Obligation (ECO) Orders.

To comply with these ECO obligations, energy companies provide free or subsidised home insulation measures, typically loft and cavity wall insulation, and replacement boilers in certain cases.

The district Councils in Cumbria (with the exception of Copeland) have been in negotiations with Npower to develop a model for that company to deliver ECO interventions in Cumbria. Npower and the district councils will carry out joint promotional activity, and potential customers will be directed to Npower's call centre. There they will be advised if any assistance is available to them. When measures are installed, these are assessed on the basis of a standard model to

estimate the tonnage of carbon savings that result from the measure. Npower will pay the relevant district council £5.00 per tonne of CO<sub>2</sub> savings that result from the measure and are reported by Npower to Ofgem under the ECO Order. This will be placed in a “Community Fund” that can be used by the Council to fund energy efficiency measures that fall outside the scope of the ECO obligations.

A draft contract has been produced to enter into this agreement. This covers the scope of the works to be carried out, arrangements for payment into the Community Fund and data protection matters. The contract will run until the end of December 2016. There is no direct cost to the Council in entering into this agreement. Essentially we will jointly promote a scheme that will potentially benefit residents in the Borough. The view of Npower is that joint promotion with the local authority is likely to generate more interest and allow them to make more installations, and more progress towards their carbon saving targets.

(i) Legal Implications

The recommendation has no legal implications.

(ii) Risk Assessment

The recommendation has no implications.

(iii) Financial Implications

The recommendation has no financial implications.

(iv) Health and Safety Implications

The recommendation has no implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil.



<b>EXECUTIVE COMMITTEE</b>	<b>(R) Agenda Item 17</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Executive Director</b>	
<b>Title: Smoke and Carbon Monoxide Alarm (England) Regulations 2015</b>	
<b>Summary and Conclusions:</b>	
<p>The Smoke and Carbon Monoxide Alarm (England) Regulations have recently come into force. Arrangements for implementing these regulations are proposed. Members are also invited to approve a statement of principles for determining penalties to be applied in cases where the regulations are breached.</p>	
<b>Recommendations:</b>	
To recommend the Council:-	
<ol style="list-style-type: none"><li>1. To authorise the Assistant Director of Regeneration and the Built Environment to approve remedial notices and penalty charge notices, and other notices as required by the Regulations, and to approve in writing officers to act as “authorised persons” who can take remedial action;</li><li>2. To authorise the Executive Director and Director of Resources to carry out reviews of penalty charge notices; and</li><li>3. To approve the statement of principles for determining the amount of penalty charges.</li></ol>	

**Report**

**Duties of Landlords**

On 1st October, The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force. These place duties on private landlords to install smoke alarms and carbon monoxide (CO) alarms in properties subject to residential tenancies. In a residential property the landlord must install smoke alarms on each floor of a property that contains living accommodation, and CO alarms in each room that is used for living accommodation and contains a solid fuel combustion appliance. These alarms must be checked by the landlord to ensure that they are in working order at the start of any new tenancy.

## **Duties of the Local Authority**

If the local authority reasonably believes that a landlord is in breach of the duties set out above, it must serve a remedial notice on the landlord. It must serve the notice within 21 days of deciding that it has grounds to do so. This notice must require the landlord to take appropriate remedial action within 28 days. It would be the normal practice of the Council to recommend the installation of mains wired alarms with battery back up. The landlord is entitled to make representations to the local authority within this 28 day period.

If the landlord fails to comply with this notice, the local authority must arrange to take remedial action itself, within a further 28 days. The remedial action must be taken by an “authorised person”, that is to say, a person authorised in writing by the local authority for the purpose of taking remedial action.

## **Penalty Charges**

In a case where the landlord is in breach, the local authority may, in addition, require the landlord to pay a penalty charge not exceeding £5,000. It must send out the penalty charge notice within six weeks of being satisfied that the landlord is in breach. There is a facility for the local authority to reduce the level of the penalty charge notice if it is paid within 14 days. The local authority must also give a period of at least 28 days for the landlord to request a review of the penalty charge, and the name and address of a person to whom the review and any accompanying representations should be made. Where a landlord is not satisfied with the outcome of a local authority review, the landlord may appeal to the First-tier Tribunal.

Where a penalty charge is payable and no longer subject to review or appeal, the local authority may recover the charge through a court order. Sums recovered through penalty charges may be used in support of any of the local authority’s functions.

Furthermore, the local authority must publish a statement of principles which it proposes to follow in determining the amount of the penalty charge. It must have regard to these principles when determining the amount of the penalty charge.

The statement of principles for determining the amount of penalty charges is attached at **Appendix 3**.

### (i) Legal Implications

The recommendation sets out new legal duties that the Regulations place on the Council.

### (ii) Risk Assessment

The recommendation has no implications.

(iii) Financial Implications

The recommendation has additional resource implications to ensure that the Council's legal obligations are fulfilled.

(iv) Health and Safety Implications

The recommendation has significant implications in that the Regulations are designed to protect the Health and Safety of private tenants.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

## Statement of principles

1. This statement of principles is published as required by Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 ("the Regulations").
2. The statement of principles will be used by Barrow Borough Council ("the Council") to determine the amount of any penalty charge it makes under Regulation 8 of the Regulations. When determining the amount of such a penalty charge, the Council will have regard to this statement of principles.
3. Regulation 8 of the Regulations specifies that the amount of the penalty charge will not exceed £5000.
4. Regulation 9 of the Regulations states that the penalty charge notice may allow for the penalty charge to be reduced if it is paid within 14 days, beginning with the day that the penalty charge notice is served.
5. The Council recognises that Regulation 4 of Regulations requires residential landlords to install smoke and (where the Regulations specify) carbon monoxide alarms. These requirements are designed to protect the physical safety of tenants at relatively low cost to the landlord.
6. Before a penalty charge notice is served, the Council must serve a remedial notice on the landlord, giving the landlord at least 28 days to comply with the requirements of the remedial notice. Only when the landlord fails to comply with the remedial notice can a penalty charge notice be served. Furthermore, the landlord is not in breach of the remedial notice if he or she has taken all reasonable steps short of legal proceedings to comply.
7. If the landlord fails to comply with the remedial notice, not only are they in breach of their duty under Regulation 4, but they place a duty on the Council under Regulation 7 of the Regulations for the Council to take remedial action itself. The breach by the landlord therefore directly results in costs being incurred by the Council.
8. In addition to allowing the recovery of costs incurred by the Council, there is a clear deterrent effect if the penalty charges are set at a high level.
9. The Council considers that the government would not have allowed penalty charges to be set at the level set out in Regulation 8 of the Regulations (£5000) if it did not expect penalty charges to be imposed at this level.
10. Furthermore, to comply with Regulation 4, in the vast majority of cases, the number of alarms that are required to be installed will not vary considerably from property to property. Therefore, the expectations on most landlords are very similar. There will be fewer mitigating or

aggravating factors for breaches of Regulation 4 from case to case. On this basis, the Council considers that it is reasonable to set most penalty notices at the same level.

11. The Council considers that it follows from points 9 and 10 above that the starting point for level of the penalty notice will be the maximum. However, the penalty charge will be reduced for the first offence. The penalty charge will also be reduced if payment is made within 14 days. However, the Council considers that a proportionately smaller reduction is appropriate for early payment for a second or subsequent breach compared with the early payment reduction for a first breach. The charge may also be reduced in other exceptional circumstances.
12. The level of the penalty charge for a breach of Regulation 4 will therefore (other than in exceptional circumstances) be as follows:
13. For a first offence - £2500 (reduced to £1250 if paid within 14 days)
14. For second and subsequent offences - £5000 (reduced to £3500 if paid within 14 days)

<b>EXECUTIVE COMMITTEE</b>	<b>(R) Agenda Item 18</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Executive Director</b>	
<p><b>Title: Letting Agents – Requirement to Belong to a Redress Scheme</b></p> <p><b>Summary and Conclusions:</b></p> <p>The Council has a duty to enforce the Regulations set out in the report. Arrangements for enforcing the regulations are recommended.</p> <p><b>Recommendations:</b></p> <p>To recommend the Council:-</p> <ol style="list-style-type: none"> <li>1. To authorise the Assistant Director of Regeneration and the Built Environment to authorise notices of intent, and if no representations or objections are raised to authorise final notices; and</li> <li>2. To authorise the Executive Director and Director of Resources to consider any representations and objections received from persons on whom notices of intent are served, and in those cases to authorise final notices, either as set out in the notice of intent, in modified form or to withdraw notices.</li> </ol>	

## **Report**

### **Letting Agents – Requirement to belong to a redress scheme**

From 1 October 2014, it has been a requirement that letting agents must belong to one of three redress schemes that are approved by the government. This allows tenants who are dissatisfied to complain to an independent person about the service they have received.

This requirement was brought in by The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014. This regulation was made under the terms of the Enterprise and Regulatory Reform Act 2013. The requirement applies to letting agents and property managers who carry out property management on behalf of landlords. It does not apply to landlords themselves, only to those who take instructions from others. The approved schemes are:

- Ombudsman Services Property ([www.ombudsman-services.org/property.html](http://www.ombudsman-services.org/property.html))

- Property Redress Scheme ([www.theprs.co.uk](http://www.theprs.co.uk))
- The Property Ombudsman ([www.tpos.co.uk](http://www.tpos.co.uk))

If letting agents fail to register with an approved redress scheme, the requirement will be enforced by local authorities. The local authority can impose a fine of up to £5,000 where an agent or property manager who should have joined a scheme has not done so.

At present there is no perceived need to carry out enforcement action, as all of the letting agents that are known to the Council are either members of a scheme, or in the process of registering. However, the scheme of delegation needs to be amended to allow enforcement action to be taken if this is necessary at any time in the future.

The process for taking enforcement action is as follows:

1. The local authority sends out a notice of intent to impose a penalty, stating the reasons for taking this action and the amount of the penalty;
2. The person on whom the notice of intent is served has 28 days in which to make representations and objections;
3. At the end of this period, the local authority must decide whether to impose the penalty as set out in the notice of intent, modify the penalty, or withdraw the notice;
4. When the local authority has made its decision in (3), it must send out a final notice confirming its decision;
5. The penalty, if not paid, is recoverable on the order of the court;
6. The person on whom the final notice is served has a right of appeal on certain grounds to the First-tier Tribunal.

To allow these functions to be performed, appropriate officer delegations need to be put into place.

(i) Legal Implications

The recommendation sets out new legal duties that enforcing the Regulations place on the Council.

(ii) Risk Assessment

The recommendation has no implications.

(iii) Financial Implications

The recommendation has no significant financial implications, although there may be a minor resource implication to enforce the Regulations.

(iv) Health and Safety Implications

The recommendation has no implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

DCLG guidance booklet: Lettings Agents and Property Managers – Which Government approved redress scheme do you belong to?



<b>EXECUTIVE COMMITTEE</b>	<b>(D) Agenda Item 19</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Health and Safety Adviser</b>	
<b>Title: Health and Safety Policy Statement and Management Arrangements</b>	
<b>Summary and Conclusions:</b>	
The Council is required to have a written statement of Health and Safety Policy. The Health and Safety Management Board has approved this policy for submission to the Executive Committee.	
<b>Recommendations:</b>	
To approve the Health and Safety Policy Statement and Management Arrangements.	

## **Report**

The Council is required by the Health and Safety at Work etc. Act 1974 to have in place a written statement of Health and Safety Policy, and the organisation and arrangements for carrying out that policy.

The policy is reviewed by the Health and Safety Management Board every three years. The previous policy was approved by the Executive Committee on 14th November, 2012.

There are no significant changes in the Policy.

The policy statement and organisation are set out within the attached document submitted for approval. They set out the Council's commitment to managing health and safety effectively and who is responsible for specific actions.

The arrangements for carrying out the policy are integrated into Health and Safety procedures which are reviewed by the Health and Safety Management Board on a three year cycle.

The Health and Safety Policy Statement and Management Arrangements document is attached at **Appendix 4**.

(i) Legal Implications

The recommendation has no legal implications.

(ii) Risk Assessment

The recommendation has no implications.

(iii) Financial Implications

The recommendation has no financial implications.

(iv) Health and Safety Implications

The recommendation has significant implications in that the Council is required to have a written statement of Health and Safety policy.

The recommendation has no detrimental impact the built environment or public realm.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

## Barrow Borough Council



# HEALTH & SAFETY POLICY STATEMENT AND MANAGEMENT ARRANGEMENTS

Author:	Safety Adviser	
Approved by:	Health & Safety Management Board 22/10/15	
Version:	V5	
Executive Committee Approval date:		
Review date:		
Version history	Approved	Reasons/comments
V1	1999	
V2	May 2003	Programmed review
V3	06/05/09	Programmed review
V4	14/11/12	Programmed review
V5	22/10/15	Programmed review

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Employees	
Health & Safety Adviser	
Trades Union Safety Representatives	

## HEALTH AND SAFETY POLICY STATEMENT

The Council exists to enhance the economic and social future of the Borough and to meet the needs and aspirations of the community. Health and safety is integral to this vision and our performance.

We are mindful of our obligations under the Health and Safety at Work etc. Act 1974, but our aim is to go beyond what is strictly required by legislation and to strive for continuous improvement.

We will achieve this by:

- recognising that people are our most important assets and that effective health & safety is an investment that helps the Council to achieve its objectives
- demonstrating positive leadership to encourage a positive culture where everyone is aware of their individual responsibilities and is actively engaged
- integrating health & safety into individual's jobs so that they take personal responsibility for their actions and the health & safety of others
- ensuring that people are effectively trained and are competent to carry out their tasks
- consulting and communicating with staff both directly and via trade unions
- actively controlling risks in a consistent and proportionate manner
- monitoring the effectiveness of measures that we take

Phil Huck  
Executive Director  
Date: 22<sup>nd</sup> October 2015

Dave Pidduck  
Leader of the Council  
Date: 22<sup>nd</sup> October 2015

## **HEALTH & SAFETY ORGANISATION AND RESPONSIBILITIES**

This section sets out the broad structure for management and the responsibilities of Members and employees of the Council. These responsibilities are defined in greater detail in health and safety procedures issued through the Health & Safety Management Board.

Everyone should be aware of their own responsibilities. Individuals must take personal responsibility and will be accountable for, their actions.

### **The Council**

The Council, as a body, has general duties and responsibilities as an "employer" under the Health and Safety at Work etc. Act, 1974, and related legislation and for their decisions that may affect health and safety.

In order to meet these responsibilities, the Council will ensure that:

- there is an effective safety policy and management system
- there is visible leadership to develop a positive attitude to health and safety among employees
- there is demonstrable commitment to achieving a high standard of health and safety performance and ensuring that health and safety is an integral part of the overall management culture
- the Executive Director meets his responsibilities for safety, health and welfare
- adequate resources are directed towards achieving these objectives
- appoint a health & safety spokesperson from lead and opposition parties to be members of the Health & Safety Management Board

## **Health & Safety Management Board**

The Health & Safety Management Board drives the health and safety agenda across the Council. It is a strategic body and meets twice every year in April and October. Its purpose is to:

- ensure the health & safety management system remains effective
- monitor the health and safety performance of the Council
- monitor reviews of risk assessments and the implementation of any significant remedial actions
- review and health & safety policies, procedures and practice
- advise management as necessary on their duties in respect of health, safety and welfare

Membership:

Executive Director (Chair)

Director of Resources

Assistant Director Regeneration & Built Environment

Assistant Director Community Services

Assistant Director Housing

Health & Safety Adviser

Union Safety Representatives

Councillors as appointed by the Executive Committee

## **Health & Safety Management Group**

The Health & Safety Management Group ensures manager engagement in health and safety and meets quarterly. Its purpose is to:

- receive Health and Safety performance statistics and discuss any issues that may arise
- provide an opportunity to share best practice
- make recommendations regarding Health and Safety training priorities
- agree a peer review process and timetable and prepare reports/feedback to the Health and Safety Management Board
- discuss any current operational policy issues which may have widespread implications
- refer items to Health and Safety Management Board

Membership:

Health & Safety Adviser (Chair)

All Managers or their representatives

Risk assessors

## **Elected Members**

Council Members have an individual responsibility to keep themselves aware of the Council's Health and Safety policy and to:

- take personal responsibility for their own actions and decisions
- co-operate with the Council so that it can comply with its duty of care
- follow procedures and safe systems of work designed for their protection
- not intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare
- report accidents or any situation, practice or procedure they suspect is potentially hazardous

## **Executive Director**

The Executive Director has ultimate responsibility for the delivery of health, safety & welfare within the Council and will:

- champion and provide visible leadership, and encourage the same from all Members, senior officers and managers, in order to promote a positive attitude to health and safety
- act as a focal point to advise on and embed best health & safety practice within the Management Board
- ensure that health and safety is an integral part of the overall management culture in which health and safety objectives are regarded as linked to other business goals
- ensure that adequate resources are made available to enable health & safety policies and procedures to be effectively implemented
- appoint a competent person to assist the Council to comply with the requirements of health and safety legislation
- ensure the Health & Safety Management Board remains an effective body and fit for purpose
- ensure that Assistant Directors meet their responsibilities for safety, health and welfare
- ensure Senior Officer and Member health & safety competencies.



## **(Assistant) Directors**

(Assistant) Directors have overall responsibility for health, safety & welfare within their Directorate and will:

- provide visible leadership, and encourage the same from managers, in order to promote a positive attitude to health and safety
- ensure that health and safety is an integral part of the overall directorate management culture
- ensure that Managers meet their responsibilities for safety, health and welfare
- ensure that there are health & safety management procedures within their directorate so that risks are effectively identified and assessed, and control measures properly implemented
- ensure that health and safety responsibilities throughout their directorates are delegated to competent, authorised, resourced and trained persons and that these responsibilities are properly assigned, accepted, clearly understood, fulfilled and monitored
- ensure that responsibilities for managing operational and non-operational premises and assets are clearly defined, properly assigned, clearly understood, and accepted
- ensure that employees are consulted regarding any proposed structural alterations, workplace re-organisation, changes in work equipment, staffing levels or work practice likely to have significant implications for their health, safety or welfare

## **Managers**

Managers are responsible for health, safety performance and welfare issues within areas of responsibility, whether relating directly to the activities of the Council or to contractors working on its behalf and will:

- promote a positive health and safety culture in which employees are engaged and can make suggestions for improvement
- demonstrate commitment to achieving a high standard of health and safety performance
- ensure that hazards are identified and risk assessments are effectively carried out, recorded and acted upon
- ensure that any preventative and corrective measures, including written safety procedures, identified by risk assessments are implemented, recorded and monitored as necessary
- ensure that their staff, and any other persons under their control or responsibility, are provided with the necessary information, instruction, training, supervision and equipment and are competent to carry out their work without risk to themselves or others

- ensure that their staff, and any other persons under their control or responsibility, meet their responsibilities for safety, health & welfare
- monitor and supervise staff and others under their control to ensure that work is carried out in a safe manner
- refer any significant health & safety concerns that cannot be resolved within their department to their line (Assistant) Director

## **Supervisors**

Supervisors are responsible for health, safety and welfare performance as delegated to them by their line Manager and will:

- assist their Manager in promoting a positive health and safety culture
- ensure that staff, and any other persons under their control or responsibility, are provided with the necessary information, instruction, training, supervision and equipment and are competent to carry out their work without risk to themselves or others
- ensure that staff, and any other persons under their control or responsibility, meet their responsibilities for safety, health & welfare
- monitor and supervise staff and others under their control to ensure that work is carried out in a safe manner
- refer any health & safety concerns they cannot resolved to their Manager

## **Employees**

All employees have a duty while at work to take care for the health and safety of themselves and others who may be affected by their work. In particular every employee, regardless of seniority will, in addition to any duties outlined above:

- take personal responsibility for their actions and work within their competence
- co-operate with management so that the Council can comply with their duty of care
- follow procedures, guidance and safe systems of work designed for their protection
- not intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare
- check that work equipment is in safe working order before use
- report accidents or any situation, practice or procedure they suspect is potentially hazardous

## **Health & Safety Adviser**

The Health & Safety Adviser is the appointed competent person to assist the Council (under Regulation 7 of the Management of Health and Safety at Work Regulations 1999) to comply with the requirements of health and safety legislation and will:

- have the right of executive action in emergency or situation where there is an unacceptable risk, being accountable to the Executive Director
- advise on the requirements of Health and Safety legislation and good working practice
- maintain a central record of all risk assessments
- provide information and guidance, and carry out audits as directed
- liaise as necessary with the Health & Safety Executive, Police, Fire, and any other statutory bodies and Trade Union representatives
- investigate and report on significant incidents and issues

## **Trades Union Safety Representatives**

Trade Unions may appoint Safety Representatives to represent the interests of their members on health and safety matters.

The functions of Safety Representatives include the following:

- investigate accidents and reports of hazards
- investigate complaints of a health and safety nature made by their members
- discuss health and safety matters with Management
- carry out inspections of the workplace
- receive information from Inspectors of the Health & Safety Executive and similar enforcing authorities
- attend meetings of the Health & Safety Management Board

The Council will arrange for appropriate facilities and assistance to be given to Safety Representatives to enable them to fulfill their functions.

<b>EXECUTIVE COMMITTEE</b>		<b>Part One (D) Agenda Item 20</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Commercial Estate Manager</b>	
<p><b>Title: Woodbridge Haven, Cavendish Dock Road, Barrow-in-Furness</b></p> <p><b>Summary and Conclusions:</b></p> <p>The report details the current position with regard to land at Woodbridge Haven, Cavendish Dock Road, Barrow-in-Furness</p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. To note the report; and</li> <li>2. To authorise the Commercial Estate Manager to let the land on the terms reported.</li> </ol>		

### **Report**

Land at Woodbridge Haven, as shown in **Appendix 5**, was purchased by the Council in 2006. The land was acquired from Associated British Ports as part of the Barrow Marina Village Land Acquisition Programme.

The land, approximately 3 acres, is currently vacant and unused.

Snoozebox Holdings plc. has approached the Council about the land and terms, as detailed in **Appendix 6**, have provisionally been agreed.

As the site is not required in the short to medium term it is requested that the Commercial Estate Manager be given authority to let the land on those terms as reported.

(i) **Legal Implications**

Formal leasehold disposal.

(ii) **Risk Assessment**

The recommendation has no significant implications.

(iii) Financial Implications

Rental income stream for five years.

(iv) Health and Safety Implications

The recommendation has no detrimental impact the built environment or public realm.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

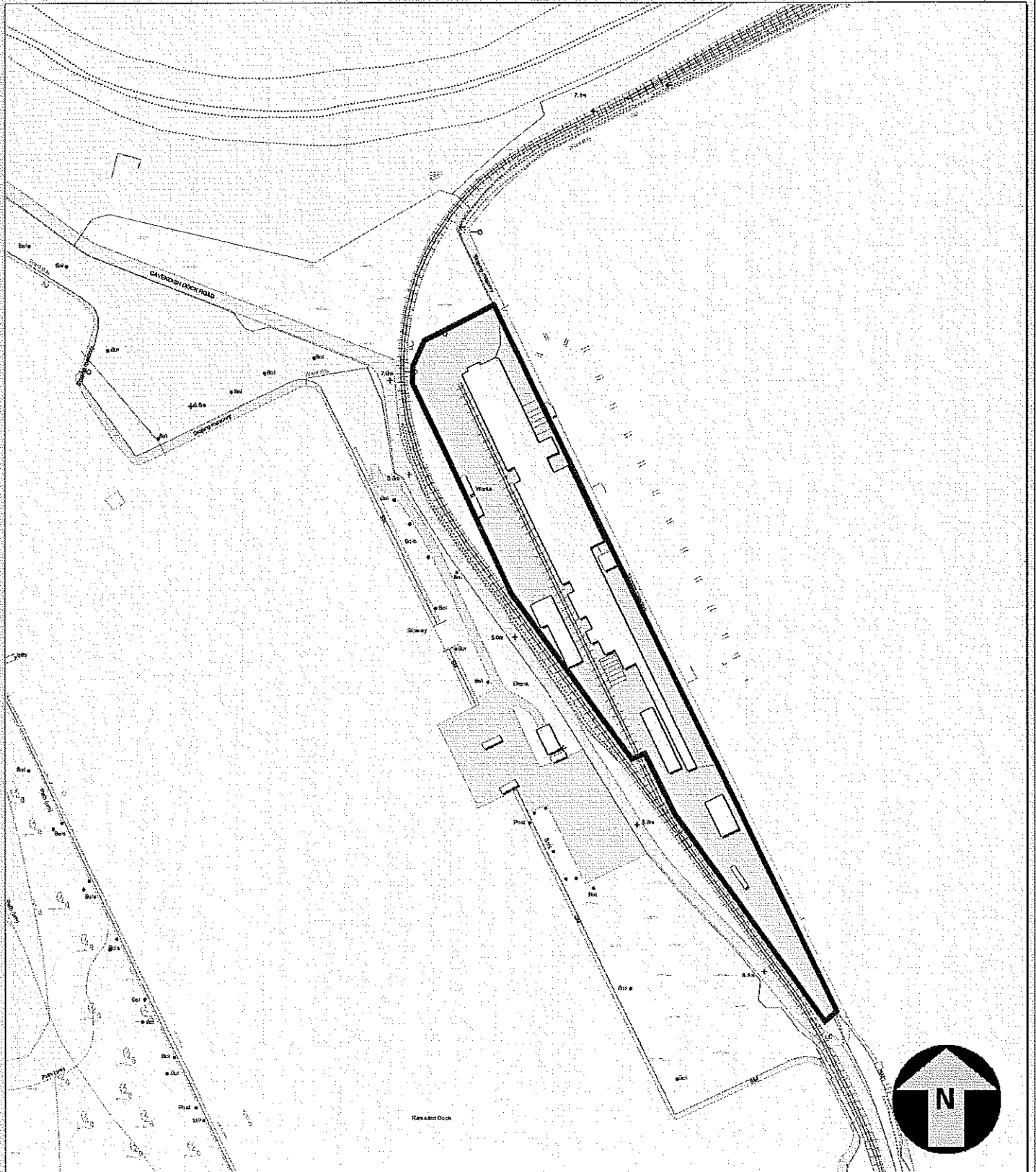
The recommendation has little impact on the Health and Wellbeing of users of this service.

Background Papers

Nil.

# Proposed Lease - Snoozebox

Land at Cavendish Dock Road

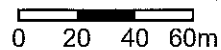


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**LAND ADJACENT CAVENDISH DOCK ROAD  
BARROW-IN-FURNESS**

<b>Landlord</b>	Barrow Borough Council
<b>Tenant</b>	Snoozebox Holdings plc.
<b>Demise</b>	Land at Cavendish Dock Road, Barrow-in-Furness (shown edged red on the attached plan)
<b>Lease Type</b>	Lease.
<b>1954 Act Protection?</b>	No.
<b>Rent</b>	£25,000pa exclusive of VAT payable in advance.
<b>Term</b>	Five years from Practical Completion of the on-site development.
<b>Rent Review</b>	Not Applicable.
<b>Break Clause</b>	Not Applicable.
<b>Rent Free Period</b>	Six months from the commencement of the lease and then £12,500 for the remaining six months. £25,000pa plus VAT thereafter.
<b>Outgoings</b>	The Tenant to be responsible for the payment of all rates, assessments taxes and any other outgoing arising from the Tenants occupation of the land and building including, if any, the provision of gas, electric and water charges. The Tenant shall maintain all boundary fencing and gates.
<b>User</b>	240 Bedroom Snoozebox Hotel and Social Space (Planning Application pending)
<b>Repair</b>	The land to be taken as evidenced at the commencement of the lease and returned, unencumbered, at the expiry of the lease.
<b>Insurance</b>	The Landlord shall have no insuring liabilities associated with the proposed development.

**Alterations**

The Landlords consent shall be required for any alterations or additions to the site beyond those previously agreed in Planning Application Number.....

**Alienation**

The Tenant may not assign or sublet the whole (or part) of the site.

**Costs**

Each party shall meet their own legal costs, even if abortive, in this transaction.

**VAT**

VAT will be charged on the rent, service charge and any other outgoings associated with the property.

**Landlord's Solicitors**

Brown Barron Solicitors, 65 Duke Street, Barrow

**Tenant's Solicitors**

DRAFT



<b>EXECUTIVE COMMITTEE</b>		<b>Part One (D) Agenda Item 21</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Director of Resources</b>	
<p><b>Title: Performance Management Quarter 2 2015-2016</b></p> <p><b>Summary and Conclusions:</b></p> <p>This report sets out the performance management outturn for the period ended 30<sup>th</sup> September, 2015.</p> <p><b>Recommendations:</b></p> <p>Members are invited to consider the performance figures and determine whether further action is required.</p>		

### **Report**

The Council has a performance management framework to help deliver our priorities. The Council's Priorities for 2015 - 2019 are:

1. Housing – the Council is committed to continuing to provide a greater choice of good quality housing and regenerate the oldest and poorest housing in the Borough.
2. Regeneration and Public Realm – the Council is committed to working with partners and service providers to enhance the built environment and public realm
3. Local Economy – the Council is committed to work on mitigating the effects of cuts in public spending, their impact on the local economy and working to secure a long term economic recovery for the community.
4. Service Delivery – the Council strives to provide good quality, efficient and effective services while reducing overall expenditure.

Progress against the objectives for delivering the Council's priorities have been reviewed we are on target against most of the objectives. Revised targets have been set for the following and where necessary target dates have been revised (generally into 2016/17):

- Priority 2.1 “enhanced heritage offer at the Dock Museum” with BAE Systems. This is a significant piece of work and the original target date was ambitious.
- Priority 4.2 “redesign of the website” the design consultant is preparing options based on staff feedback.

Progress against all objectives is attached as **Appendix 7**.

We have identified a number of performance indicators that we will monitor on a regular basis and report quarterly to Management Board and to the Executive Committee.

Targets have been identified based on the data from 2014/15 and they may need to be adjusted as more data is collected.

The outputs are shown in **Table 1**.

The performance against the target is on track for most indicators at the end of the first two quarters. The right hand column which is highlighted shows the cumulative figure for the first two quarters of 2015/16. This can be compared to the left hand column also highlighted which shows the figure for the same period in 2014/15.

There is a significant increase in users at the Park Leisure Centre which is attributable to the introduction of the family membership, the Pirate Cove and Splash Zone.

There is a significant reduction in the NNDR liability on void commercial properties which is mainly attributable to BAE systems occupying part of two floors in Craven House.

There is one indicator where the output is more than 5% below target and this is Forum ticket sales, which are 6.6% lower than target at this point in the year.

There have been delays in receiving local land charge highways information from Cumbria County Council in September. Service delivery discussions are ongoing in order to speed up the highways information process.

The Love Recycling Incentive Scheme launched in October 2015 and the benefits of this will be reflected in the percentage of household recycling in the coming quarters.

**Table 1: Council indicators for quarters 1&2 2015/16**

<b>Indicator</b>	<b>Q1&amp;2 2014/15</b>	<b>July</b>	<b>August</b>	<b>September Q1&amp;2 2015/16</b>
Average time to process new housing benefit claims	<b>17.7 days</b>	<b>16.8 days</b>	<b>16.4 days</b>	<b>16.4 days</b>
(Local) Target		18	18	18
Average time to process new council tax support claims	<b>17.1 days</b>	<b>16.4 days</b>	<b>16.0 days</b>	<b>16.2 days</b>
(Local) Target		18	18	18
Average time to process changes of circumstances for housing benefit claims	<b>5.8 days</b>	<b>5.5 days</b>	<b>5.4 days</b>	<b>5.8 days</b>
(Local) Target		6	6	6
Average time to process changes of circumstances for council tax support claims	<b>5.1 days</b>	<b>5.3 days</b>	<b>5.3 days</b>	<b>5.2 days</b>
(Local) Target		6	6	6
Park Leisure centre activity numbers	<b>127,914 visits</b>	<b>99,463 visits</b>	<b>120,519 visits</b>	<b>144,668 visits</b>
Target		85,517 visits	106,633 visits	127,914 visits
Dock museum visitor numbers	<b>29,307</b>	<b>18,353 visits</b>	<b>24,236 visits</b>	<b>29,007 visits</b>
Target		19,484 visits	26,050 visits	29,307 visits
The Forum ticket sales	<b>20,780</b>	<b>15,992</b>	<b>16,035</b>	<b>19,404</b>
Target		16,781	17,335	20,780
Income from Pay and display ticket sales	<b>£296,000</b>	<b>£200,588</b>	<b>£249,920</b>	<b>£307,205</b>
Target		£190,600	£243,200	£295,800
Percentage of local land charges searches completed in 5 working days	<b>87%</b>	<b>97%</b>	<b>97%</b>	<b>92%</b>
Target		98%	98%	98%
Percentage of council tax collected	<b>56.92%</b>	<b>38.27%</b>	<b>47.32%</b>	<b>56.6%</b>
Target		38.5%	47.5%	56.9%
Percentage of NNDR collected	<b>57.49%</b>	<b>42.05%</b>	<b>48.62%</b>	<b>57.39%</b>
Target		40%	47.2%	57.2%
NNDR liability on void commercial properties	<b>£136,666</b>	<b>£97,700</b>		
Target		£136,000		
Average days of sickness per employee	N/A	<b>4</b>		
Target		6		
Right to buy sales	<b>10 sales</b>	<b>8 sales</b>		
Target		10 sales		

Indicator	Q2 2014/15	July	August	September
High risk premises due for inspection completed for food safety		<b>Reported Annually</b>		
Target		70		
Average household recycling percentage		<b>37.4%</b>	<b>37.3%</b>	<b>37.1%</b>
Target	<b>37.2%</b>	37.10%	36.55%	36.58%
Number of disabled facilities grants		<b>23 grants</b>	<b>25 grants</b>	<b>35 grants</b>
Target	30 grants	22 grants	25 grants	30 grants
Percentage of Planning applications processed; major applications in 13 weeks and others in 8 weeks				
Major	<b>67%</b>	<b>90%</b>	<b>83%</b>	<b>77%</b>
Target		50%	50%	50%
Minor	<b>61%</b>	<b>33%</b>	<b>41%</b>	<b>40%</b>
Target		50%	50%	50%
Other	<b>65%</b>	<b>66%</b>	<b>68%</b>	<b>68%</b>
Target		50%	50%	50%
Supply of ready to develop housing sites - the number of dwellings that can be built on as deliverable housing sites as percentage of housing supply requirement		<b>129%</b>		
Target		100%		

(i) Legal Implications

The recommendation has no implications.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

There are no significant financial implications.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

Progress against Council Priority objectives

## Housing

No.	Objective	Action	Outcome and Progress	Target	Responsible
1.1	Bring empty properties back into use.	Deliver the Clusters of Empty Homes project.	<p>349 properties brought back into residential use by 2017.</p> <p>Progress to date: We have an advanced loan funding of £950k to the owners of 320 flats on Barrow Island. A further £950k will be advanced by the end of the year. The project is on target to refurbish at least 150 flats by the end of 2015/16. At present it is not possible to estimate how many of these will be occupied.</p> <p>Improved properties following group repair scheme.</p>	80 properties	Assistant Director Regeneration and Built Environment.
1.2	Improve the choice and quality of properties in the Town Centre.	Deliver group repair of properties in Rawlinson Street.	<p>Progress to date: Project on site. Anticipated completion date will be December 2015.</p> <p>Improved properties following group repair scheme.</p>	25 properties	Assistant Director Regeneration and Built Environment.
		Establish group repair scheme for Greengate Street.	No progress to date.	2016/17	
		Development strategy for vacant land at Arthur Street.	<p>Assess options for development and present to Members.</p> <p>Progress to date: Exclusivity with Copperplane has ended. Advice is being taken on remarketing the site and options to be considered.</p>	2016/17	

No.	Objective	Action	Outcome and Progress	Target	Responsible
1.3	Adopt the Council's plan.	Publication of preferred options.	<p>Approved planning policies guiding the development and use of land in the Borough.</p> <p>Progress to date: The preferred options were published in June 2015. The draft publication is planned for 2016/17.</p>	June 2015	Assistant Director Regeneration and Built Environment.
1.4	Achieve and maintain the decent homes standard for the Council's housing stock.	Major improvements to dwellings failing the decent homes standard.	<p>The decent homes standard is achieved for all of the Council's housing stock.</p> <p>Progress to date: On target to complete this activity by 31<sup>st</sup> March 2016.</p>	75 properties	Assistant Director Housing.

## Regeneration and Public Realm

No.	Objective	Action	Outcome and Progress	Target	Responsive
		Review the waste collection, recycling and street cleansing strategy.	Strategy for the services will be established which can focus service development. A dedicated contract working group has been established.	March 2016	
		Agree proposals for the crematorium refurbishment.	Refurbished crematorium building and office facilities. Progress to date: The asbestos removal is now complete and building work has begun.	September 2015 Completion March 2016	
2.1	Improve the amenities of the Borough.	Agree enhanced heritage offer for the Dock Museum with BAE Systems.	Enhanced facilities and features for visitors. Progress to date: BAE and the Dock Museum have appointed a consultant for the design and delivery of this project. The consultant is currently designing a visitor survey to be completed for October half term 2015. The project will use the current and October survey data to develop a clear project plan with the Dock Museum and BAE to enhance the visitor experience. Following the completion of the consultants work and a finalised report, the project will have staged targets through 2016.	2016/17	Assistant Director Community Services.



No.	Objective	Action	Outcome and Progress	Target	Responsible
2.2	Improve the streetscape and central courtyard on Barrow Island.	Improve the general streetscape by introducing trees and better quality street furniture. Landscape the central courtyard and areas between adjacent blocks of flats.	Improved streetscape and public realm on Barrow Island funded from the cluster of Empty Homes grant funding.  Progress to date:  A contractor has been selected to carry out the landscaping scheme. This cannot start on site until the refurbishment of the flats is further advanced. Start date and final scope of works are to be agreed, but this should be completed by December 2015.	2016/17	Assistant Director Regeneration and Built Environment.

### Local Economy

No.	Objective	Action	Outcome and Progress	Target	Responsible
3.1	Continue to support the Marina Village development. The Marina Village development remains a long-term aspiration of the Council.	Site assembly of remaining 3 parcels of land.	Site assembly continues as purchases become available, subject to valuations being agreed.	2015-2016 and beyond	Executive Director.

No.	Objective	Action	Outcome and Progress	Target	Responsive
3.2	Support commercial regeneration of Barrow town centre.	<p>Shop front grant scheme delivered.</p> <p>Support town centre partnership and BID process.</p>	<p>Shop fronts and shopping streets improved.</p> <p>Progress to date: It is anticipated that 15 valid applications will be made during 2015/2016. However these may not be approved and paid by 31<sup>st</sup> March 2016. If planning consent is required the process takes 8 weeks and grants are paid when the work is complete. During the winter time there may be delays in exterior painting because of the weather. This can delay the final approval and payment of the grant.</p>	15 shops	Executive Director.
3.3	Support the delivery of BAE Systems site investment programme.	<p>Work with BAE Systems to facilitate the programme.</p>	<p>Progress to date: The Business Improvement District is progressing.</p> <p>Opportunities for the Borough maximised.</p>	2015-2016 and beyond	Assistant Director Regeneration and Built Environment.
3.4	Assist in the delivery of the Barrow Island Growth Scheme.	<p>Work with Cumbria County Council to facilitate the project.</p>	<p>Serviced plots and rate relief incentives on the Waterfront.</p> <p>Progress to date: Cumbria County Council have granted planning permission to commence remediation works and these are likely to start mid-2016. A contractor has been appointed to relocate the allotments.</p>	Commence groundworks 2016/17	Assistant Director Regeneration and Built Environment.

No.	Objective	Action	Outcome and Progress	Target	Responsive
3.5	Support for low income families.	<p>Maintain support for the Council Tax Reduction Scheme.</p> <p>Support discretionary housing payments.</p>	<p>Financial protection for those on low income.</p> <p>Progress to date: The Local Council Tax Reduction Scheme for 2016-2017 was presented approved by Full Council on the 13<sup>th</sup> October, 2015.</p> <p>Financial assistance with housing costs.</p> <p>Progress to date: Maximise DHP funding by assisting all tenants who meet criteria to make application to ensure all relevant information is provided to support their DHP application.</p> <p>Maximise DHP funding by assisting all homeless/potentially homeless persons presenting who meet the criteria to ensure all relevant information is provided to support their DHP application.</p> <p>BBC has 49 tenants currently in receipt of DHP as at 9<sup>th</sup> October, 2015.</p>	September 2015          Throughout 2015-2016	Management Board.

	Support disabled facilities grants.	Support for disabled residents to remain in their homes.  Progress to date: DFGs continue to be delivered in line with our statutory duties. Referrals from Occupational Therapists have been much slower than in previous years (approximately 50% of the equivalent period in 2014-2015). We understand that this is due to changes in CCC internal process and are taking this up with the County Council.	Throughout 2015-2016	
	Monitor the Welfare Reform Action Plan.	Assist Council tenants to mitigate the impacts of welfare reform.	Throughout 2015-2016	
	Facilitate Universal Credit services in partnership with the DWP.	Provide effective services for those claiming Universal Credit.	Throughout 2015-2016	
3.6	As properties become available, the future use assessment will include consideration of the third sector.	Opportunity to make the best use of Council assets for the community.  Progress to date: Exclusivity periods of six months have been offered on 1-5 Lawson Street and 102 Abbey Road to allow third sector organisations to work up proposals for bringing the properties back into use. 1-5 Lawson Street has been offered to 'The Well' – a drug rehabilitation organisation. 102 Abbey Road has been offered to Sonic Zoon Industries CIC – a music-based community interest company.	2015-2016 and beyond	Management Board

## Service Delivery

No.	Objective	Action	Outcome and Progress	Target	Responsive
4.1	Provide future financial sustainability of the Council.	Agree a new Budget Strategy for 2016-2020.	Awaiting the outcome of the Spending Review and Local Government financial settlement.	December 2015	Executive Director.
		Redesign website and landing pages (residential, commercial and visitor).	Improved use of the web site.  Progress to date: Wireframes for the new web design have been developed and circulated. Feedback has been given from the web group and this task is to be completed by the revised target for completion by the end of January 2016.	January 2016	
4.2	Improve the customer experience.	Introduce new online forms for services.	Increase self-service online.  Progress to date: A project to review the use and sustainability of the existing web forms has begun.	September 2016	Management Board.
		Review services available online to increase web usage.	Revised target for completion September 2016. Increase services available online.  Progress to date: The web group under took an exercise to identify the importance and relevance of the service, the information gathered has been used to assist with the wireframe development.	December 2015	

		<p>Introduce online booking for the Park Leisure Centre facilities.</p>	<p>Self-service available to customers.</p> <p>Progress to date:  Online bookings have been implemented and from early analysis of the reports it has been identified that there has been a reduction in the front desk bookings due to the uptake of the online self-service.</p> <p>Customer focussed services.  Consistent service delivery.  Links to web site and Web Strategy.  Review the strategy for:</p> <ul style="list-style-type: none"> <li>• Self-service opportunities;</li> <li>• Telephone services;</li> <li>• Face to face provision.</li> </ul>	<p>June 2015</p>	
<p>4.3</p>	<p>Provide greater flexibility of transparency data.</p>	<p>Implement the Comprehensive Knowledge Archive Network (online database) for transparency publishing.</p>	<p>Progress to date:  This is now complete and published on the website.  Publishing consistency and analysis tools available to users.</p> <p>Progress to date:  CKAN is now fully up and running. It is connected to data.gov.uk and the LGA Data Inventory. There are currently 45 datasets on the portal. Documentation has been produced and training given to some members of staff. The use of CKAN needs to be rolled out to other departments through Management Group.</p>	<p>March 2016</p>	<p>Management Board.</p>

No.	Objective	Action	Outcome and Progress	Target	Responsive
4.4	Measure customer satisfaction.	<p>Review current customer satisfaction data collected in all services.</p> <p>Develop a plan to collect priority service data in relation to customer satisfaction.</p>	<p>Identify areas where information is required and review best practice across the Council.</p> <p>Progress to date: Areas identified and action being taken; this includes the feedback from Development Services open days. Customer satisfaction information will be reported to Members and will be used to develop services around expectations as far as possible.</p> <p>Progress to date: On schedule to be completed by March 2016, awaiting feedback.</p>	March 2016	Management Board.
4.5	Implement the Workforce Strategy	<p>Cascade performance appraisals.</p> <p>Review absence management policies.</p>	<p>Deliver training sessions to managers and supervisors.</p> <p>Progress to date: Managers completing appraisals are on track, the figures will be looked at in December and then action will be taken to encourage managers to complete this by the end of March 2016.</p> <p>Assist management in the control of days lost to sickness.</p> <p>Progress to date: The review of the absence policy was agreed at Management Board and will now go to the Executive Committee in December and full Council on 19<sup>th</sup> January 2016.</p>	From April 2015  December 2015	Director of Resources.

		<p>Carry out second workforce survey.</p>	<p>Survey staff to measure the impact of actions taken from the results of the first survey.</p> <p>Progress to date: The survey is on schedule to be completed by March 2016.</p>	<p>March 2016</p>	
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<b>EXECUTIVE COMMITTEE</b>	<b>(R) Agenda Item 22</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Director of Resources</b>	
<p><b>Title: Members Travelling on Council Business</b></p> <p><b>Summary and Conclusions:</b></p> <p>This report sets out the policy to be applied for Members travelling in their own vehicles on Council business.</p> <p><b>Recommendations:</b></p> <p>To recommend the Council to approve the policy for Members travelling on Council business.</p>	

### **Report**

The HR Department holds a register of staff who use their own car for Council business. This means using their car for work purposes, within working hours, for example:

- travelling to meetings/courses
- visiting other departments, etc.

For each registered member of staff, the following copies of documents are kept on file in the HR Department:

- Driving Licence\*
- Certificate of Motor Insurance\*\*
- MOT Certificate (if applicable)

\* The employee's driving licence (photo card or old paper style) and the DVLA License Summary are required.

\*\* The Certificate of Motor Insurance should state that the driver is eligible to use their car for 'business use' or similar wording.

Without this register in place, the Council may otherwise be authorising staff to drive uninsured, while disqualified, or with an unfit vehicle. Should there be an accident whilst driving on Council business and 'business use' is not included on the insurance policy, then the Council would potentially be liable for a claim made against the corporate insurance policy.

It has been highlighted that the registration policy has not been applied to Members who also travel on Council business. It is proposed that Members adopt the same policy as staff, but that the Members register is held by Democratic Services.

Any claims submitted without being fully registered will be held until the required documents are produced; this must be within one calendar month and provide continuous cover.

It will be Members' responsibility to ensure copies of the above documents are produced on an annual basis (or earlier to confirm change of insurance with a change of vehicle) and have the appropriate business insurance cover.

To ensure the Business Insurance Register is kept up-to-date, Democratic Services will remind those Members who have documents due to expire that month. However, it remains the Members' responsibility to ensure their details are up-to-date.

(i) Legal Implications

The recommendation has no implications.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

There are no significant financial implications.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

<b>EXECUTIVE COMMITTEE</b>		<b>Part One (R) Agenda Item 23</b>
<b>Date of Meeting:</b>	<b>2nd December, 2015</b>	
<b>Reporting Officer:</b>	<b>Director of Resources</b>	
<p><b>Title:     Absence Management Policy and Procedure</b></p> <p><b>Summary and Conclusions:</b></p> <p>The proposed Absence Management Policy and Procedure has been reviewed with the assistance of an external consultant. The policy sets out the Council's approach to the management of sickness absence.</p> <p><b>Recommendations:</b></p> <p>To recommend the Council to approve the Absence Management Policy and Procedure.</p>		

**Report**

The proposed Absence Management Policy and Procedure is attached at **Appendix 8**. The document sets out the Council's approach to the management of sickness absence.

Sickness absence management is a key issue and the wellbeing of employees is one of the priorities of the Council's Workforce Development Plan. The Council has revised the existing policy and procedure with the assistance of an external consultant, redefining the absence triggers and also processes for managing absences.

The proposed triggers which would result in management intervention and possible formal management intervention are as follows:

- 4 spells of absence in any 12 month period
- 2 cumulative weeks absence
- Any levels of absence which show a trend or pattern of absence or cause for concern

The proposed policy will potentially require increased levels of intervention and management from managers, and support and guidance from HR. It is proposed that the external consultant would deliver workshops for managers to provide the skills and knowledge necessary to implement the new policy and procedure.

The following comments have been received from Unison in response to being consulted on the proposed policy:

- Section 3.2 (7<sup>th</sup> paragraph) - refers to managers issuing formal warnings. Unison would like it specifically stated at this point that employees have a right to union representation.
- Section 5.10 (final paragraph) - Unison would like us to add that as well as using Occupation Health's professional medical opinion in making a decision, managers should also consider the opinion of the employees GP.
- Section 5.11.3.1 - examples of reasons for poor attendance are listed (bullying, stress etc.), Unison would like 'mental health issues' to be included in this list.

Management have reviewed and accepted Unisons' comments, and these have been incorporated into the proposed policy and procedure.

Members are asked to recommend that Council approve the Absence Management Policy and Procedure.

(i) Legal Implications

The recommendation has no implications.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

The recommendation has no implications.

(iv) Health and Safety Implications

The recommendation has no significant implications.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

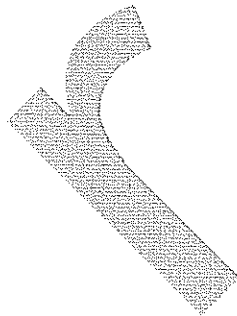
Nil





**BOROUGH OF  
BARROW IN  
FURNESS**

**Absence Management  
Policy and Procedure**



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## 1. Introduction

The Council's absence management policy aims to provide guidance to managers and employees in relation to the management of sickness absence.

It should be noted that sickness absence issues are often complex and unique. Whilst it is important that issues are dealt with in a fair way, the specific interventions used and the timing of those interventions may differ from case to case.

## 2. Policy Statement

The Council recognises its responsibilities in promoting the good health of its staff and that doing so is likely to lead to a workforce who will be more productive and who are better able to lead full and satisfying working lives. The organisation is committed to promoting healthy living for all staff and providing facilities to encourage this.

Examples of this include:

- Providing a professional, confidential Occupational Health Service;
- Risk assessments for known health risks;
- Promotion of good management/working practices;
- Ergonomic assessments to ensure the working environment and equipment used is suitable;
- Regular eye tests for users of display screen equipment;
- The provision of a confidential counselling service.

The organisation recognises that there will always be a certain level of sickness absence. However high levels of sickness and absence have a detrimental effect on the level and quality of service provision, place an additional burden on colleagues at work and often result in increased costs through the use of agency staff and overtime. The Council recognises its responsibilities in monitoring and managing the sickness and sickness absence of its staff in a fair, consistent and supportive manner. In the same way, it recognises that staff have a responsibility to assist in this process by following the procedures within this Policy and Procedure at all times.

The Council recognises the importance of managing sickness in a supportive way and using all possible opportunities to retain staff with underlying health problems so that key skills and knowledge are retained and not lost to the service.

The Council is committed to ensuring that this policy and its application reflect its commitment to equality of opportunity. This means treating people fairly regardless of their age, disability, gender, race, sexual orientation, religion or belief colour. In particular, the Council recognises its responsibility to meet all its legal obligations for managing staff with underlying health issues in line with the Equality Act 2010.

This policy applies to both paid and unpaid sickness absence. Entitlement to occupational sick pay is determined by the conditions of employment under which the member of staff is employed.

All information in relation to staff sickness will be held in accordance with the Data Protection Act, 1998.

### **3. Responsibilities**

#### **3.1. Employees**

Employees should make every effort to maintain acceptable levels of attendance at work. Where appropriate, employees should take advantage of any support identified (either through their own GP, the Council, or another source such as Occupational Health) to ensure satisfactory attendance.

Employees have an obligation to disclose to their manager or any other relevant parties, any medical information that may pose a potential health and safety risk to themselves or others, e.g. if they have been issued with medication that restricts their capacity to carry out their normal working activities.

Employees who are absent due to sickness are responsible for notifying their line manager of their absence (see "Sickness Reporting Procedure") and complying with the requirements relating to self certification and medical certification (see "Recording Sickness Absence").

Employees who sustain an injury during the course of their work duties are required to inform their line manager of this as soon as practicable.

Employees who are absent due to sickness have a shared responsibility with their line manager to maintain regular contact during the period of absence.

#### **3.2. Managers**

Managers are responsible for monitoring absence within their team, conducting return to work interviews with members of their team following periods of absence and taking appropriate action to manage absence levels within their team.

Where an employee sustains an injury during the course of their work duties it is the responsibility of the manager to ensure the Council's Health and Safety Advisor is notified of the injury. This will allow the Council to comply with the RIDDOR requirements.

Managers have a shared responsibility with their employee(s) to maintain regular contact during periods of sickness absence.

Managers have a responsibility to retain information supplied by occupational health in accordance with the Data Protection Act.

Where the level of an employee's attendance is considered to be unsatisfactory, the manager is responsible for reviewing the situation with the employee and providing support as appropriate. Managers should also set review dates and monitor progress accordingly.

Managers are responsible, in conjunction with the HR Department, for referring employees to the Council's occupational health provider. Managers are also responsible for determining the feasibility of any adjustments suggested by the occupational health provider in the context of their Section or Department.

Managers are responsible for implementing formal Sickness Review Meetings and may issue formal warnings through this process. The employee has the right to be accompanied to the meeting by an accredited trade union representative or a colleague. Case Review Hearings, which could result in the dismissal of an employee on the grounds of ill health, must be chaired by a member of the Management Board.

Managers are responsible for seeking advice and guidance from the HR Department where necessary to ensure that each case is dealt with appropriately. This will also help to ensure that all employees are treated fairly and consistently.

### **3.3. HR**

The HR Department is responsible for ensuring that managers and staff are provided with advice and guidance in relation to the management of sickness absence.

In conjunction with managers, the HR Department is responsible for referring employees to the Council's occupational health provider.

A member of the HR Department will be available to advise in all formal stages of the process i.e. Sickness Review Meetings, Formal Attendance Hearings and Case Review Hearings.

The HR Department will be responsible for monitoring the implementation of the guidance and reviewing the Policy and associated guidance periodically to reflect changes in legislation and/ or best practice.

### **3.4. External Services**

The Council engages the services of P&MM to provide a 24/7 telephone care and advice line which offers counselling support for employees. Further information on this service can be obtained from HR section on the Council's Intranet or from the HR Department.

The Council engages the services of an occupational health provider in order to obtain specialist advice and guidance in managing sickness absence cases. Advice may be sought from the occupational health provider in relation to an employee's fitness to work or adjustments required to support an employee to remain at work. It may also be used to gain advice on the eligibility of an employee to receive early payment of LGPS pension benefits due to ill health.

## **4. Promoting Good Health, Managing Health and Safety and Risk**

All managers have a responsibility to promote good health for their staff and to identify and remove significant risks to staff from their work and their working environment.

All staff have a responsibility to follow all the guidance given to them and not to place themselves or others at risk as a result of their actions.

All managers and staff must follow the Health and Safety Policy, procedures and advice of the Council. It is the responsibility of all staff to report any risk or potential risk to their manager and/or via the incident reporting system.

## **5. Absence Management Procedure**

### **5.1. Sickness Reporting Procedure**

The Council has a standard notification time of 10am for office based employees, by which employees who are unable to attend work due to sickness must notify their manager. For employees who work on a shift or fixed hour basis, notification must be made before the start of the employee's shift. Managers have a responsibility to communicate this information and to ensure that all their employees know and understand these rules.

All employees, who are unable to attend work because of illness, should notify their manager within the agreed time for their particular service area by telephone (unless there is a

substantial and acceptable reason preventing notification). Staff must notify their manager of the nature of their sickness and of the likely duration of their sickness. The first part of the 'absence notification and return to work form' can be used to record details of the initial absence notification (see Appendix 1).

After the initial notification, contact with their manager should then be maintained by the employee at regular subsequent intervals (see "Maintaining Contact During Sickness" for further guidance).

On the fourth day of absence, the employee should contact their manager with an update of their progress to date and their expected date of return to work.

### **5.1.1. Sustaining Injury / Ill Health Through Work Activities**

Employees have a responsibility to report all accidents or incidents at work and any work-related ill health to their manager at the earliest opportunity. The manager will share this information with the Health & Safety Adviser to ensure that the Council complies with its duties under RIDDOR.

### **5.1.2. Manager's Responsibility to Advise HR of Special Cases**

In some circumstances it is important that the HR Department is advised of an employee's sickness absence prior to their return to work. A proforma has been developed for managers to use (see Appendix 2) and this should be completed and sent to HR in the following circumstances:

- Where the employee is absent due to work related stress – on the first day of absence;
- Where the employee is absent due to a work related accident - as soon as the manager becomes aware of the absence (this will ensure that the Council meets its obligations to report certain incidents under Health and Safety legislation);
- For all other absences - on the 8th continual day of an employee's sickness absence (this will allow HR to assess the case and provide relevant advice to the manager);

### **5.2. Employee Availability During Sickness Absence**

Employees should be available and contactable during their normal contractual hours. This is in order that they can provide regular updates to their manager, attend appointments with occupational health and, if necessary, receive follow up telephone calls from occupational health.

### **5.3. Maintaining Contact During Sickness**

Maintaining contact between the Council and an absent employee is a shared responsibility. It is particularly important in cases of long-term sickness.

Employees and their managers are required to keep in regular contact throughout the period of absence. This is so that the employee can report progress and confirm when they will be returning from a period of sickness absence in advance of the expected return date. Managers will need to maintain a reasonable level of contact with the employee during absence to discuss return to work arrangements and to talk through any occupational health recommendations.

Where an employee is experiencing a period of sickness absence, they and their manager should agree the method and frequency of contact to reduce uncertainty and manage the

expectations of both parties. It may be helpful to document and share any agreement so that both parties have a clear understanding of the standard of contact agreed.

The method and frequency of contact may vary from case to case and be dependent on issues such as the nature of the illness and key dates such as specialist appointments. As a general guide it is suggested that contact be maintained on a minimum frequency of two weeks.

#### **5.4. Recording Sickness Absence**

Accurate records are not only mandatory for statutory sick pay but are essential for monitoring sickness absence.

On returning to work, the employee must provide details of their absence (see the template in Appendix 3), and this information will be gathered during the return to work interview.

For absences of more than 7 calendar days, employees are required to obtain a Statement of Fitness to Work detailing the reason for absence and signed by a registered medical practitioner. These certificates must be signed by the employee and medical practitioner at the time of the sickness and include the date when seen by the GP, as well as the period of time the employee needs to refrain from work. The certificate should be forwarded to the employee's manager. Managers should forward certificates to the HR Department. All certificates will be treated as confidential.

The manager should conduct a return to work meeting with the employee (see section titled "Return to Work Interview" for more details) and keep documentary evidence of this (see Appendix 2 and 3).

##### **5.4.1. Statement of Fitness to Work**

The 'Statement of Fitness to Work' allows GPs to advise the Council that an employee is 'unfit for work' or 'may be fit for work'. The aim of the statement is to give employees and the Council more useful back-to-work advice to assist in managing sickness absence. A GP may be able to suggest ways of helping an employee get back to work. This could include a phased return to work, adjustments to hours of work or duties, or workplace adaptations. The GP can also provide written comments such as how the employee's medical condition is likely to affect different aspects of their work.

The Council will use the information provided on a Statement of Fitness to Work in order to manage the sickness absence of an employee. Where more detailed advice is required, a referral to the Council's occupational health provider should be considered. See the section titled "Occupational Health Interventions" for more details.

#### **5.5. Unauthorised Absence and Failure to Follow Sickness Reporting Procedures**

Unauthorised absence is when an employee is absent from work for no apparent reason and fails to explain this absence and the reason for it within a reasonable period of time, i.e. on the first day of absence. It includes situations where staff are absent from the normal workplace during working hours without the prior permission of their manager.

Failure to supply either a self certificate and/or a medical certificate covering the entire period of absence or complying with the reporting procedures may lead to the withholding of pay. The Council will not accept backdated certificates from GPs unless there are substantial and acceptable reasons why certificates could not have been obtained at the time of sickness.

Failure to notify the relevant manager of any period of absence will be regarded as potential misconduct and the manager will decide whether to suspend pay immediately. The matter will be investigated in line with the Disciplinary Procedure.

Failure to comply with sickness reporting procedures will be viewed as unauthorised absence and therefore treated as misconduct. All such matters will be investigated in line with the Disciplinary Procedure.

Managers have a responsibility to investigate self certified absence where they doubt the reason for the absence. HR can provide advice and support about how to manage this situation.

## **5.6. Sickness Absence and Holiday Entitlement**

Where an employee becomes ill during a period of annual leave, the Council will re-imburse the affected period of leave providing the employee submits a medical certificate to cover their illness.

During periods of long term sickness absence employees will be entitled to continue to accrue holiday entitlement. Having returned from a period of long-term sickness absence, the employee and their manager should discuss when the leave will be taken. If an employee is unable to use their accrued annual leave before the end of the annual leave year, they may be permitted to carry the leave over to the next year and should seek permission for this from their manager at the earliest opportunity. Further discussions as to how the annual leave will be managed should also take place between the employee and their manager.

## **5.7. Return to Work Interviews**

The manager should complete a return to work interview with the employee as early as possible on the day they return from sickness absence. The aim is to be supportive and helpful, and show that sickness absence is taken seriously. The meeting should cover the following points:

- a welcome back and check on how the employee is;
- discuss the absence – confirm the reason, check the employee has recovered, identify whether there are likely to be any relapses in future etc;
- discuss any actions needed on the part of the employee or the manager to support the employee in maintaining regular attendance at work. If there is an underlying absence pattern, a sensitive discussion about what might be causing this;
- to bring them up to date on what has happened while they have been away.

In discussing issues with the employee the manager should always be prepared to listen and take remedial action if poor working practices or environments are believed to be contributing to sickness absence. Managers should also keep in mind that medical information is a personal matter and staff may not wish to discuss it in detail.

Notes of the return to work interview should be taken by the manager and retained for future reference.

Employees who have been absent for a reason which they are uncomfortable about speaking to their manager about should contact the HR Department for advice.

Further guidance for managers in relation to preparing for a return to work interview can be found at Appendix 2.

A proforma absence notification and return to work interview record can be found at Appendix 3.

## **5.8. Monitoring Sickness Absence**

Managers have a responsibility to consider all the possible factors which may influence the level of sickness absence and, acting on advice and support from HR and occupational health, take actions to improve sickness absence rates.

Managers have a responsibility to monitor the sickness absence levels of their staff. As part of this, they should review the sickness absence records of their staff on a regular basis and identify where there appear to be patterns of sickness absence that reaches one of the trigger points as detailed below.

## **5.9. Key Trigger Points for Management Action**

The Council has agreed the following trigger points which, when reached by an employee, require managers to take an appropriate management response:

- 4 episodes of absence in a 12-month period;
- 10 working days' absence in a 12-month period;
- any levels of absence which show a trend or pattern of absence or cause for concern.

Each time an employee reaches a trigger point, the manager should discuss the case with a member of the HR Department and agree the management response to maintain consistency. In some cases a short discussion with the employee to explore the reasons for their absence may be sufficient, or a referral to the Council's occupational health provider might be appropriate. In other cases, the manager may inform the employee that they will monitor their absence over a specified period and, if the pattern continues, they will seek further advice from occupational health and HR.

## **5.10. The Role of Occupational Health**

The role of the occupational health provider is to provide a professional assessment of the physical and psychological health of employees in order to enable managers to make decisions about operational service delivery and the ability of any employee to undertake the tasks required of their job. It is the manager's role to consider the advice from occupational health and to decide on and implement the appropriate actions, with advice from HR. The occupational health provider will not disclose any medical information without the express permission of the member of staff concerned. However all employees have an obligation to disclose to their manager or any other relevant parties, any medical information that may pose a potential health and safety risk to themselves or others, e.g. if they have been issued with medication that restricts their capacity to carry out their normal working activities.

In situations where there are concerns with attendance and / or performance due to an underlying health issue, the manager will refer the employee to the occupational health provider. The employee's consent to the process is required and so the referral must be discussed with her/him beforehand to ensure that s/he understands the reasons for it and is willing to provide her/his consent.

The occupational health provider will respond to questions posed on the referral form by the employee's manager. This could include advice on whether there is an underlying health problem which relates to the sickness absence for which the employee was referred. They

can also advise the manager on fitness to return to work and whether the employee is likely to be able to maintain sustained attendance at work or the likely timescale for sustained attendance to be achieved. If appropriate they will also advise on any working restrictions on the employee and suggest any reasonable adjustments or modifications (in line with the Equalities Act 2010), either temporary or permanent, that would enable the employee to return to work and sustain an acceptable level of attendance.

It is not the role of the occupational health provider to agree and implement a resolution to the non-attendance whether health-related or not. The occupational health provider simply provides a professional medical opinion. It is the responsibility of the manager (with advice and support from HR) to ensure that the appropriate steps are taken in the light of the occupational health advice, consideration of any GP opinion, and in consultation with the employee and their representative.

### **5.10.1. Occupational Health Interventions**

The following circumstances require the manager to contact the HR Department to review whether a referral to Occupational Health is appropriate:

- 28 days continuous absence (including weekends), with no immediate or known prospects of return to work;
- where a serious and potentially long-term illness or injury is reported (e.g. back injury, clinical depression, stress etc.);
- where it has been reported that the absence is due to identifiable work-related issues.

### **5.10.2. Referring an Employee to Occupational Health**

The most common type of referral is related to an employee's fitness to work. This type of referral is often made when an employee is absent and is used to assess whether s/he has an underlying medical condition and to seek advice on his/her ability to return to work and/or maintain an acceptable level of attendance in the workplace.

Referrals can also be made to support employees who are at work. An example of this could be a referral relating to an ergonomics issue.

It is also possible to use a referral to gain advice on whether an employee meets the requirements of the Local Government Pension Scheme to be awarded early retirement on the grounds of ill health.

Managers who believe an occupational health referral may assist them in managing the sickness absence of a member of their team should discuss their thoughts with a member of the HR Department in order to agree whether a referral is appropriate.

In order to refer an employee to the occupational health provider, the manager (with advice and guidance from HR) will complete the appropriate proforma with details of the employee including their sickness absence history, background information to their case and details of the advice being sought from the occupational health provider. It is usual practice to send a copy of the employee's job description with the referral.

Having completed the referral form, the manager should meet with the employee on a one-to-one basis to explain the referral process and offer an opportunity for him/her to raise any questions or concerns. Where a meeting is not possible (e.g. where the employee is absent and is unable to meet with their manager), this discussion should take place by telephone. The manager should also take the opportunity to make the employee aware of what may



happen once the occupational health advice has been obtained e.g. that they may consider setting up a formal meeting to review their case. The type of review meeting will depend on whether the employee is experiencing short-term or long-term sickness. Further details of these meetings are contained in later sections of the guidance titled "Managing Persistent Short Term Sickness Absence" and "Managing Long Term Sickness Absence".

Once completed, the referral form should be sent via HR to the occupational health provider, who will then contact the employee in order to make an appointment for them to be seen by an occupational health nurse or doctor. Following this appointment, the occupational health provider will send a report to the HR Manager to answer the questions raised in the referral. The HR Manager will discuss the contents of the report with the manager of the employee, to determine what further action, if any, is necessary.

## **5.11. Managing Persistent Short Term Sickness Absence**

This is where an employee has a pattern of short-term sickness absence which has met one of the Council's trigger points. There may or may not be an underlying medical reason.

It should be noted that sickness absence issues are often complex and unique. Whilst it is important that issues are dealt with in a fair way, the specific interventions used and the timing of those interventions may differ from case to case. The following procedure is provided for guidance purposes.

### **5.11.1. Informal Process**

Wherever possible, an informal approach will be the first step to help, guide or advise an employee about improving their attendance. This may take place in return to work interviews or in separate informal meetings arranged by the employee's manager.

The purpose of any informal meeting is to identify and examine any areas of concern, and to make sure that the employee clearly understands the future expectations of the Council in relation to their attendance at work.

Managers should keep a note of any meetings and retain them for future reference.

Ongoing monitoring should be undertaken by the manager to establish whether the required improvement has been achieved. If not, it may be appropriate to enter into a formal process.

### **5.11.2. Gaining Occupational Health Advice and Considering Reasonable Adjustments**

Prior to taking formal action it would be usual for a manager to seek advice from the Council's occupational health provider in order to establish whether the employee has an underlying medical issue that is contributing to their levels of absence. Where an employee is found to have a medical condition which could constitute a disability as defined by the Equalities Act 2010, reasonable adjustments should be considered to ensure that the Council acts in a non-discriminatory way.

### **5.11.3. Formal Process**

It is essential that the Council deals with frequent and persistent short term absence promptly, fairly and consistently to demonstrate to all employees that it regards absence as a serious matter. It is appropriate to use the formal process where informal approaches have failed to achieve the desired improvements in attendance, or where informal action is deemed not to be appropriate in the circumstances of the case.

It would be usual for the formal process to be followed in the order detailed below. However, where an employee has reached the desired improvement in attendance following one of the

three formal meetings but whose level of sickness absence becomes unacceptable again within 3 months of the formal meeting, the Council reserves the right to enter the formal management process at the point it ended previously. For example where the employee has attended a 2<sup>nd</sup> formal sickness review meeting and maintains the required level of attendance for the 3 months following the meeting, but then experiences sickness absence shortly after the end of the review period, they could be called to attend a 2<sup>nd</sup> formal sickness review meeting again, rather than going back to the start of the process.

#### 5.11.3.1. **Formal Process – Stage 1 Sickness Review Meeting**

The purpose of the meeting is to review the level of sickness absence with the employee and seek ways to achieve more acceptable levels of attendance.

The employee has the right to be accompanied to the meeting by an accredited trade union representative or a colleague.

The manager should try to identify the cause of the absence and discuss ways to reduce further absence with the employee. This would normally include:

- A review of the employee's attendance record over the last 12 months and the reasons for their sickness absence;
- An opportunity to discuss whether the absences are linked to an underlying medical issue;
- Discussion about whether the employee has asked for or received any support e.g. from their GP, hospital doctor, counsellors;
- Discussion about whether any sickness problems may be work-related and, if so, any adjustments that would help the employee to achieve an acceptable level of attendance at work.

It may be that the absences are not related to ill health. Examples of non-health related issues that may cause poor attendance can include bullying, domestic abuse, stress, caring responsibilities, relationship problems and mental health issues. The issue may be short or long term in nature and this may dictate the level of discussion e.g. a short-term childcare issue arising from the breakdown of a formal arrangement may be identified and the employee may advise the manager that the issue will be resolved within a short period of time once a new childcare provider has been found. In this situation, little further discussion is needed. The manager needs to be constructive in looking at ways in which they and the Council can assist the employee to deal with their issues whilst at the same time making it clear that the employee has a contractual obligation to attend work on a regular basis.

Where occupational health advice has suggested that the absences are linked to an underlying medical problem that meets the definition of a disability under the Equalities Act 2010, the manager and employee should discuss any reasonable adjustments that could be put in place to support the employee to achieve an acceptable level of future attendance at work. Advice can also be obtained from the HR offer an opportunity for him/her to raise any questions or concerns.

If an employee suggests their absences are linked to an underlying medical condition and advice from the Council's occupational health adviser has not already been sought, the manager should make a referral as soon as possible. It may be appropriate to adjourn the meeting and re-convene it once the occupational health advice has been obtained.

During the meeting, the manager will advise the employee of the improvements required in relation to their attendance and the consequences of failing to achieve these. A reasonable

timescale (usually 3 months) will be set and regular review meetings will be scheduled to assess progress against the required improvements. The manager may also consider the following actions:

- Other support mechanisms as identified in the meeting such as reasonable adjustments or other forms of support;
- The employee may be issued with a verbal warning. This reflects the fact that the employee has an unacceptably high level of sickness absence and in no way implies that the periods of absence are not considered to be genuine.

The manager will send written confirmation of the outcome of the review meeting and a copy will be placed on the employee's personal file.

Where a verbal warning has been issued, this will be 'live' for a period of 6 months and may be taken into consideration at a further stage in this process during that time. The employee has the right of appeal against the verbal warning. Please see the section titled "Appeals" for further information.

#### **5.11.3.2. Formal Process – Stage 2 Sickness Review Meeting**

A second meeting should be set up if the employee's sickness absence level continues to be unacceptable despite the earlier formal meeting. In convening a second meeting it is not necessary to wait until the end of the timescale set in the first meeting to elapse, providing there is evidence to show that absence levels have failed to improve.

The second review meeting will re-confirm the issues discussed at the first review meeting and seek to identify the reasons for the employee's failure to achieve the required level of attendance.

The employee has the right to be accompanied to the meeting by an accredited trade union representative or a colleague.

The manager will advise the employee of the improvements required in relation to their attendance and the consequences of failing to achieve these. A reasonable timescale (usually 3 months) will be set and regular review meetings will be scheduled to assess progress against the required improvements. The manager may also consider the following actions:

- Other support mechanisms as identified in the meeting such as reasonable adjustments or other forms of support;
- The employee may be issued with a written warning. This reflects the fact that the employee has an unacceptably high level of sickness absence and in no way implies that the periods of absence are not considered to be genuine.

The manager will send written confirmation of the outcome of the review meeting and a copy will be placed on the employee's personal file.

Where a written warning has been issued, this will be 'live' for a period of 12 months and may be taken into consideration at a further stage in this process during that time. The employee has the right of appeal against the written warning. Please see the section titled "Appeals" for further information.

#### **5.11.3.3. Formal Process – Stage 3 Sickness Review Meeting**

A third meeting should be set up if the employee's sickness absence level continues to be unacceptable despite the earlier formal meetings. In convening a third meeting it is not

necessary to wait until the end of the timescale set in the first meeting to elapse, providing there is evidence to show that absence levels have failed to improve.

The third review meeting will re-confirm the issues discussed at the first and second review meetings and seek to identify the reasons for the employee's continuing failure to achieve the required level of attendance.

The employee has the right to be accompanied to the meeting by an accredited trade union representative or a colleague.

The manager will advise the employee of the improvements required in relation to their attendance and the consequences of failing to achieve these. A reasonable timescale (usually 3 months) will be set and regular review meetings will be scheduled to assess progress against the required improvements. The manager may also consider the following actions:

- Other support mechanisms as identified in the meeting such as reasonable adjustments or other forms of support;
- The employee may be issued with a final written warning. This reflects the fact that the employee has an unacceptably high level of sickness absence and in no way implies that the periods of absence are not considered to be genuine.

At this stage the manager must also advise the employee that no significant improvement in their level of absence will result in a Case Review Hearing that may lead to their dismissal.

The manager will send written confirmation of the outcome of the review meeting and a copy will be placed on the employee's personal file.

Where a final written warning has been issued, this will be 'live' for a period of 12 months and may be taken into consideration at a further stage in this process during that time. The employee has the right of appeal against the written warning. Please see the section titled "Appeals" for further information.

#### **5.11.3.4. Formal Process – Case Review Hearing**

If, having been through the stages 1, 2 and 3 of the formal process and associated improvement plans, the sickness absence of the employee remains at an unacceptable level, a case review hearing will be convened. This hearing will be chaired by a member of the Management Board.

The employee may be accompanied to the meeting by an accredited trade union representative or a colleague. The manager who has managed the employee through the earlier stages of the process should also attend this meeting to present their case. An HR adviser may attend the meeting in order to provide advice to the Management Board member.

The purpose of the case review hearing is to consider whether there are further actions that can be taken by the Council to assist the employee in continuing their employment.

If the Management Board member concludes that the employee and the process have been managed fairly, that the required level of attendance is fair and achievable and that the employee has been given all reasonable opportunity to improve to an acceptable standard but failed to do so, s/he will be able to consider action including the ability to terminate the employee's employment, with the appropriate contractual notice, for failure to meet an acceptable level of attendance.

If the Management Board member concludes that sufficient reasonable opportunity has not been given to the employee, s/he can agree one further and final review period during which the employee will be required to achieve the required acceptable level of attendance. Failure to achieve the required improvement would result in a further case review being held.

In reaching his/her decision, the Management Board member will consider such issues as:

- The impact of the employee's absence on service delivery;
- The employee's absence record;
- The actions that have been taken to support the employee in trying to improve their attendance;
- Advice received from occupational health and, where applicable, the employee's own GP or specialist;
- Any further comments/explanation from the employee.

The employee will be informed of the decision and their right of appeal in writing within 5 working days of the hearing. Please see the section titled "Appeals" for further information.

## **5.12. Managing Long Term Sickness Absence**

Long term sickness absence is absence which lasts for a period of 10 working days or more. Long term sickness cases are often linked to an underlying medical reason; however this may not always apply.

It should be noted that sickness absence issues are often complex and unique. Whilst it is important that issues are dealt with in a fair way, the specific interventions used and the timing of those interventions may differ from case to case. The following procedure is provided for guidance purposes.

### **5.12.1. Maintaining Contact**

During a period of long term absence it is important for contact to be maintained between the manager and the employee. See the section titled "Maintaining Contact During Sickness".

### **5.12.2. Gaining Occupational Health Advice**

It would be usual for a manager to refer an employee to the Council's occupational health provider once the employee has had a continuous absence (includes weekends) of 28 days with no immediate or known prospects of return to work.

The occupational health referral can be used to identify whether the employee's absence is related to an underlying medical condition and the likely length of the employee's absence. Where an employee is found to have a medical condition which could constitute a disability as defined by the Equalities Act 2010, reasonable adjustments should be considered to ensure that the Council acts in a non-discriminatory way.

Where the occupational health advice suggests that a return to work is likely within the foreseeable future, it may be appropriate for the manager and employee to meet to plan for the return to work, rather than entering into the formal process.

Where a prospect for return to work is known for example in the case of a broken leg an occupational health review may not be considered necessary and in some circumstances it may still be useful to request an occupational health review to seek any advice on reasonable adjustments which may assist during any period of rehabilitation. Each case should be considered in its specific circumstances.

### 5.12.3. Formal Process

It is essential that the Council deals with long-term absence in a fair and consistent way to demonstrate to all employees that it regards absence as a serious matter. It is appropriate to use the formal process where there is evidence to suggest that the employee is unlikely to return to work in the foreseeable future.

#### 5.12.3.1. Formal Process – Sickness Review Meeting(s)

Having gained advice from occupational health the manager should arrange a formal meeting with the employee. The employee has the right to be accompanied to the meeting by an accredited trade union representative or a colleague.

The purpose of the meeting is to discuss the occupational health advice and from this, the prospects and timescale for employee's return to work and/or ability to maintain an acceptable attendance level in the future. This will include, if appropriate, the consideration of which of the options below are most appropriate for the employee in the light of the occupational health advice. A reasonable timescale should be set to explore the appropriate options and sufficient time should be given for the employee to consider the options. The employee should be informed in writing of the actions to be pursued and the timescale over which they would be considered.

Normally the following options would be considered in the order that they are listed below:

- a) return to / continuation in existing post;
- b) return to / continuation in existing post with reasonable adjustments;
- c) redeployment to another post within the Council;
- d) phased return to work (which could be used in conjunction with a, b or c above);
- e) application for ill-health retirement;
- f) dismissal on health grounds.

More detailed advice on these options is contained below. Advice and support in pursuing these options is available from the HR Department.

If options a – e above are not feasible and dismissal on the grounds of ill health may be the only option left to the Council, the manager should ensure that the employee is made aware of this fact at the earliest possible opportunity.

Given the time that it may take for a clear diagnosis of the employee's condition, or for a review of the effectiveness of any treatment, it may be that a number of formal stage 1 meetings will need to occur before final advice is given by occupational health and before a final set of actions in line with the options above can be implemented. Whilst the Council will take all reasonable steps to assist employees to return to work, it is not possible to wait indefinitely for an employee's condition to improve. These meetings should therefore set a date for return, subject to an employee's fitness to do so. Whilst each case will be judged on its particular circumstances, managers should endeavour to ensure that appropriate action in line with the options above is actioned as soon as possible.

#### a) Return to Existing Post

This may be with a phased return to work – see below. In these circumstances, a manager may consider setting a monitoring period and have a formal meeting with the employee and their representative to consider this.

#### b) Return to Existing Post with Reasonable Adjustments

Adjustments may include changes to the hours, duties or location of the role, the use of particular equipment or improving access or facilities. Such adjustments can be made on a temporary or permanent basis.

The manager will need to assess whether these changes can reasonably be accommodated without having a detrimental effect on the service.

As part of the consideration of such adjustments, further specialist advice may be sought from the Occupational Health Service or outside organisations such as the disability advisory service offered by Access to Work, the RNIB or the Shaw Trust. This additional advice may be referred from occupational health or approached directly by the manager.

Managers may wish to take advice from HR on what adjustments would be reasonable in a given situation.

As above, in these circumstances, a manager can set a monitoring period, and arrange a formal meeting with the employee and their representative to consider this.

c) Redeployment

If it is not possible for the employee to return to their post either with or without adjustments, the manager should consider redeploying them into another post where it is mutually agreed. This would relate to existing posts within the Council which become vacant but would not require the Council to create a post specifically for the purposes of redeployment.

When considering redeployment, advice from the occupational health provider can be obtained in relation to the tasks the employee is capable of undertaking and on the type of posts that the employee would be fit to be redeployed into. It is also important to consult the employee on such matters.

The manager would then set a timescale (usually up to 12 weeks) during which redeployment would be sought for the employee. During the redeployment search period the employee would have priority status and be considered before other applicants for a post (other than other candidates with priority status for either health or redundancy reasons).

If a suitable redeployment opportunity is identified, it may be appropriate to offer a trial period of up to 4 weeks. This will allow both the employee and the Council to see if the post is suitable.

Employees who refuse to consider or accept a suitable redeployment opportunity should note that this may limit the Council's ability to continue their employment.

d) Phased Return to Work

Where an employee is returning to their own post (with or without reasonable adjustments) or is being redeployed into another post, the occupational health provider may advise that they should return on a phased return to work, where their hours are increased week by week until they reach the level of their usual contractual hours. Advice from the HR Department should be obtained in order to ensure fair and consistent treatment of all employees.

The phased return to work arrangements can be agreed to be in place for anytime between 2 – 4 weeks. It would be unusual for a phased return programme to exceed 4 weeks.

During formal 'phased return to work' arrangements (up to 4 weeks) the employee will suffer no financial detriment by returning to work on this basis, providing that they adhere to the agreed arrangements and remain at work for the duration of the programme.

If the employee has pre booked annual leave during a phased return programme, the phased return arrangement will be reviewed on the employee's return from annual leave and may be extended by a period of time equal to the period of annual leave.

If sickness absence occurs during a phased return programme sick pay entitlements will be triggered. On the employee's return to work the phased return arrangement will be reviewed and continued, extended or ended as appropriate.

Where a phased return of more than 4 weeks is agreed, for the additional weeks (i.e. above 4) the employee will be expected to use annual leave to cover the shortfall between the reduced hours being worked and their usual contracted working hours, or receive reduced pay. In exceptional circumstances, Management Board can agree to an extension of the period of full pay received during a phased return.

In the event of an unsuccessful phased return, or the necessity of a second phased return arrangement in a rolling 12 month period it will be up to the employee's manager in discussion with HR to consider how any further phased return to work programmes are supported in terms of paid / unpaid time. In using their discretion they will take into account the following factors:

- an employee's service and previous attendance record;
- the length, success / failure of a previous phased return programme during the last 12 months;
- the level of occupational sick pay that they are receiving;
- the particular circumstances and nature of the case;
- whether longer term adjustments are required rather than a further phased return.

e) Application for Ill-health Retirement

Where it has not been possible for an employee to return to work at the Council in any capacity and where the employee belongs to the Local Government Pension Scheme (LGPS) and has the required length of membership of the pension scheme, consideration should be given to supporting the employee in an application for ill-health retirement.

The Local Government Pension Scheme (Administration) Regulations 2007 introduced a three tier provision for ill health, and applications will need to meet specific criteria at one of the levels. For further information regarding ill health retirement, employees and Managers should seek advice from an HR adviser or the pensions administrator.

If the application for ill-health retirement does not meet the requirements of any of the three tiers, depending on their circumstances it may be possible for the employee to consider options of voluntary early retirement or other retirement options as an alternative to dismissal. Advice in relation to this area should be obtained from an HR adviser.

**5.12.3.2. Formal Process – Attendance Hearing**

The Council will only consider dismissing an employee on the grounds of capability due to ill health when it has considered all the available facts and medical reports, and where the appropriate options of returning to their post (with or without adjustments), redeployment, phased return to work and an application for ill health retirement have been examined and found not to be possible or applicable.

In these circumstances an employee will be required to attend a formal Attendance Hearing. The employee will be given ten working days' written notice of the meeting, advised of the right to be accompanied by an accredited trade union representative or colleague, notified of



the nature of the concerns and possible outcome, and provided with all relevant documentation that will be discussed at the hearing.

The meeting will be chaired by a member of the Management Board and an HR Adviser may attend to provide support and advice. The manager who oversaw the earlier stage of the formal process will also attend to present his/her case.

The Management Board member will consider the following information:

- The steps taken to manage the employee's sickness absence to date;
- The needs and resources of the Council in relation to the work which the employee is employed to undertake;
- The effect of the employee's absence upon other employees and in particular those who are engaged in the same section;
- The likely duration of the employee's illness;
- Redeployment opportunities.

Having considered the situation the Management Board member may decide there is no alternative but to terminate the employee's contract on the basis of ill health.

A letter confirming this decision must be sent to the employee within five working days of the meeting. The letter will set out the employee's contractual entitlement to notice pay and details of the right of appeal against dismissal.

It is possible for an employee to be dismissed (on the grounds of capability) prior to the exhaustion of any contractual sick pay entitlement.

### **5.13. Appeals**

Employees who receive a penalty through the procedures outlined above have a right of appeal against the penalty.

#### **5.13.1. Appeal Against a Verbal, Written or Final Written Warning**

An employee wishing to appeal against a written or final written warning should do so in writing. This must be sent to the manager who heard the case within 5 working days of receipt of the outcome letter.

Appeals will be heard within 28 working days of receipt of appeal.

An Appeal against action taken by a Departmental Manager will be heard by the employee's Director. An Appeal against action taken by a Director will be heard by the Executive Director.

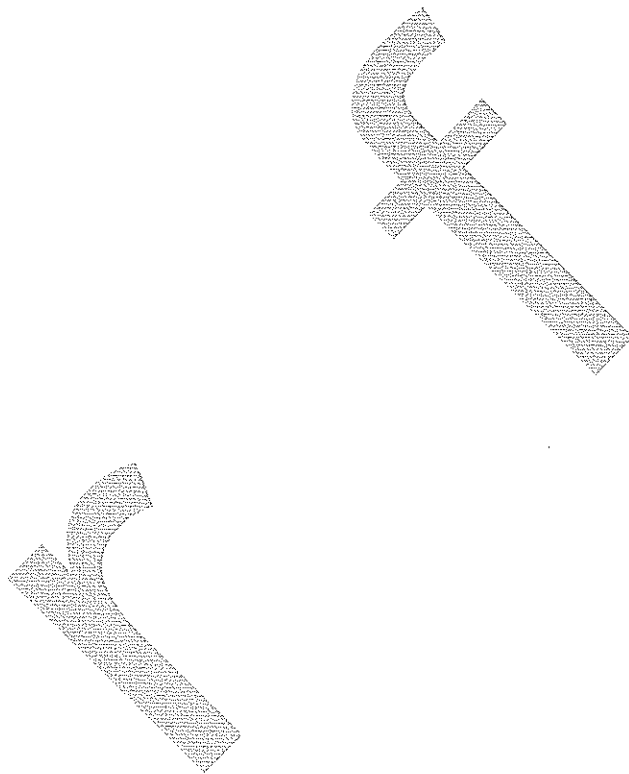
#### **5.13.2. Appeal Against Dismissal**

An employee wishing to appeal against dismissal on the grounds of capability should do so in writing. This must be sent to the member of Management Board who heard the case within 5 working days of receipt of the outcome letter.

Appeals will be heard within 28 working days of receipt of appeal in accordance with the Councils Appeals Policy.

#### 5.14. Interpretation

Any questions as to the interpretation of this guidance shall be referred to the Human Resources Manager.



**ABSENCE NOTIFICATION & RETURN TO WORK INTERVIEW FORM**

**1. ABSENCE NOTIFICATION DETAILS**

NAME OF EMPLOYEE:

DEPARTMENT:

JOB TITLE:

FIRST DAY OF SICKNESS:

REASON FOR ABSENCE:

TIME IF WENT HOME PART WAY THROUGH DAY:

NAME OF MANAGER/  
SUPERVISOR CONTACTED:

DATE AND TIME  
CONTACTED:

**QUESTIONS TO BE ASKED OF EMPLOYEE BY MANAGER/SUPERVISOR**

Have they seen or will they be seeing their GP?

YES/NO

Is the absence due to work related stress? (If yes contact HR immediately)

YES/NO

Is the absence due to a work related injury? (If yes contact HR immediately)

YES/NO

Do they have any meetings or appointments that need to be cancelled/rescheduled/apologies sending?

YES/NO

Summary of conversation regarding return to work i.e. returning tomorrow, ringing in tomorrow, appointments cancelled etc:

*(If absence is stress related sign this form, retain a copy and forward it to the HR Department immediately. You must also liaise with the HR Department regarding the employee's return to work date.)*

**SIGNED (by Manager/  
Supervisor taking call)**

**DATE**

**2. SICKNESS RECORD IN PREVIOUS 12 MONTHS – Manager/supervisor to collate this information prior to interview. Contact HR for data if unable to access from manager.**

DATE FROM	DATE TO	REASON FOR ABSENCE	WORKING DAYS LOST
TOTAL DAYS LOST			

**3. INTERVIEW & ACTIONS ON RETURN – THIS MUST TAKE PLACE ON FIRST DAY BACK AT WORK**

RETURN TO WORK DATE:

WORKING DAYS LOST:

INTERVIEW METHOD:

FACE TO FACE

TELEPHONE

(FIRST OPTION ALWAYS FACE TO FACE BUT IF EMPLOYEE REMOTE FROM MANAGER AND DUE TO SHIFTS ETC UNABLE TO SCHEDULE FACE TO FACE THEN INTERVIEW VIA TELEPHONE)

INTERVIEW QUESTIONS

Has the employee fully recovered?

YES/NO

Have they seen a doctor?	YES/NO
Are they now fit to do their job/has their GP signed them fit to work?	YES/NO
Are any temporary adjustments required?	YES/NO
Is referral to Occupational Health required?	YES/NO
Is the absence associated with problems at work or home? If so, what can we do to help?	YES/NO
Is the absence reoccurring/ likely to reoccur? (Refer if necessary to list of previous absences.)	YES/NO
Were absence notification procedures followed? (If not, manager to discuss correct procedure.)	YES/NO
Has the employee been updated on any issues that occurred during their absence?	YES/NO
If the period of absence has been long term does the employee require any retraining?	YES/NO

Any issues that the employee wishes to raise following their recent absence?

Has the employee been made aware of future actions in accordance with the Council's Control of Sickness Absence policy if they are absent again in the near future? (Discuss impact of previous absences.) YES/NO

Details of support offered to employee (actions agreed, including timescales):

MANAGERS SIGNATURE  DATE

EMPLOYEE'S SIGNATURE  DATE

OTHER PERSONS PRESENT (HR/OCC HEALTH ETC)

NAME  ROLE

SIGNATURE  DATE

**THIS FORM REPLACES THE NEED FOR A SELF CERTIFICATE AND THEREFORE MUST BE COMPLETED FOR EACH SPELL OF ABSENCE TO COMPLY WITH THE SELF DECLARATION REQUIREMENTS UNDER LOCAL GOVERNMENT TERMS AND CONDITIONS.**

**SEND COPY IMMEDIATELY TO THE HR DEPARTMENT AND RETAIN ORIGINAL FOR FILE**

**NOTES**

To be completed for EVERY spell of absence for each employee.

To be completed by the employees line manager or supervisor.

If partner/spouse/friend calls in to report the absence, make arrangements to call the employee later that day e.g. when awake or returned from doctors/hospital etc.

## Appendix 2

### Notification of Sickness Absence – Special Cases

The following form should be used by a manager to notify the HR Department section of the sickness absence of one of their employees in the following circumstances:

- On the first day of absence – if the absence is due to work-related stress or a work-related injury;
- On the 8th continual day of an employee's sickness absence (this will allow HR to assess the case and provide relevant advice to the manager);

<b>About the Employee</b>	
Name of employee	
Department	

<b>About the Sickness Absence</b>	
First day of sickness absence	
Reason for absence	
Is the absence related to a work-related injury	
What is the expected duration of the absence	

<b>Other Information</b>	
On what date did you last speak to the employee	
Is there any other information you feel is relevant to this matter	

Signed \_\_\_\_\_ Print \_\_\_\_\_

Date \_\_\_\_\_

Once complete, please return this form to the HR Department.

## Appendix 3

### Preparing for a Return to Work Interview – Guidance for Managers

Prior to the meeting, think about:

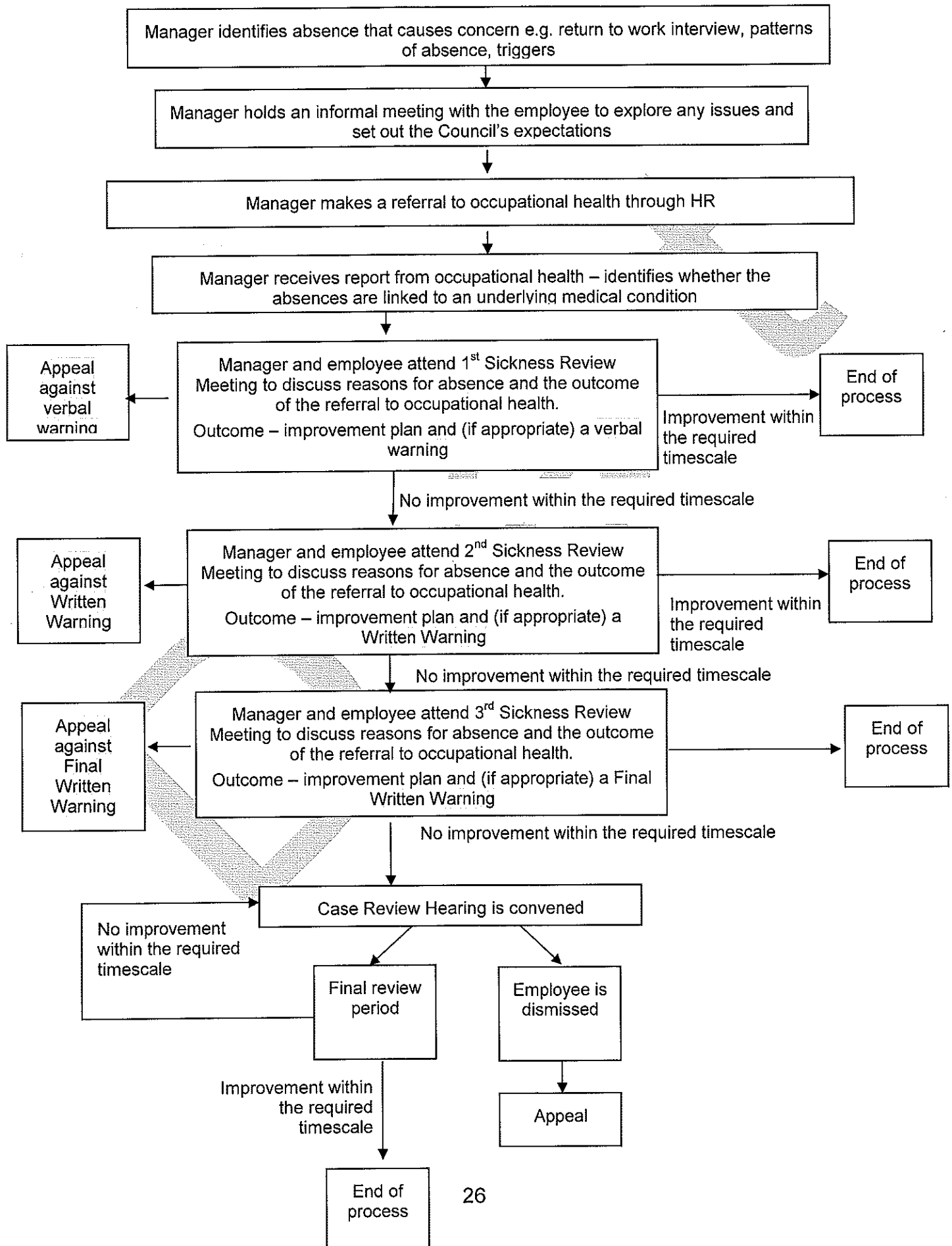
- The employee's sickness records – look for any patterns or trends and have the records to hand in the meeting;
- If the employee is returning from a period of long-term sickness, plan a return to work programme. Advice can be obtained from the Council's occupational health provider and the HR Department;
- Any discussions you have already had with the employee following advice from their GP on previous Statements of Fitness to Work. If a phased return to work has been suggested you might want to consider how this will work in practice – for example, what arrangements need to be put in place, what will you tell the employee's colleagues etc;
- What kind of questions you will ask during the meeting. Open questions that give the employee the chance to talk freely are best – for example "how do you feel about being back at work" may be better than a closed question like "are you happy being back at work";
- Familiarise yourself with the Council's Sickness Absence Policy and Guidance for Managers and Employees;
- Remind yourself about the employee – are there any issues that might crop up during the meeting. For example, if you know that the employee has been having childcare issues, it might be worth familiarising yourself with the Council's approach to flexible working requests so that you can discuss this with the employee if appropriate;
- Options for the future – think through what you expect of the employee in terms of future attendance levels, what support you can offer etc.

During the meeting:

- Think about how the employee feels – be ready to pick up on clues by actively listening to what they say, making connections between the various points they make and seeking clarification where necessary. Also, be positive about the employee's value to the organisation;
- Consider your body language – show interest with appropriate nods, smiles and reassurance;
- Be prepared to discuss the employee's absence in detail. Have there been any patterns? What does the Council's guidance on absence say?
- Update the employee on any changes since they have been away e.g. changes to the team, progress on major projects, new pieces of work etc;
- Take notes of the meeting and hold them securely for future reference.

Appendix 4

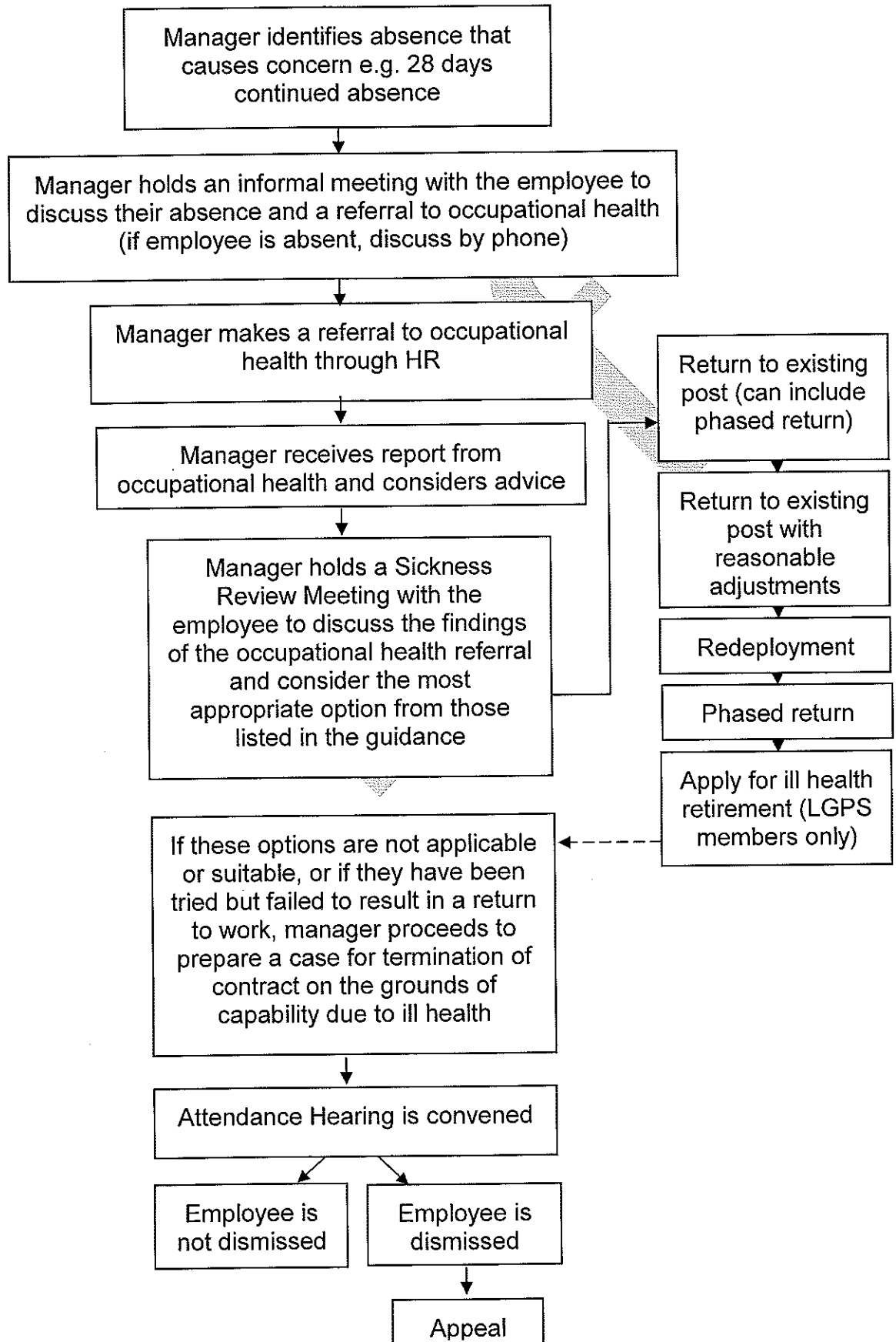
**Managing Persistent Short Term Sickness Absence**



Appendix 5

**Managing Long Term Sickness Absence**

(generally with no immediate or known prospect of return)





<b>EXECUTIVE COMMITTEE</b>	<b>(R) Agenda Item 24</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Principal Environmental Protection &amp; Licensing Officer</b>	
<p><b>Title: Licensing Committee – Review of Statement of Gambling Policy</b></p> <p><b>Summary and Conclusions:</b></p> <p>The following recommendation has been referred to the Executive Committee from the meeting of the Licensing Committee held on 12th November, 2015.</p> <p>The Gambling Act 2005 requires that the Council develops, consults on and publishes a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.</p> <p>This report confirms that the consultation on the updated Draft Statement of Gambling Policy has concluded. The Licensing Committee considered the results of the consultation and revisions to the policy.</p> <p>The updated draft Statement of Gambling Policy is attached at <b>Appendix 10</b> for consideration, prior to being ratified at Full Council.</p> <p><b>Recommendations:</b></p> <p>To recommend the Council to approve the Barrow Borough Council - Statement of Gambling Licensing Policy for 2016 - 2019 and adopt as Borough Council policy.</p>	

### **Report**

Section 349 of the Gambling Act 2005 requires that the Council develops, consults on and publishes a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.

The Gambling Act created the three licensing objectives which form the foundation of the regime. The Statement of Policy must state and promote these objectives;

- 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.

The statement should also state that the licensing authority shall aim to permit the use of premises for gambling as set out in Section 153 of the Act.

The Gambling Act 2005 covers all premises that allow commercial gambling, which includes:

- Bookmakers
- Horse tracks
- Dog tracks
- Casinos
- Amusement arcades; and
- Pubs and bars that have gaming machines

When making deliberations Licensing Committee Members must have regard to this Statement of Gambling Policy together with the statutory guidance issued by the Gambling Commission.

A three month consultation on the updated draft Statement of Gambling Policy has now concluded. The Licensing Committee has considered changes to the policy and has recommended to the Executive Committee prior to being forwarded to Full Council, with any proposals, for adoption.

The updated and revised Statement of Gambling Policy 2016-2019 is attached at **Appendix 10**.

(i) Legal Implications

The legal implications are outlined in the report to Licensing Committee at **Appendix 9**.

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

The recommendation has no financial implications.

(iv) Health and Safety Implications

The recommendation has no significant implications.

The recommendation has no detrimental impact the built environment or public realm.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

<b>Part One</b>	
<b>LICENSING COMMITTEE</b>	<b>(R) Agenda Item 7</b>
<b>Date of Meeting: 12th November, 2015</b>	
<b>Reporting Officer: Principal Environmental Protection &amp; Licensing Officer</b>	
<p><b>Title: Gambling Act 2005 - Statutory Policy Review</b></p> <p><b>Report Summary:</b></p> <p>Section 349 of the Gambling Act 2005 requires that the Council develops, consults on and publishes a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.</p> <p>This report confirms that the consultation on the updated Draft Statement of Gambling Policy has concluded. The Licensing Committee has delegated powers to consider the results of the consultation and revisions to the policy.</p> <p>Members are asked to consider the revisions and make a recommendation to the Executive Committee that the policy be approved and sent to Full Council for formal adoption.</p>	

### Report

#### Background

Section 349 of the Gambling Act 2005 requires that the Council develops, consults on and publishes a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.

The Gambling Act created the three licensing objectives which form the foundation of the regime. The Statement of Policy must state and promote these objectives;

- 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.

The statement should also state that the licensing authority shall aim to permit the use of premises for gambling as set out in Section 153 of the Act.

The Gambling Act 2005 covers all premises that allow commercial gambling, which includes:

- Bookmakers
- Horse tracks
- Dog tracks
- Casinos
- Amusement arcades; and
- Pubs and bars that have gaming machines

When making deliberations Licensing Committee Members must have regard to this Statement of Gambling Policy together with the statutory guidance issued by the Gambling Commission.

A three month consultation on the updated draft Statement of Gambling Policy has now concluded. The Licensing Committee has delegated power to consider changes to the policy and make subsequent recommendations to the Executive Committee prior to being forwarded to Full Council, with any proposals, for adoption.

### **Representations**

No local representations were made, however the following response was received as part of the national consultation:

- GOSSCHALKS Solicitors on behalf of the Association of British Bookmakers, received by Carlisle City Council on behalf of the Cumbrian Licensing Managers group, is attached at **APPENDIX 1**.

The Cumbrian Licensing Managers group met on the 21st September, 2015 to discuss the representations made. Detailed in **APPENDIX 2** are our comments and amendments in response to the GOSSCHALKS letter.

The updated and revised Statement of Gambling Policy is attached at **APPENDIX 3** for consideration. The revisions are *highlighted*.

### **Options**

The options available to Members are to:

- a) Accept the revisions and recommend to the Executive Committee that they approve the Statement of Gambling Licensing Policy prior to formal adoption at Full Council.
- b) Reject the revisions of the Statement of Gambling Licensing Policy and recommend that the previous Policy be recommended to the Executive Committee that they approve the Statement of Gambling Licensing Policy prior to formal adoption at Full Council.

## **Recommendation:**

Accept the revisions and recommend to the Executive Committee that they approve the Statement of Gambling Licensing Policy and refer to Full Council for formal adoption.

## **Reason for Recommendation:**

The Licensing Authority is required by Section 349 of the Gambling Act 2005, to develop, consult and publish its Statement of Gambling Policy every three years. The statutory review and consultation has been carried out in accordance with the procedures laid down in the Secretary of States Regulations and revisions made in light of the Gambling Commissions Guidance (4<sup>th</sup> Edition), the proposals contained in the draft 5<sup>th</sup> Edition guidance and the consultation responses.

## **Considerations:**

### (i) Legal Implications

Section 349 of the Gambling Act 2005 requires that the Council develops, consults on and publishes a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.

Regulations made by the Secretary of State prescribe the form of the Statements and the procedure to be followed in relation to them and their publications.

Council will operate ultra vires if no policy is in place.

### (ii) Risk Management

It is important that the Council adopts a robust and accountable regulatory regime in relation to gambling. It needs to ensure that the risk of non-compliance and regulatory burden to both the Council and the local trade is minimised. However it must balance this with the need to uphold the licensing objectives.

### (iii) Financial Implications

There are no financial implications

### (iv) Health and Safety Implications

There are no Health and Safety implications.

### (v) Key Priorities or Corporate Aims

This recommendation supports the following priorities:

**Priority 2 – Regeneration and Public Realm** – which states that the Council is committed to working with partners and service providers to enhance the built environment.

**Priority 4 - Service Delivery** – which states that the Council strives to provide good quality, efficient and effective services while reducing overall expenditure.

(vi) Equality and Diversity

The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

When considering gambling applications, only issues provided for in the Gambling Act 2005 in addition to the statutory guidance and the authority's statement of principles will be taken in to account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vii) Other Human Rights

The recommendation has no adverse effect on the Human Rights of individuals.

(viii) Health and Well-being Implications

The review of the Statement of Gambling Policy could impact on health and well-being as it will set out the expectations for each of the licensing objectives which may have an impact on the health of residents.

Background Papers

Nil.



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S J Stashkiw  
Licensing Manager  
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Our ref: RJT / LHK / 097505.00004  
#GS370933  
Your ref:  
Date: 16 September 2015

**Dear Sir/Madam**

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.



Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

*"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

With effect from 6<sup>th</sup> April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this

should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

### **Local Area Profiles – Need for an evidence based approach**

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

### **Concerns around increases in the regulatory burden on operators**

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

### **Employing additional licence conditions**

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

### **Specific Policy Comments**

#### **Local Risk Assessments**

In Paragraph 9.4, there is an error. This paragraph suggests that the Social Responsibility Code Provision 10.1.1 and Ordinary Code Provision 10.1.2 take effect from 8<sup>th</sup> May 2015. These provisions come into force on 6<sup>th</sup> April 2016. The policy should be amended to reflect this.

#### **Premises Licences**

At 11.3, there is a statement that the authority will not consider moral objections or unmet demand when considering applications for premises licences. Later in the policy (at paragraph 11.11) there is a statement that the likelihood of the grant of planning permission or building regulation approval will not be taken into consideration. We respectfully submit that paragraph 11.3 be amended to include this as a further criterion.

We believe that the first sentence of paragraph 11.4 needs to be amended to reflect that the Gambling Commission's Guidance ensuring that betting is the primary activity of licensed premises relates to premises with betting premises licences only.

In paragraph 11.7, the first sentence needs to be amended as we believe that there are missing words. In addition, the Licence Conditions and Codes of Practice is referred to as LSSP. This needs to be amended to LCCP.

#### **Location 11.14**

The final two sentences of this paragraph cause the ABB concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears

to implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003. Such a policy is contrary to the overriding principles of "aim to permit" contained within s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle earlier in the policy that each case will be determined on its own merits.

### **Paragraph 11.17**

This paragraph indicates that the licensing authority is aware of the distinction between disorder and nuisance. We respectfully submit that the policy would be assisted by stating that nuisance is not an issue for consideration under Gambling Act 2005 and that as far as the licensing authority is concerned, the Gambling Commission defines disorder as "intended to mean activity that is more serious and disruptive than mere nuisance."

### **Paragraph 11.21 – Conditions**

We welcome the fact that any conditions attached will be proportionate, relevant and reasonable. We believe that the policy would be assisted by an acknowledgement that gambling premises are already subject to onerous, mandatory and default conditions. These conditions will usually suffice and it is only in circumstances where there is evidence that in a particular area, supplementary conditions should be imposed.

### **Paragraph 16 – Betting Premises**

Paragraph 16.4 paraphrases the mandatory and default conditions attached to a betting premises licence. As these are mandatory, we respectfully submit that rather than paraphrasing these conditions, the mandatory and default conditions contained within parts 1 and 2 to Schedule 5 of the Gambling Act 2005 (Mandatory and Default Conditions)(England and Wales) Regulations 2007 be repeated in full. There can then be no doubt with regard to the conditions to which betting premises are subject.

### **Conclusion**

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



**GOSSCHALKS**

## Gambling Act – Statement of Gambling Licensing Policy Consultation Responses

### Local Risk Assessments

In Paragraph 9.4, there is an error. This paragraph suggests that the Social Responsibility Code Provision 10.1.1 and Ordinary Code Provision 10.1.2 take effect from 8<sup>th</sup> May 2015. These provisions come into force on 6<sup>th</sup> April 2016. The policy should be amended to reflect this.

**Comment:** Most of the changes to LCCP take effect on **8 May 2015** those relating to local risk assessment take effect from **6 April 2016**. The policy will be amended to reflect this.

### Premises Licences

At 11.3, there is a statement that the authority will not consider moral objections or unmet demand when considering applications for premises licences. Later in the policy (at paragraph 11.11) there is a statement that the likelihood of the grant of planning permission or building regulation approval will not be taken into consideration. We respectfully submit that paragraph 11.3 be amended to include this as a further criterion.

**Comment:** The paragraph is fairly self-explanatory, however additional sentence added. "Further, the authority is under a duty not to take other irrelevant matters into consideration eg; the likelihood of an applicant obtaining Planning Permission (see 11.11)"

We believe that the first sentence of paragraph 11.4 needs to be amended to reflect that the Gambling Commission's Guidance ensuring that betting is the primary activity of licensed premises relates to premises with betting premises licences only.

**Comment:** Point noted and the first line of the paragraph will be changed to "This Licensing Authority also notes Gambling Commission guidance on ensuring that betting premises is the primary activity of a licensed betting premises."

In paragraph 11.7, the first sentence needs to be amended as we believe that there are missing words. In addition, the Licence Conditions and Codes of Practice is referred to as LSSP. This needs to be amended to LCCP.

**Comment:** Point noted and the policy will be changed to reflect this.

### Location 11.14

The final two sentences of this paragraph cause the ABB concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003. Such a policy is contrary to the overriding principles of "aim to permit" contained with s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced the reiteration of the principle earlier in the policy that each case will be determined on its own merits.

**Comment:** This has been noted this paragraph will be changed to reflect this.

### **Paragraph 11.17**

This paragraph indicates that the licensing authority is aware of the distinction between disorder and nuisance. We respectfully submit that the policy would be assisted by stating that nuisance is not an issue for consideration under Gambling Act 2005 and that as far as the licensing authority is concerned, the Gambling Commission defines disorder as "intended to mean activity that is more serious and disruptive than mere nuisance."

**Comment:** As the authority is aware of the distinction nuisance and disorder and the paragraph will remain as is.

### **Paragraph 11.21 – Conditions**

We welcome the fact that any conditions attached will be proportionate, relevant and reasonable. We believe that the policy would be assisted by an acknowledgement that gambling premises are already subject to onerous, mandatory and default conditions. These conditions will usually suffice and it is only in circumstances where there is evidence that in a particular area, supplementary conditions should be imposed.

### **Paragraph 16 – Betting Premises**

Paragraph 16.4 paraphrases the mandatory and default conditions attached to a betting premises licence. As these are mandatory, we respectfully submit that rather than paraphrasing these conditions, the mandatory and default conditions contained within parts 1 and 2 to Schedule 5 of the Gambling Act 2005 (Mandatory and Default Conditions)(England and Wales) Regulations 2007 be repeated in full. There can then be no doubt with regard to the conditions to which betting premises are subject.

**Comment:** Reference will be made to the fact that the full set of conditions are contained within parts 1 and 2 of Schedule 5 of the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007.





# Statement of Gambling Licensing Policy

## Gambling Act 2005

For the period 2016-2019

<b>Version Control:</b>	
<b>Document Name:</b>	Statement of Gambling Licensing Policy – for the period 2016 - 2019
<b>Version:</b>	27102015.1
<b>Author:</b>	Principal Environmental Protection & Licensing Officer
<b>Approved by:</b>	Licensing Committee and Full Council
<b>Date Approved:</b>	
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*This Statement of Gambling Licensing Policy will be reported to Full Council in December 2015*

*All references to the “Guidance” refers to the Gambling Commission's Guidance to Local Authorities Version 4 was published in September 2012*

If you would like a copy of this document please could you contact us by calling 01229 876543 or email us at [commercial@barrowbc.gov.uk](mailto:commercial@barrowbc.gov.uk)

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# Preface

The Gambling Act 2005 (‘the act’) contains the regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread Betting. It received Royal Assent on 7<sup>th</sup> April 2005.

The Gambling Commission (the Commission) is the unified regulator for gambling in Great Britain.

The Commission does not regulate spread betting, which remains the responsibility of the Financial Services Authority; nor the National Lottery, which is regulated by the National Lottery Commission. However the National Lottery Commission has been co-located with the Gambling Commission since January 2012 and the Public Bill includes legislation to merge the two Commissions.

The Commission has responsibility for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters. The Act sets out different types of operating licence that cover the full range of commercial gambling activities conducted in Great Britain. It also makes provision for the Commission to have powers of entry and inspection to regulate gambling, with safeguards for those subject to the powers.

Licensing Authorities license gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines in club and miner’s welfare institutes. The Act also provides a system of temporary and occasional use notices. These authorised premises that are not licensed generally for gambling purposes to be used for certain type of gambling, for limited periods.

Allerdale Borough Council, Barrow Borough Council, Carlisle City Council, Copeland Borough Council, Eden District Council and South Lakeland District Council have worked in partnership in preparing this statement. The Council’s continue to work together to share best practice in an effort to ensure, so far as practicable, consistency of approach across Cumbria.

# Part A

## 1. The Licensing Objectives

- 1.1 In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 It should be noted that the Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3 This licensing authority is aware that, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives and
  - in accordance with the authority’s statement of licensing policy

### Authorised Activities

- 1.4 ‘Gambling’ is defined in the Act as either gambling, 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 true;
  - A ‘lottery’ is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
- 1.5 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.
- 1.6 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council’s Licensing Team where appropriate.

## 2. Introduction

Barrow Borough Council is situated in the County of Cumbria, which contains 6 District Councils in total. The Council area has a population of approximately 69,087 and covers an area of 7700 hectares which is mainly urban in nature. Barrow-in-Furness is the main town with smaller towns and villages of Dalton-in-Furness (the ancient capital of Furness), Askam-in-Furness, Ireleth, Newton, Lindal, Rampside and Marton making up the other centres of population, The population profile % for residents in the Borough from the last census is illustrated below;

<b>Population Barrow Borough Council Area</b>		
<b>Broad age Group</b>	<b>Count</b>	<b>% of total</b>
0-15	11,382	16.5%
16-24	8,479	12.3%
25-49	22,402	32.4%
50-64	13,869	20.1%
65+	12,955	18.7%
<b>Total</b>	<b>69,087</b>	

*Source: Office for National Statistics (ONS)*

Over the next few decades, the age profile of residents in the Borough is expected to change dramatically. Barrow-in-Furness is projected to show the largest population decrease of 1,300 (1.8%) over the 10 years to mid-2022. This fall is consistent with past trends as the population in this area has shown a generally steady decrease from mid-2002 onwards. However, the percentage of the population aged 65 and over is projected to increase by between one fifth and one quarter in all regions by mid-2022. (ONS Population Projections for England 2014)

- 2.1 A map of the Council's area is included at Appendix 5. The key provided identifies the urban/rural areas.
- 2.2 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement

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

- 2.3 Barrow Borough Council consulted widely upon this statement before finalising and publishing. A list of those persons this authority consulted is provided at Appendix 1.
- 2.4 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 2.5 Our consultation took place between 29th June 2015 and 18th September 2015 and we followed the HM Government Code of Practice on Consultation (published July 2008) which is available at: <http://www.bis.gov.uk/files/file47158.pdf>
- 2.6 The full list of comments made and the consideration by the Council of those comments is available by request to the person named below.
- 2.7 The policy was approved at a meeting of the Full Council in December 2015. It was published on our website on 4<sup>th</sup> January 2016 and advertised in a local newspaper. Copies have been sent to the public libraries in the District as well as being available at the Town Hall, Duke Street, Barrow-in-Furness.
- 2.8 Should you have any queries regarding this policy statement please send them via e-mail or letter to the following contact:

Name: Graham Barker

Address: Environmental Health Department, Town Hall, Duke Street, Barrow-in-Furness.  
LA14 2 LD

E-mail: [commercial@barrowbc.gov.uk](mailto:commercial@barrowbc.gov.uk)

Tel: 01229 876543

- 2.9 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **3. Declaration**

- 3.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to the Licensing Authorities

issued by the Gambling Commission, and any responses from those consulted on the statement.

#### **4. Responsible Authorities**

- 4.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 4.2 In accordance with the suggestion in the Gambling Commission's Guidance to local authorities, this authority has consulted with both the Cumbria Safeguarding Children Board and Cumbria County Council Children's Services. This Authority considers that Cumbria County Council Children's Services is best able to fulfil the role of advising the Authority about the protection of children from harm for the purposes of Section 157(b) of the Act.
- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.barrowbc.gov.uk](http://www.barrowbc.gov.uk) and are listed at Appendix 2.

#### **5. Interested Parties**

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
- “For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person:
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) has business interests that might be affected by the authorised activities, or
  - c) represents persons who satisfy paragraph (a) or (b)”
- 5.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.
- 5.3 This authority will not apply a rigid rule to its decision making and each case will be decided upon its merits. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities at Paragraphs 8.11 to 8.18.



- 5.4 It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.5 The Gambling Commission has recommended that the licensing authority states that interested parties may include trade associations and trade unions, and residents' and tenants' associations. This authority will not however generally view these bodies as interested parties unless they represent a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- 5.6 Interested parties can be persons who are democratically elected such as Councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is likely to be sufficient.
- 5.7 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not a Member of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Council's Licensing Department.

## **6. Exchange of Information**

- 6.1 Licensing Authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available. This authority will normally share the information it holds about licensed premises with the following persons or bodies:
- A constable or police force
  - an enforcement officer
  - another Licensing Authority

- HMRC
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers

The Licensing Authority will also exchange information as per section 13 of the 4<sup>th</sup> edition Guidance issued to Local Authorities.

## **7. Enforcement**

7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers in the Act to institute criminal proceedings in respect of the offences specified.

7.2 This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

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

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

7.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on;

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

7.5 This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, this licensing authority will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

- 7.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.
- 7.7 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the Regulatory functions of local authorities.
- 7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement policy is available upon request to the licensing department.

## **8. Licensing Authority Functions**

### **Local Authorities**

- 8.1 Licensing Authorities are required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
  - Issue Provisional Statements
  - Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - Issue Club Machine Permits to Commercial Clubs
  - Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
  - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - Register small society lotteries below prescribed thresholds
  - Issue Prize Gaming Permits
  - Receive and Endorse Temporary Use Notices
  - Receive Occasional Use Notices
  - Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
  - Maintain registers of the permits and licences that are issued under these functions
  - Exercise its powers of compliance and enforcement under the Act, in partnership with the Gambling Commission and other relevant responsible authorities.

It should be noted that licensing authorities are not involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

### **The Gambling Commission**

- 8.2 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the Government about the matter in which gambling is carried out, the effects of gambling and the regulations of gambling generally.
- 8.3 The Commission has issued guidance under Section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.
- 8.4 The Commission has also issued Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities.
- 8.5 The Gambling Commission can be contacted at:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

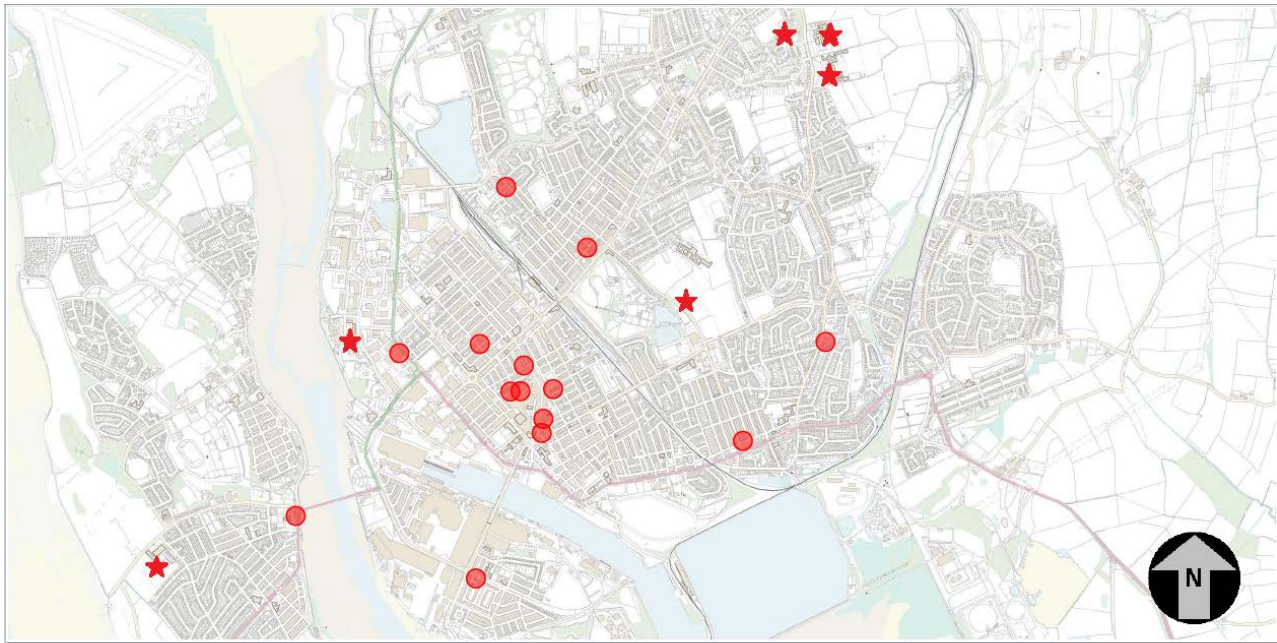
## **9. Local Risk assessments**

- 9.1 The Commission's Licence Conditions and Code of Practice (LCCP) which were revised and published in February 2015 formalised the need for operators to consider local risks.
- 9.2 Social Responsibility (SR) code 10.1 requires licensees to assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.
- 9.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:
  - When applying for a variation of a premises licence
  - To take account of significant changes in local circumstances, including those identified in this policy statement

- Where there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 9.4 The SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority. **Both provisions take effect from 6th April 2016.**
- 9.5 Where concerns do exist, perhaps promoted by new or existing risks, the Licensing Authority will request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of license conditions are required.
- 9.6 Where this policy statement sets out its approach to regulation with clear reference to local risks, the licensing authority will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

## **10. Local area profile**

- 10.1 The Licensing Authority have found it useful to complete their own assessment of the local environment as a means of 'mapping out' local areas of concern, which will be reviewed and updated to reflect changes to the local landscape. Such an assessment is known as the local area profile. There is no statutory duty on the Licensing Authority to complete an area profile, but there are significant benefits for both the Licensing Authority and Operators, in having a better awareness of the local area and risks. Importantly, risk in this context includes potential and actual risk, thereby taking into account possible future emerging risks, rather than reflecting current risks only.
- 10.2 Maps showing gambling premises, Local Secondary Schools and Post 16 Colleges in the Barrow Area.

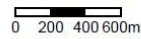


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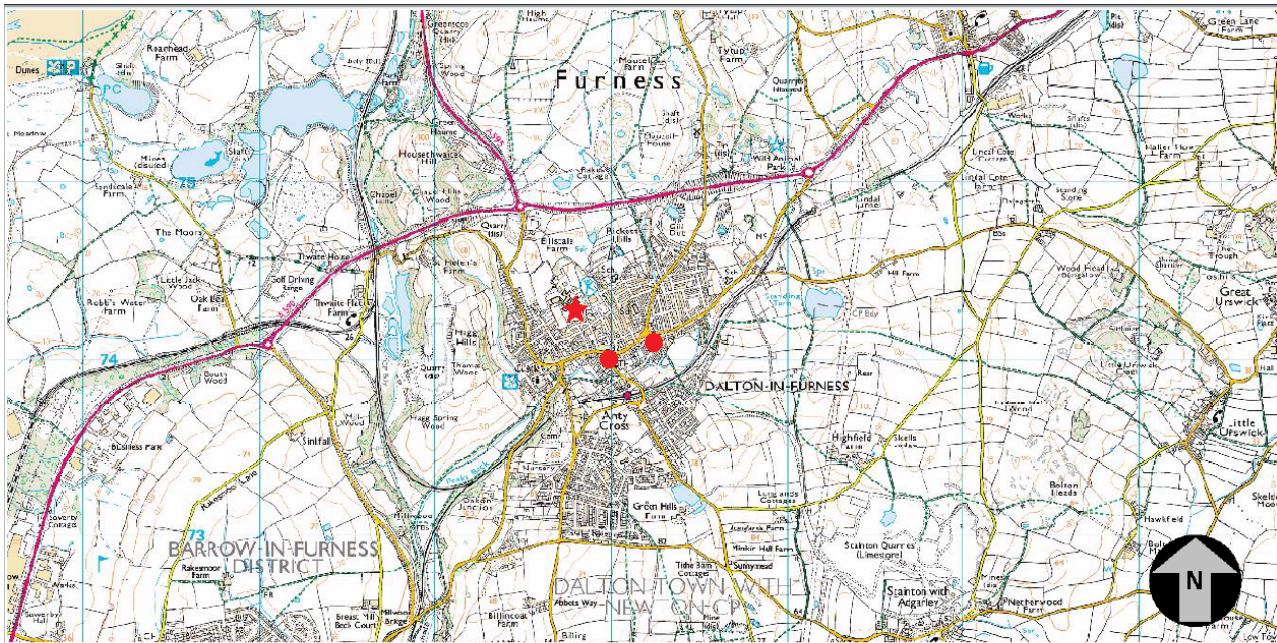
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Barrow-in-Furness Area

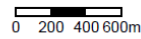


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Dalton-in-Furness

KEY



Gambling Premises



Secondary Schools & Colleges (Post 16)

# Part B

## Premises Licences

### 11. General Principles

- 11.1 Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. The licensing authority is able to exclude default conditions and also attach others, where it is believed to be appropriate
- 11.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - In accordance with the authority's statement of licensing policy.
- 11.3 This authority will not regard moral objections to gambling as a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section on Casinos below) and also acknowledges that unmet demand is not a criterion for a licensing authority to consider. Further, the authority is under a duty not to take other irrelevant matters into consideration eg; the likelihood of an applicant obtaining Planning Permission (see 11.11)
- 11.4 This licensing authority also notes the Gambling Commission guidance on ensuring that betting is the primary activity of a premises that only holds a betting premises licence. Gaming machines may be available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premise when seeking variations to licenses.

In making this determination, this licensing authority will have regard to the six indicators of betting as a primary gambling activity.

- the offer of established core products (including live event pictures and bet range)
  - the provision of information on products and events
  - the promotion of gambling opportunities and products
  - the actual use made of betting facilities
  - the size of premises
  - the delivery of betting facilities
- 11.5 **Definition of “premises”** – In the Act, premises is defined as including “any place”. Section 152 therefore prevents more than one premises license applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably

regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

- 11.6 The Gambling Commission states in the fourth edition of its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”
- 11.7 The general principles set out the type and number of high state gaming machines allowable in a premise are restricted according to the type of premises licence or permit granted. For example, a converted casino licence allows for 20 gaming machines in categories B, C or D. With exception of AGCs and FECs, premises are not permitted to be used exclusively for making available gaming machines, but rather to provide the gaming facilities corresponding to the premises licence type. The Licence Conditions and Codes of Practice (LCCP), sets out in full the requirements on operators.
- 11.8 With exception of bingo clubs, tracks on race-days, and licensed family entertainment centres, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites.
- 11.9 This Licensing Authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: “licensing authorities should take particular care in considering applications for multiple licences for a building and those related to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gaming where they are prohibited from participating.
  - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.



- Customers should be able to participate in the activities named on the premises licence.

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

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

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

11.10 The Gambling Commission's relevant access provisions for each premises type are reproduced below:

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.26 of the Guidance).
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which hold a gambling premises licence.

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises.

### **Betting Shops**

- Access must be from a street (as per para 7.26 Guidance to Licensing Authorities) or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a cafe – the whole area would have to be licensed.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre

- a betting premises, other than a track

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

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

- 11.11 In determining applications, the Licensing Authority has the duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulation approval for their proposal. Bearing in mind that once a premises licence comes into effect it authorises the premises to be used for gambling, a licence can only be issued once the Licensing Authority is satisfied that the premises is ready to be used for gambling in the reasonably near future. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. See section 19 of this policy for further guidance.
- 11.12 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 11.13 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 11.14 **Location** - This licensing authority is 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 its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. **It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits.**
- 11.15 **Duplication with other regulatory regimes** - This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to,

and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

### 11.16 Licensing Objectives

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

**11.15 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, if an area should have known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

**11.16 Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences issued by the Gambling Commission. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below at Paragraph 17.

**11.17 Protecting children and other vulnerable persons from being harmed or exploited by gambling** - With limited expectations, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective refers to protecting children from being 'harmed or exploited by gambling'. That means preventing them from taking part in gambling and for there to be restrictions on advertising so that gaming products are not aimed at children or advertising in such a way that makes them particularly attractive to children, excepting Category D gaming machines. The licensing authority will therefore consider, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/ machines, segregation of areas etc.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

**11.18** The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission does not seek to define 'vulnerable persons', but

it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs. This licensing authority will consider, in relation to a particular premises, whether any special considerations apply in relation to the protection of vulnerable persons, on a case by case basis.

### **11.19 Conditions**

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

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

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

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

11.22 This authority will also ensure that where category D (for information about the different categories of machine, please see appendix 3) or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- At the entrance to and inside any areas where there are Category A, B or C machines, in such areas there must be prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

- 11.23 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance this licensing authority will consider the impact upon the objective to protect children and other vulnerable persons from being harmed or exploited by gambling and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 11.24 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
  - conditions relating to gaming machine categories, numbers, or method of operation;
  - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
  - Conditions in relation to stakes, fees, winning or prizes.
- 11.25 **Door Supervisors** – The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.
- 11.26 Section 178 of the Gambling Act 2005 sets out a definition of 'door supervisor', and provides that where a person employed in such a role is required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence.
- 11.27 It should be noted that the above paragraphs relate to door supervisors only in relation to premises licences granted under the Gambling Act 2005. Where a premises licence has also been granted under the Licensing Act 2003 in relation to the same premises, there may also be conditions on that licence which relate to door supervisors. The premises licence holder should ensure compliance with those conditions.
- 11.28 The requirement for SIA licence door supervisors is relaxed when applied to door supervisors at casino or bingo premises. Where 'contract' staff are employed as door supervisors at casino or bingo premises, such staff will need to be licensed by SIA. However 'in- house' employees working as door supervisors at casino and bingo premises are exempt from these requirements.

## 12. Adult Gaming Centres

- 12.1 Persons operating an Adult Gaming Centre (AGC) must hold a gaming machines general operating licence (Adult Gaming Centre) from the Commission and must seek a premises licence from the licensing authority. They will be able to make category B, C and D gaming machines available to their customers.

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

12.2 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV – this should be of sufficient quality that it will be of use in evidence
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes – these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises.
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

12.3 This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

12.4 The following mandatory conditions will be attached to adult gaming centre premises licences:

- A notice must be displayed at all entrances to AGCs stating that no person under the age of 18 years will be admitted to the premises.
- There can be no direct access between an AGC and any other premises licensed under the Act or premises with a Family Entertainment Centre, club gaming, club machine or licensed premises gaming machine permit. There is no definition of 'direct Access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (for example, a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.
- Any ATM made available for use on the premise shall be located in place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
- The consumption of alcohol in AGCs is prohibited at any time during which facilities for gambling are being provided on the premises. A notice stating this should be displayed in a prominent place at every entrance to the premises.

### **13. (Licensed) Family Entertainment Centres (FEC)**

13.1 The Act creates two classes of Family Entertainment Centres (FEC). This section of the policy concerns licenced FECs. Persons operating a licensed FEX must hold a gaming

machine general operating licence (Family Entertainment Centre) from the Commission and must seek a premises licence from the Licensing Authority. They will be able to make category C and D gaming machines available to their customers. Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits (see Section B of this policy).

- 13.2 This Licensing Authority will specifically have regard to the need to protect children and young persons. Children and young persons will be permitted to enter an FEX and may play on the category D machines. They are not permitted to play on a category C machines, and it is a requirement that there must be clear segregation between the two types of machines, so that children do not have access to category C machines.
- 13.3 This licensing authority will refer to the Gambling Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. It will normally impose conditions on granting licences which accord with the above. This licensing authority will also make itself aware of and impose any mandatory or default conditions on these premises licences.
- 13.4 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:
- Proof of age schemes
  - CCTV – this should be of sufficient quality that it will be of use in evidence
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - Self-exclusion schemes– these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.
  - Measures/training for staff on how to deal with suspected truant school children on the premises
- 13.5 This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.
- 13.6 Mandatory conditions attached to FEC premises licences:
- The summary of the terms and conditions of the premises licence issued by the Licensing Authority under section 164(1) (c) of the Act must be displayed in a prominent place within the premises.
  - The layout of the premises must be maintained in accordance with the plan.
  - The premises must not be used for sale of tickets in a private lottery or customer lottery, or the National Lottery.

- No customer shall enter the premises directly from a casino, an adult gaming centre or betting premises (other than a track). There is no definition of 'direct Access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (for example, a street or café), which the public got for purposes other than gambling, for there to be no direct access.
- Any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
- Over-18 areas within FECs that admit under-18s must be separated by a barrier with prominently displayed notices at the entrance stating that under -18s are not allowed in that area and with adequate supervision in place to ensure that children and young persons are not able to access these areas or the category C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.
- The consumption of alcohol in licensed FECs is prohibited at any time during which facilities for gambling are being provided. A notice stating this should be displayed in a prominent position on the premises.

## 14. Casinos

- 14.1 Section 7(1) of the Act states that 'a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games'. Casinos games are defined by the Act to mean a game of chance which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.
- 14.2 Protection of children and young persons – No-one under the age of 18 is permitted to enter a casino and operators are required to display notices to this effect at all entrances to a casino. Children and young persons are not allowed to be employed at premises with a casino premises licence.
- 14.3 **No Casinos resolution** - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.
- 14.4 **Casinos and competitive bidding** - This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators who will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008, as well as following the procedure set out in Part 17 of the Guidance.
- 14.5 **Licence considerations/conditions** – This licensing authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17



of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission. The mandatory conditions attached to all casino premises are as follows:

- Access to the premises is regulated to add additional safeguards for both the public and industry. Mandatory conditions that must be attached to all casino premises licences require that the principal entrance to the casino should be from a street. A street is defined as including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping centres), whether it is a thoroughfare or not.
- A mandatory condition requires that no customer must be able to enter the casino from any other premise holding a casino, bingo, AGC, FEC or betting premises licence, or from premise where a FEC, club gaming and club machine, or licensed premises gaming machine permit, has effect.
- There should be no access to a casino from premises wholly or mainly used by children and young persons.
- No other gambling equipment may be situated within two meters of any ordinary gaming table. For the purpose of these conditions an ordinary gaming table means one which is not wholly or partially automated.
- A maximum of 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.
- All casinos must display the rules of each type of casino game that can be played on the premises in a prominent place within both the table gaming area and other gambling areas to which customers have unrestricted access. Licensees may do this either by displaying clear and legible signs or by making available to customers leaflets or other written material setting out the rules.
- ATMs must be positioned so that customers must cease to gamble at tables or gaming machines in order to use them.
- The default opening hours of all casinos are noon to 6am.

There are mandatory conditions relating to small casinos, large casinos, and converted casinos premises licence which are detailed in section 17 of the guidance.

14.6 **Betting machines** - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## 15. Bingo Premises

15.1 This licensing authority notes that the Gambling Commission's Guidance states: 15.1 Licensing Authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded premises

- 15.2 Under the Act, children and young persons (anyone under the age of 18) cannot be employed in providing nay facilities for gambling or bingo premises, and children (under 16) cannot be employed, in any capacity at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), providing the activities on which they are employed is not connected with the gaming or gaming machines.
- 15.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.15.4Section 172(7) provides that the holder of a bingo premises licence may make available for use a number of category B machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13<sup>th</sup> July 2011 are entitled to make available eight category B gaming machines, 20% of the total number of gaming machines, whichever is the greater. The holder of bingo premises licence granted on or after 13<sup>th</sup> July 2011 but before 1<sup>st</sup> April 2014 is entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1<sup>st</sup> April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.
- 15.4 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstances that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licenced premises) is not permissible for all the gaming machines to which each of the licence brings an entitlement to be grouped together within one of the licensed premises.

#### Bingo in clubs and alcohol-licensed premises

- 15.5 Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in clubs and miners' welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains low stakes and prize activity.
- 15.6 Where the level of bingo played in these premises reaches a certain threshold (i.e. bingo played during any seven day period exceeds £2,000 either in money in taken or prizes awarded once in a year), there is a legal duty on the Licensee or club to inform the Commission as soon as is reasonably practicable. Stakes or prizes above that limit will require bingo operators' licence and corresponding personal and premises licence.
- 15.7 The following mandatory conditions must be attached to a bingo premises licence:
- A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.
  - No customer shall be able to enter bingo premises directly from casino, an adult gaming centre or betting premises (other than a track).

- Over 18 areas within bingo halls that admit under-18s must be separated by a barrier with prominently displayed notices stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the category B or C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.
- Any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rules can be displayed on a sign, by making available leaflets or other written material containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced.
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

Default conditions to attach to bingo premises licence:

- Bingo facilities in bingo premises may not be offered between the hours of midnight and 09:00hours. However, there are no restrictions on access to gaming machines in bingo premises.

## 16. Betting Premises

- 16.1 Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter premises with a betting premises licence, although exemptions apply to tracks. Children and young persons are not allowed to be employed at premises with a betting premises licence.
- 16.2 Betting premises will be able to provide up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines.
- 16.3 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 16.4 The following mandatory conditions will be attached to a betting premises licence (other than track premises licences) as stated within parts 1 and 2 to Schedule 5 of the Gambling Act 2005:

### **PART 1**

1. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.

2. (1) Access to the premises shall be from a street or from other premises with a betting premises licence.

(2) Without prejudice to sub-paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or

services.

3. Subject to anything permitted by virtue of the 2005 Act, or done in accordance with paragraphs 4, 5, 6 and 7 below, the premises shall not be used for any purpose other than for providing facilities for betting.

4. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.

5. No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes

(a) communicating information about, or coverage of, sporting events, including

(i) information relating to betting on such an event; and

(ii) any other matter or information, including an advertisement, which is incidental to such an event;

(b) communicating information relating to betting on any event (including the result of the event) in connection with which betting transactions may be or have been effected on the premises.

6. No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.

7. No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with paragraph 5.

8.— (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.

(2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.

9. A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.

## **PART 2**

Default conditions attaching to betting premise licences (other than in respect of tracks)

No facilities for gambling shall be provided

### **17. Tracks**

17.1 Only one premises licence can be issued for any particular premises at any time unless the premises are a 'track'. A track is a site or venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of track include:

- A horse racecourse (racecourses)
- A greyhound track
- A point-to-point horserace meeting
- Football, cricket and rugby grounds
- An athletics stadium
- A golf course
- Venues hosting darts, bowls, or snooker tournaments
- A premises staging boxing matches
- A section of river hosting a fishing competition
- A motor racing event

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

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

17.4 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission’s Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

17.6 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV– this should be of sufficient quality that it will be of use in evidence
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage

- Specific opening hours
- Self-exclusion schemes– these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises.
- Provision of information leaflets/helpline numbers for organisations such as GamCare

17.7 This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

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

17.9 **Betting machines** - Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines.

This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

17.10 **Condition on rules being displayed** - A condition will normally be attached to track premises licences requiring the track operator to ensure that the rules relating to tracks which are contained in the Act are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

17.11 **Applications and plans** – The Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity (See Guidance, para 20.28).

17.12 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations (see Guidance, para 20.29).

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

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

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

## **18. Travelling Fairs**

18.1 This licensing authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

18.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair:

For the purposes of this Act –

- (a) “fair” means a fair consisting wholly or principally of the provision of amusements, and
- (b) a fair held on a day in a calendar year is a “travelling fair” if provided-
  - (i) wholly or principally by persons who travel from place to place for the purpose of providing fairs, and
  - (ii) At a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

18.3 It is noted that the 27-day statutory maximum for the land being used as a fair, applies on a calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **19. Provisional Statements**

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

19.2 S204 of the Act provides for a person to make application to the licensing authority for a provisional statement in respect of premises that he or she:

- Expects to be constructed;
- Expects to be altered; or
- Expects to acquire a right to occupy.

- 19.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 19.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 19.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they:
- concern matters which could not have been raised by objectors at the provisional licence stage; or
  - Reflect a change in the operator's circumstances.
- 19.6 In addition the licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- Which could not have been raised by objectors at the provisional statement stage;
  - Which in the authority's opinion reflect a change in the operator's circumstances; or
  - Where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **20. Reviews**

- 20.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Licensing Authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - In accordance with this authority's statement of licensing policy.
- 20.2 The request for a review will also be subject to the consideration by the licensing authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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



- 20.3 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 20.4 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 20.5 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:
- Add, remove or amend a licence condition imposed by the licensing authority;
  - Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - Suspend the premises licence for a period not exceeding three months; and
  - Revoke the premises licence.
- 20.6 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in s153 of the Act, as well as any relevant representations.
- 20.7 In particular, the licensing authority may also initiate a review of the premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 20.8 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- The licence holder;
  - The applicant for review (if any);
  - The Gambling Commission;
  - Any person who made representations;
  - The Chief Officer of Police or Chief Constable;
  - Her Majesty's Commissioners for Revenues and Customs.

## **21 Rights of appeal and judicial review – Premises Licences**

- 21.1 This section deals only with appeals relating to premises licensing and other decisions by the Licensing Authority. The avenues of appeal against decisions the Licensing Authority are set out in sections 206 and 209 of the Act.
- 21.2 If an application under Part 8 of the Act is rejected, only the applicant may appeal. If an application under Part 8 of the Act is granted, the applicant and a person who made representations may appeal. It does not automatically follow that the person who made the representations will be appellant. It could be the licensee who is appealing, because he or she considers conditions attached to the licence too onerous. Similar arrangements will apply in appeals against a decision not to take

action following a review, and in relation to the grant of temporary use notices. The Licensing Authority will choose who it has as its witness.

- 21.3 If the Licensing Authority takes action or determines to take no action (which may include revocation or suspension of the licence, or the removal or addition of licence conditions) after the review of a licence, any of the following may appeal:
- The licence holder
  - A person who made representations in relation to the review
  - Where relevant, the person who applied for the review
  - The Commission.
- 21.4 Where the Licensing Authority makes a decision in relation to the transfer of a premises licence, which may involve amending licence conditions, the licence holder and the applicant for transfer have a right of appeal.
- 21.5 Notice of an appeal must be given within 21 days of notice of the decision being received by the appellant. During that period, and until any appeal that has been brought has been finally determined, a determination or the other action by the Licensing Authority under Part 8 of the Act will not have effect unless the authority so directs (see section 208 of the Act).
- 21.6 In many cases, it is a requirement of the Act that Licensing Authority gives clear and comprehensive reasons for rejection of an application. To clear and transparent the Licensing Authority will give reasons for all its decisions (see section 165 of the act, which is also applied in relation to other applications under Part 8 of the Act). A failure to give reasons may compel a person to appeal, and may suggest that the Licensing Authority did not make its decision with regard to all the information that it should have regard to, and in line with its obligation under section 153 (regardless of the decision that was reached).
- 21.7 Any appeal against the Licensing Authority is made to the Magistrates court. The Magistrates court is located at:
- South Cumbria Magistrates' Court,  
Abbey Road,  
Barrow-in-Furness  
Cumbria  
LA14 5QX  
01229 820161
- 21.8 An appeal has to be commenced by giving of a notice of appeal by the appellant to the local magistrate's court within a period of 21 days, beginning with the day on which the appellant was notified by the Licensing Authority of the decision being appealed.
- 21.9 It should be noted that unless he is the appellant, the licence holder or a person who has made application for:
- A licence
  - The transfer or reinstatement of a licence
  - A provisional statement

Is a respondent in any appeal, in addition to the Licensing Authority.

21.10 On determining an appeal, the court may:

- Dismiss the appeal
- Substitute the decision appealed against with any other decision that could have been made by the Licensing Authority
- Remit the case to the Licensing Authority to dispose of the appeal in accordance with the direction of the court.

## **Provisional statements**

21.11 A provisional statement can be refused on exactly the same grounds as a premises licence. The applicant may appeal against the rejection of an application of a provisional statement under section 206(1); and a person who made representations or the applicant may appeal against the grant of an application.

## **Permits**

21.12 The process of appeals in respect of permits is different to that for premises licences and is set out in the following Schedules of the Act:

- Schedule 10 – Family entertainment centre gaming machine permits (further explained in paragraphs 12.21 – 12.23 of the guidance).
- Schedule 11 (Parts 4 and 5) – Small society lotteries (further explained in paragraphs 12.24 – 12.25 of the guidance).
- Schedule 12 – Club gaming permits and club machine permits (further explained in paragraphs 12.26 – 12.31 of the guidance).
- Schedule 13 – Licensed premises gaming machine permits (further explained in paragraphs 12.32 – 12.34 of the guidance).
- Schedule 14 – Prize gaming permits (further explained in paragraphs 12.35 – 12.37 of the guidance).

## **Temporary use notices**

21.13 Appeals in relation to temporary use notices are detailed with in section 226 of the Act. This section grants the right to appeal to the magistrates' court to both the applicant and any person entitled to receive a copy of the notice (that is the Commission, local chief of police and HM Revenue and Customs). Appeals must be made within 21 days of receiving the notice of the Licensing Authority's decision. If the appeal is against the decision of the authority not to issue a counter-notice, then the person giving notice must be joined with the Licensing Authority as a respondent in the case.

21.14 The magistrates' court may take the following action: dismiss the appeal, direct the authority to take specified action, remit it back to the authority to decide in accordance with a decision of the court, and make an order for costs. It should be noted that if the decision is remitted to the authority, the same rights of appeal will apply as for the original decision.

21.15 There is no stay of proceedings in relation to temporary use notices (as there are in relation to applications under Part 8 of the Act). However, the time limits are such that the

Commission would expect proceedings on appeal to be heard before the temporary use notice would otherwise take effect.

## **Judicial review**

21.16 Any party to a decision may apply for judicial review if they believe that the decision taken by the Licensing Authority is:

- Illegal – that is beyond the powers available to the Licensing Authority
- Subject to procedural impropriety or unfairness – which is failure in the process of reaching the decision, such as not observing the ‘rules of natural justice’
- Irrational – where a decision is so unreasonable that no sensible person could have reached it (in effect ‘perverse’ or ‘Wednesbury’ unreasonable).

21.17 For an application to succeed, the application must show that:

- The applicant has sufficient standing to make that claim
- The actions of the reviewed Licensing Authority give grounds for review

But the remedy is a discretionary one and the Court may decline judicial review if, for example, it considers that the applicant has an alternative remedy which is more appropriate to pursue, such as right of appeal, or has a private law claim against the defendant.

21.18 The applicant can ask the Court to grant a number of orders. A mandatory order compels the reviewed body to do something; a prohibitory order compels it to refrain from doing something; a ‘declaration’ sets out the court’s view on the legality of particular course of action, the applicant can seek an injunction which is, in practice, similar to a mandatory or prohibitory order.

## Part C

# Permits/Temporary & Occasional Use Notice

## 21. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

- 21.1 Family Entertainment Centres (FECs) are commonly located at seaside resorts, in airports and motorway service stations, and cater for families, including unaccompanied children and young persons. Unlicensed FECs are able to offer only category D machines in reliance on gaming machine permit. Any number of category D machines can be made available with such permit subject to other considerations, such as fire regulations and health and safety. Permits cannot be issued in respect of vessels or vehicles.
- 21.2 If the operator of a family entertainment centre wants to make category C machines available in addition to category D machines, the operator will need to apply for a gaming machine general operating licence (Family Entertainment Centre) from the Commission and a premises licence from the Licensing Authority.
- 21.3 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (s238 of the Act).
- 21.4 The Act states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance also states "In their three year licensing policy statement, Licensing Authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits ...., Licensing Authorities will want to give weight to child protection issues" (para, 24.6).
- 21.5 Guidance also states: "... An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. Licensing Authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - That staff are trained to have a full understanding of the maximum stakes and prizes.
- 21.6 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

21.7 This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

21.8 This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (Schedule. 7 of the Act) and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **22. (Alcohol) Licensed Premises Gaming Machine Permits - (Schedule 13 paragraph 4(1))**

22.1 *Automatic entitlement: up to 2 machines* - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The operator of the premises merely needs to notify the Licensing Authority and pay the prescribed fee. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

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

22.2 *Permit: 3 or more machines* - If the operator of alcohol licensed premises wishes to have more than 2 machines, then an application must be made for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance and code of practice issued by the Gambling Commission issued under Section 24 & 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

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

- 22.4 This Licensing Authority recognises that some operators of alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 22.5 The Licensing Authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 22.6 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **23. Prize Gaming Permits - (Principles on Permits - Schedule 14 paragraph 8 (3))**

23.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.  
23.2 This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should demonstrate:

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

23.3 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, providing that none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.  
23.4 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Schedule. 14 para. 8(3) of the Act).

23.5 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:

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

## **24. Club Gaming and Club Machines Permits**

24.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance.

Members Clubs and Miner's Welfare Institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine Permit will enable the premises to provide gaming machines (up to 3 machines of categories B, C or D). N.B. Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

This licensing authority notes that the Gambling Commission's guidance states:

25.46 The licensing authority has to satisfy itself that the club meets the requirements of the Act to obtain a Club Gaming Permit. In doing so it will take account of a number of matters outlined in sections 25.47-25.49 of the Gambling Commission's guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations".

The club must be conducted 'wholly or mainly' for the purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

24.2 The Guidance also states that licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Gambling Commission or the police.

24.3 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule. 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or



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

24.4 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **25. Temporary Use Notices (TUN)**

25.1 The Gambling Act 2005 enables the holder of an operating licence to give a Temporary Use Notice in respect of premises.

The TUN authorises the premises to lawfully be used for short period to provide facilities for gambling without the appropriate premises licence. The gambling must be in accordance with the terms of the TUN.

TUNs can only be made by the holder of an operating licence authorising them to provide the gaming activity proposed under the TUN.

25.2 The holder of the operating licence must give notice to the Licensing Authority in whose area the premises are situated. The Secretary of State has prescribed the form of the notice which must specify information including:

- The type of gaming to be carried on
- The premises where it will take place
- The dates and times the gaming will take place
- Any periods during the previous 12 months that a TUN has had effect for the same premises.
- The date on which the notice is given
- The nature of the event itself.

25.3 The same set of premises may not be the subject of a TUN for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.

25.4 If the premises have been the subject of one or more TUN for more than a total of 21 days in the past 12 months, the Licensing Authority will issue a counter-notice that has the effect of stopping the TUN coming into effect. Failure to comply with the counter-notice will be an offence. The Licensing Authority may issue a counter-notice which limits the number of days that the TUN comes into effect, bringing it within the 21-day limit. Such counter-notices require consultation with the applicant to ensure that the restrictions they impose do not result in an unworkable event.

25.5 As notices may be given by different operators in respect of the same premises, the Licensing Authority will always check whether a counter-notice is appropriate.

25.6 A notice may not be given in respect of a vehicle. A notice may be given in respect of a vessel, but only if it is a passenger vessel or a vessel that is situated at a fixed place. A vessel at a fixed place would include a structure on water that is not intended to be able to move (such as an oil rig, or an artificially constructed island in the middle of a lake). It

should be noted that a notice can only be given in respect of a vessel that is moored permanently at place (i.e. it could move but it does not) if it is a passenger vessel.

- 25.7 A TUN must be lodged with the Licensing Authority not less than three months and one day before the day on which the gambling event will begin. The application, fee and counter-notices are specified by the Secretary of State. The application must be copied to:
- The Commission
  - The Police
  - HM Commissioners for Revenue and Customs
  - If applicable, any other Licensing Authority in whose area the premises are situated
- 25.8 The person who is giving the TUN must ensure that the notice and the copies are with the recipients within seven days of the date of the notice. Where the premises are situated in the area covered by more than one authority, the person giving notice must send other notice to one authority and copy to the other(s).
- 25.9 Where the Licensing Authority receives a notice, it must send a written acknowledgement as soon as reasonably practicable. A written acknowledgement may include one sent by electronic mail.
- 25.10 The Licensing Authority and other bodies to which the notice is copied should consider whether they wish to give notice of objection. In considering whether to do so, they must have regard to the licensing objectives and if they consider that the gambling should not take place, or only with modifications, they must give a notice of objection to the person who gave the TUN. Such a notice must be copied to the Licensing Authority (unless it is given by the Licensing Authority). The notice of objection and the copy to the Licensing Authority must be given within 14 days of the date of the TUN. An objection and the copy to the Licensing Authority must be given within 14 days of the date of the TUN. An objection may be withdrawn by giving written notice to those to whom the notice of objection was sent and copied.
- 25.11 The Licensing Authority has noted the timescales set out in the Act. The need to give a notice of objection within 14 days of the date of the TUN means that there must be procedures to ensure that such notices are considered without delay so that, where appropriate, the opportunity to lodge an objection is not missed.
- 25.12 If objections are received, the Licensing Authority must hold a hearing to listen to representations from the person who gave the TUN, all the objectors and any person who was entitled to receive a copy of the notice. If all the participants agree that a hearing is unnecessary, it may be dispensed with.
- 25.13 Those who raise objections may offer modifications to the notice that will alleviate their concerns. Remedies may include a reduction in the number of days when gambling occurs or a restriction on the type of gambling is permitted. If the modifications are accepted by the applicant, a new TUN must be prepared and the original notice withdrawn. The three-month time limit and fee will not apply to the new notice. The person who made the original objection and proposed the modification may not object to the new notice, but others whom it is copied may object. If there are no new objections, there will be no need for a hearing.

- 25.14 If the Licensing Authority, after a hearing has taken place or has been dispensed with, considers that the TUN should not have effect, it must issue a counter-notice which may:
- Prevent the TUN from taking effect
  - Limit the activities that are permitted
  - Limit the time period of gambling
  - Allow the activity to take place subject to a specified condition
- 25.15 If the Licensing Authority gives a counter-notice, it must give reasons for doing so and must copy the counter-notice to all those who receive copies of the TUN.
- 25.16 If the Licensing Authority decides not to issue a counter-notice, the TUN will take effect. The must give notice of its decision to the person who gave the TUN and others to whom it was copied.
- 25.17 An appeal against the Licensing Authority's decision may be made by the applicant, or any person entitled to receive a copy of the TUN, to the Magistrate's Court within 21 days of receiving notice of the Licensing Authority's decision. There is a further right of appeal to the High Court on a point of law.
- 25.18 If no objections are made within 14 days of the date of the notice, the Licensing Authority must endorse the notice as valid and return it to the person who gave it. If the endorsed copy of the notice is lost, stolen or damaged, the person who gave the notice may request a new endorsed copy from the Licensing Authority, subject to a payment of a fee.
- 25.19 Section 228 sets a time limit of six weeks for the completion of all proceedings on a TUN. This includes considering whether to give a notice objection; hold a hearing, if it is necessary; and giving a counter-notice or notice dismissing the objections.
- 25.20 The person who gives a TUN may notify the authority that it is withdrawn at any time up to and during the time it has effect. In those circumstances the notice will have no effect, and any un-lapsed period of time will not count towards the 21-day maximum for a TUN having effect on the premises.
- 25.21 While the gambling is taking place, a copy of the TUN must be displayed prominently on the premises. It is an offence not to produce the notice endorsed by the authority when requested to do so by a constable, an officer of HM Revenue and Customs, an enforcement officer, or an authorised local authority officer.

## **26. Occasional Use Notices (OUN)**

- 26.1 Section 38 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an OUN without the need for a full premises licence.
- 26.2 While tracks are normally thought of as permanent racecourses, it should be noted that the meaning of 'track' in the Act covers not just horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place, or is intended to take place (section 353(1)).

- 26.3 This means that land which as a number of uses, one of which fulfils the definition of track, can qualify for the OUN provisions (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.
- 26.4 The intention behind OUN is to permit licensed betting operators (with appropriate permission from the Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. The OUN dispenses with the need for a betting premises licence for the track in these circumstance.
- 26.7 OUN may not be relied upon for more than eight days in a calendar year. Note that the requirement relates to a calendar year (starting 1January) and not to any period of 12 months. The Secretary of State has the power to increase or decrease the number of OUN that are permitted, but there are currently no plans to use this power.
- 26.8 This Licensing Authority keeps a record of the number of notices served in relation to each track.
- 26.9 A notice must be served by a person who is responsible for the administration of events on the track or by an occupier of the track. The notice be served on the Licensing Authority and copied to the Chief Officer of Police for the area in which the track is located. The notice must specify the day on which it has effect. Notices may be given in relation to consecutive days, so long as the overall limit of eight days is not exceeded in the calendar year.
- 26.10 Provided that the notice will not result in betting facilities being available for more than eight days in a calendar year, there is no provision for counter-notices or objections to be submitted.
- 26.11 The Act does not require the applicant or the Licensing Authority to notify the Commission that an OUN has been given. However the Commission does require Licensing Authorities to submit returns showing how OUN may were received during each quarter.
- 26.12 It should be noted that betting operators cannot provide gaming machines at tracks by virtue of an OUN. Gaming machines may be made available by betting operators and this is reliant on a betting premises licence, which refers to a specific licensed area, but does not enable the operator to site gaming machines outside of that area.

# Appendix 1 – List of Consultees

Association of British Bookmakers, Norris House, 4 Norris Street, London  
BACTA, Alders House, 133 Aldersgate Street, London  
Bangladeshi Caterers Association, London Road, Carlisle  
Barrow Multi-Cultural Centre  
Berwin, Leighton Paisner, Adelaide House, London Bridge, London  
Bingo Association, Lexham House, 75 High Street North, Dunstable  
British Association of Leisure Parks, Piers & Attractions Ltd, Suite 12, 37 Tanner Street, London  
British Beer & Pub Association, London  
British Casino Association, 38 Grosvenor Gardens, London  
British Greyhound Owners Association, Carshalton  
British Holiday and Home Parks Assoc, Great Western Road, Gloucester  
British Institute of Innkeeping, Wessex House, 80 Park Street, Camberley  
British Transport Police, Citadel Station, Court Square, Carlisle  
Business in Sport & Leisure, 17a Chartfield Avenue, Putney, London  
CADAS, 17a West Tower Street, Carlisle  
Carlisle & District Law Society, Burnetts Solicitors, Carlisle  
Carlisle District Pub Watch Scheme, North Cumbria Area Police HQ, Durranshill, Carlisle  
Carlisle & District PCT, Wavell Drive, Rosehill, Carlisle  
Carlisle & Eden CDRP, Civic Centre, Carlisle  
Carlisle & Eden CDRP Drug Task Group, Civic Centre, Carlisle  
Cumbria Volunteer Bureau, 27 Spencer Street, Carlisle  
Casino Operators Association, Thorncombe  
Citizens Advice Bureau, 5-6 Old Post Office Court, Devonshire Street, Carlisle  
Cumberland Newspapers, Dalston Road, Carlisle  
Cumbria Association of Local Councils, Penrith Library, Penrith  
Cumbria Chamber of Commerce, Enterprise Centre, Carlisle  
Cumbria Constabulary, Chief Constable, Carleton Hall, Penrith  
Cumbria County Council - Children's Services  
Cumbria County Council - Corporate Management  
Cumbria County Council - Community Safety Officer  
Cumbria County Council - Cultural Policy Unit, Arroyo Block

Cumbria County Council - Education Services  
Cumbria County Council - Legal Services  
Cumbria County Council - Neighbourhood Development Officer  
Cumbria County Council – Safeguarding & Review, New Oxford Street, Workington  
Cumbria Drugs Action Team  
Cumbria Fire and Rescue Service, Headquarters, Cockermouth  
Cumbria Health & Safety Liaison Group, c/o Emma Brass, Eden District Council  
Cumbria Housing Group, Botchergate, Carlisle  
Cumbria Tourist Board, Staveley, Kendal  
Cumbria Volunteer Bureau, 27 Spencer Street, Carlisle  
Dalton with Newton Parish Council  
Done Bros., Spectrum, 56-58 Benson Road, Warrington  
Enterprise Inns, Eurobet UK, Working, Surrey  
European Entertainment, The Park, Wiltshire  
Gala Coral Group, Newcastle House, Nottingham  
Gamcare, Crosby Row, London  
Gamestec Leisure Limited, Leeds  
Hammonds Solicitors, Rutland House, 148 Edmund Street, Birmingham  
Hartleys (Ulverston) Ltd, Ulverston, Cumbria  
Health & Safety Executive, 2 Victoria Place, Carlisle  
HM Revenue and Customs, Glasgow  
Holders of Carlisle Premises Licences (Gambling Act 2005)  
Ladbrokes PLC, Rayners Lane, Middlesex  
Leisure Link, Wetmore Road, Burton on Trent  
Lindal and Marton Parish Council  
NRU Betting & Gaming, Portcullis House, 21 India Street, Glasgow  
NSPCC, 7 Chatsworth Square, Carlisle  
NHS Cumbria Trust HQ, Lonsdale Unit, Penrith Hospital, Bridge Lane, Penrith  
Polish Association, 24 Wentworth Drive, Carlisle  
Poppleston Allen, Licensing Solicitors, The Lace Market, Nottingham  
Prize Coin Equipment, Central Avenue, Gretna  
Punch Taverns, Jubilee House, Second Ave, Burton on Trent DE14 2WF

Racecourse Association Ltd, Winkfield Road, Ascot  
Scottish & Newcastle Pub (Enterprises) Ltd, Newcastle  
Terry Chemicals, Dalton-in-Furness  
Thwaites Inns, Star Brewery, Blackburn  
Ukranian Association, 32 Briery Acres, Workington  
William Hill Ltd, Wood Green, London.

## Appendix 2: Responsible Authorities

Principal Licensing Officer  
Environmental Health Department  
Barrow Borough Council  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [commercial@barrowbc.gov.uk](mailto:commercial@barrowbc.gov.uk)

Commercial Team (Health & Safety)  
Environmental Health Department  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [commercial@barrowbc.gov.uk](mailto:commercial@barrowbc.gov.uk)

Environmental Protection Team  
Environmental Health Department  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [environment@barrowbc.gov.uk](mailto:environment@barrowbc.gov.uk)

Development Services Manager  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [consultplanning@barrowbc.gov.uk](mailto:consultplanning@barrowbc.gov.uk)

Public Health Lead  
Public Health, Cumbria County Council  
The Courts  
Carlisle. CA3 8NA  
Tel: 01228 606060  
Email: [publichealthenquiries@cumbria.gov.uk](mailto:publichealthenquiries@cumbria.gov.uk)

Chief Officer of Police  
Licensing  
Cumbria Constabulary  
Barrow Police Station  
Market Street  
Barrow-in-Furness  
LA14 2LE  
Tel: 101  
Email: [rupert.anderson@cumbria.police.uk](mailto:rupert.anderson@cumbria.police.uk)

Fire Safety Group Manager  
Cumbria Fire & Rescue Service  
B Division HQ  
Phoenix Road  
Barrow-in-Furness  
LA14 2NS  
Tel: 01229 407800  
Email: [barrow.technical@cumbria.gov.uk](mailto:barrow.technical@cumbria.gov.uk)

Trading Standards (Licensing)  
Cumbria County Council  
Neville House  
Neville Street  
Ulverston  
LA12 0BL  
Tel: 01229 404040  
Email: [trading.standards.barrow@cumbriacc.gov.uk](mailto:trading.standards.barrow@cumbriacc.gov.uk)

Health and Safety Executive (HSE)  
2 Victoria Place  
Carlisle  
CA1 1ER  
Tel: 0300 003 1747  
Web: [www.HSE.gov.uk](http://www.HSE.gov.uk)  
(where the HSE is the enforcing authority for health & safety matters in the premises)

Cumbria LSCB  
Childrens Services  
Lower Goal Yard, 1<sup>st</sup> Floor, The Courts  
Carlisle. CA3 8NA  
Tel: 01228 226898  
Email: [LSCB@cumbria.gov.uk](mailto:LSCB@cumbria.gov.uk)



# Other Useful Addresses

## **British Beer and Pub Association**

Market Towers  
1 Nine Elms Lane  
London  
SW8 5NQ  
Tel: 0207 627 9191  
Email: [web@beerandpub.com](mailto:web@beerandpub.com)  
Web: [www.beerandpub.com](http://www.beerandpub.com)

## **Consumer Credit Counselling Service**

Wade House  
Merrion Centre  
Leeds LS2 8NG  
Web: [www.cccs.co.uk](http://www.cccs.co.uk)

## **Equity**

Guild house  
Upper Martins Lane  
London  
WC2H 9EG  
Tel: 0207 379 6000  
Email: [info@equity.org.uk](mailto:info@equity.org.uk)  
Web: [www.equity.org.uk](http://www.equity.org.uk)

## **Gamblers Anonymous**

PO Box 5382  
London W1A 6SA  
Local Meetings:  
7.30pm Monday  
Church of Scotland Chapel Street Carlisle CA1 1JA  
[www.gamblersanonymous.org.uk/question.htm](http://www.gamblersanonymous.org.uk/question.htm)

## **South Cumbria Magistrates' Courts Service**

Abbey Road,  
Barrow-in-Furness  
Cumbria

## **British Institute of Innkeeping**

Wessex House  
80 Park Street  
Camberley  
Surrey GU15 3PT  
Tel: 01276 684 449  
Email: [reception@bii.org](mailto:reception@bii.org)  
Web: [www.bii.org](http://www.bii.org)

## **Disability Rights Commission Helpline**

Freepost MID01264  
Stratford Upon Avon  
CV37 9BR  
Tel: 08457 622 633  
Web: [www.drc-gb.org](http://www.drc-gb.org)

## **Gamcare**

2<sup>nd</sup> Floor  
7-11 St John's Hill  
London SW11 1TR  
Tel: 020 7378 5200  
Helpline: 0845 6000 133  
Email: [info@gamcare.org.uk](mailto:info@gamcare.org.uk)  
Web: [gamcare.org.uk](http://gamcare.org.uk)

## **Money Advice Trust**

Bridge House  
181 Queen Victoria Street  
London EC4V 4DZ  
Web: [www.moneyadvicetrust.org/home.html](http://www.moneyadvicetrust.org/home.html)

## Appendix 3 - Categories of Gaming Machines

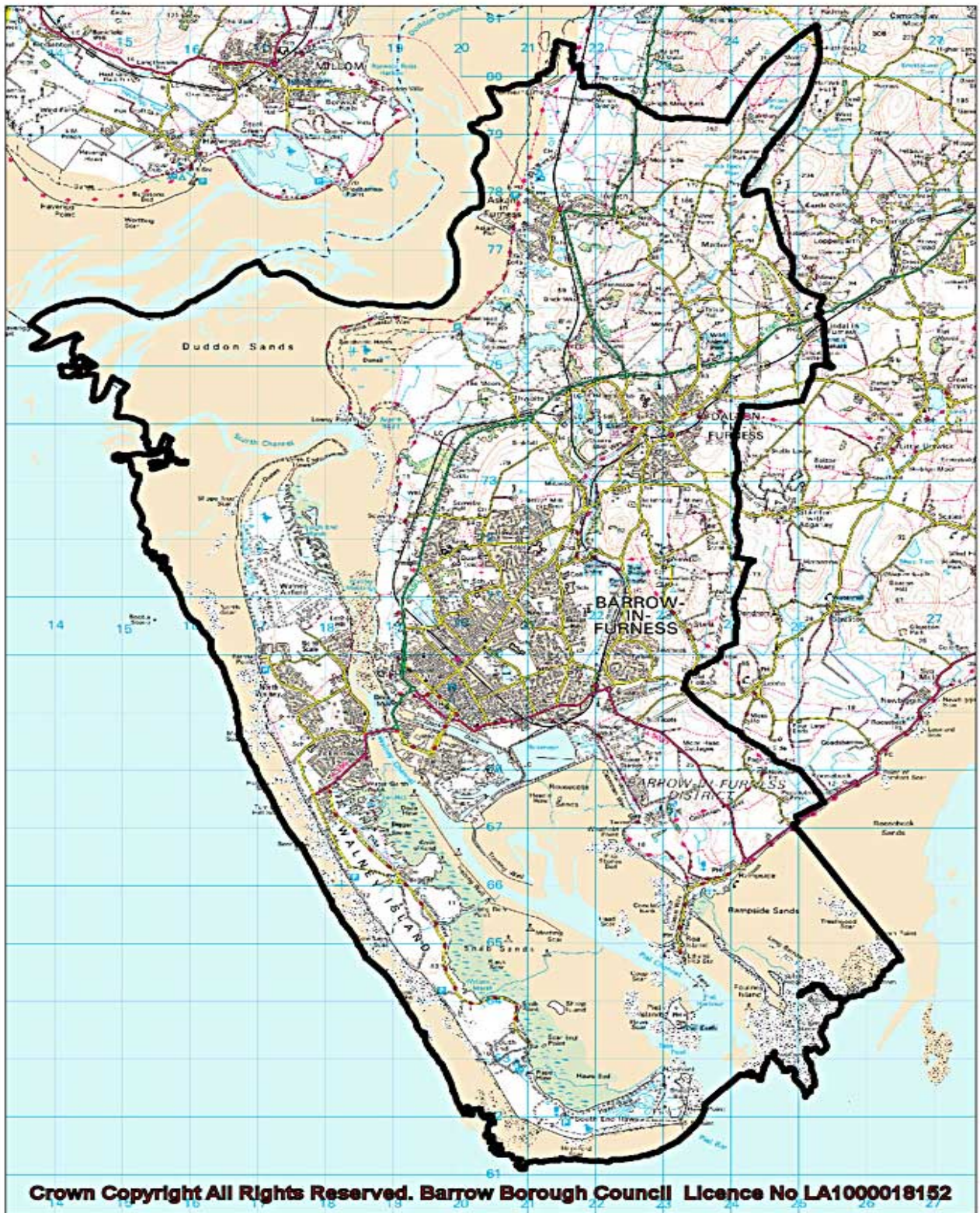
Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 or £20,000
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D	10p cash or 30p none cash	£5 Cash £8 Tokens

## Appendix 4 - Delegation of Functions

Matter to be dealt with	Full Council	Regulatory Committee or Sub-committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits		<u>X (for more than 4 machines)</u>	<u>X (up to 4 machines)</u>
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X - Indicates at the lowest level to which decisions can be delegated.

# Appendix 5 - Map of the District



<b>EXECUTIVE COMMITTEE</b>	<b>(R) Agenda Item 25</b>
<b>Date of Meeting: 2nd December, 2015</b>	
<b>Reporting Officer: Principal Environmental Protection &amp; Licensing Officer</b>	

**Title: Licensing Committee – Review of Statement of Licensing Policy**

**Summary and Conclusions:**

The following recommendation has been referred to the Executive Committee from the meeting of the Licensing Committee held on 12th November, 2015.

The Licensing Act 2003 requires that the Council publish a ‘Statement of Licensing Policy’ setting out the policies the Council will generally apply to promote the four licensing objectives when making decisions on applications, etc. under the Act.

Legislation requires the Statement of Licensing Policy to be published every five years and a consultation on the updated Draft Statement of Licensing Policy has concluded. Section 7(2) Licensing Act 2003 prohibits the Licensing Committee from setting its own policy therefore the draft Policy and the results of the consultation are reported in **Appendix 12** for consideration and approval prior to being ratified at Full Council.

**Recommendations:**

To recommend the Council to approve the Barrow Borough Council - Statement of Licensing Policy for 2016 - 2021 and adopt as Borough Council policy.

**Report**

The Licensing Act 2003 requires that the Council publish a ‘Statement of Licensing Policy’ every five years setting out the policies the Council will generally apply to promote the four licensing objectives (set out below) when making decisions on applications, etc. under the Act: -

- The prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Prevention of children from harm

When making deliberations Licensing Committee Members must have regard to this Statement of Licensing Policy together with the statutory guidance (Secretary of State Guidance and Code of Practice) issued under s. 182 Licensing Act 2003.

The Council's current Policy Statement came into force in January 2011 and at the time the legislation required the Statement of Licensing Policy to be published every three years. Section 122 of the Police Reform and Social Responsibility Act 2011 changed this from every 3 years to 5 years.

Following the above legislative changes a revised policy must be adopted no later than 7th January 2016. A three month consultation on the updated Draft Statement of Licensing Policy has now concluded.

The updated and revised Statement of Licensing Policy 2016-2021 is attached at **Appendix 12.**

(i) Legal Implications

The legal implications are outlined in the report to Licensing Committee at **Appendix 11.**

(ii) Risk Assessment

The recommendation has no significant implications.

(iii) Financial Implications

The recommendation has no financial implications.

(iv) Health and Safety Implications

The recommendation has no significant implications.

The recommendation has no detrimental impact the built environment or public realm.

(v) Equality and Diversity

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vi) Health and Well-being Implications

The recommendation has no adverse effect on the Health and Wellbeing of users of this service.

Background Papers

Nil

<u>Part One</u>	
<b>LICENSING COMMITTEE</b>	<b>(R) Agenda Item 8</b>
<b>Date of Meeting: 12th November, 2015</b>	
<b>Reporting Officer: Principal Environmental Protection &amp; Licensing Officer</b>	
<p><b>Title: Licensing Act 2003 - Statutory Policy Review</b></p> <p><b>Report Summary:</b></p> <p>The Licensing Act 2003 requires that the Council publish a 'Statement of Licensing Policy' setting out the policies the Council will generally apply to promote the four licensing objectives when making decisions on applications, etc. under the Act.</p> <p>Members are aware that legislation requires the Statement of Licensing Policy to be published every five years and a consultation on the updated Draft Statement of Licensing Policy has concluded. Section 7(2) Licensing Act 2003 prohibits the Licensing Committee from setting its own policy therefore the draft Policy and the results of the consultation will be reported to the Executive Committee for consideration and approval prior to being ratified at Full Council.</p> <p><b>For noting:</b></p> <p>That Members note the following information:</p> <p>(1) The Draft Statement of Licensing Policy, the results of and amendments from the consultation will be reported to Executive Committee on 2nd December, 2015 for consideration before being forwarded to full Council, with any proposals, for adoption.</p>	

### Report

#### Background

The Licensing Act 2003 requires that the Council publish a 'Statement of Licensing Policy' every five years setting out the policies the Council will generally apply to promote the four licensing objectives (set out below) when making decisions on applications, etc. under the Act: -

- The prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Prevention of children from harm

When making deliberations Licensing Committee Members must have regard to this Statement of Licensing Policy together with the statutory guidance (Secretary of State Guidance and Code of Practice) issued under s. 182 Licensing Act 2003.

The Council's current Policy Statement came into force in January 2011 and at the time the legislation required the Statement of Licensing Policy to be published every three years. Section 122 of the Police Reform and Social Responsibility Act 2011 changed this from every 3 years to 5 years.

Following the above legislative changes a revised policy must be adopted no later than 7<sup>th</sup> January 2016

A three month consultation on the updated Draft Statement of Licensing Policy has now concluded. Section 7(2) Licensing Act 2003 prohibits the Licensing Committee from setting its own policy therefore the draft Policy and the results of the consultation will be reported to the Executive Committee on 2<sup>nd</sup> December 2015 for consideration and approval prior to being forwarded to Full Council, with any proposals, for adoption.

## **Representations**

The Cumbrian Licensing Managers group met on the 21<sup>st</sup> September 2015 to discuss the representations made.

One National representation was received by Email from British Board of Film Classification – asking us to amend web-links for their guidelines and helpline link.

**Licensing Comments:** Statement has been updated.

Two local representations were made and are detailed below:

1. Cumbria Fire & Rescue requested that as part of the application process Fire Risk Assessments be included.

**Licensing Comments:** This policy is not intended to duplicate existing legislation and other regulatory regimes that place duties on employers and operators e.g. Health and Safety at Work etc. Act 1974, Environmental Protection Act 1990, Equality Act 2010, Building Regulations and the Regulatory Reform (Fire Safety) Order 2005.

The Licensing Authority can only impose conditions which are appropriate in promoting licensing objectives.

2. A designated premises supervisor (DPS) made the following representations regarding the provision on free water:-

“Do not understand the section of giving and making water freely accessible, this will not be happening at our premises as the water bill last year was over £3000, water drinks, glass washing, ice, toilet flushing are not free”.



**Licensing Comments:** The provision of free water is a Mandatory Condition that is attached to all Premises Licenses. The DPS has been reminded of this. No change to the draft policy required.

The updated and revised Statement of Licensing Policy is attached at **APPENDIX 4**.

Members are asked to note the above only.

**Recommendation:**

**Not applicable to this report.**

Report is for information purposes only.

**Reason for Recommendation:**

The report is for information purposes only.

(i) Legal Implications

The Statement of Licensing Policy provides the framework under which the licensing function is administered and the Council's approach under the Licensing Act 2003.

Section 4 Licensing Act 2003 places a general duty on licensing authorities

- (1) A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives.
- (2) The licensing objectives are —
  - (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.
- (3) In carrying out its licensing functions, a licensing authority must also have regard to —
  - (a) its licensing statement published under section 5, and
  - (b) any guidance issued by the Secretary of State under section 182

The Police Reform & Social Responsibility Act 2011 the term for a full review of the Licensing Policy Statement has been extended from 3 years to 5 year.

Section 5(1) of the Licensing Act 2003 provides that each licensing authority must, in respect of each five year period, determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy before the beginning of the period.

Section 7(2) Licensing Act 2003 prohibits the Committee from setting its own policy therefore the draft Policy and the results of the consultation will be reported to the Executive Committee for consideration and approval prior to being ratified at Full Council.

The Licensing Authority must have regard to the statutory guidance issued under Section 182 Licensing Act 2003 when drafting its policy. The latest version issued by the Home Office in March 2015 has been referred to during the drafting of this policy.

In accordance with the Licensing Act 2003 the Statement of Licensing Policy must be determined by Full Council.

(ii) Risk Management

It is important that the Council adopts a robust and accountable regulatory regime in relation to gambling. It needs to ensure that the risk of non-compliance and regulatory burden to both the Council and the local trade is minimised. However it must balance this with the need to uphold the licensing objectives.

(iii) Financial Implications

There are no financial implications

(iv) Health and Safety Implications

There are no Health and Safety implications.

(v) Key Priorities or Corporate Aims

This recommendation supports the following priorities:

**Priority 2 – Regeneration and Public Realm** – which states that the Council is committed to working with partners and service providers to enhance the built environment.

**Priority 4 - Service Delivery** – which states that the Council strives to provide good quality, efficient and effective services while reducing overall expenditure.

(vi) Equality and Diversity

The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

When considering licensing applications, only issues provided for in the Licensing Act 2003 in addition to the statutory guidance and the authority's statement of principles will be taken in to account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

The recommendation has no detrimental impact on service users showing any of the protected characteristics under current Equalities legislation.

(vii) Other Human Rights

The recommendation has no adverse effect on the Human Rights of individuals.

(viii) Health and Well-being Implications

The review of the Statement of Licensing Policy could improve health and reduce health inequalities, by setting out the expectations for each of the licensing objectives which may have an impact on the health of residents.

Background Papers

Secretary of State Guidance and Code of Practice. Available from:  
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>



# Licensing Act 2003

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## Statement of Licensing Policy

For the period 2016-2021

<b>Version Control:</b>	
<b>Document Name:</b>	Statement of Licensing Policy – for the period 2016 - 2021
<b>Version:</b>	29102015.1
<b>Author:</b>	Principal Environmental Protection & Licensing Officer
<b>Approved by:</b>	Executive Committee and Full Council
<b>Date Approved:</b>	
<b>Review Date:</b>	

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## 1.0 Introduction

- 1.1 Welcome to Barrow Borough Council's Statement of Licensing Policy. It will apply for a maximum of five years. The policy will be kept under review and may be revised in light of experience or revisions to guidance issued under section 182 of the Licensing Act 2003.
- 1.2 The Borough of Barrow-in-Furness is situated at the southern tip of Cumbria, to the North of Morecambe Bay and set against the spectacular backdrop of the English Lake District mountains.
- 1.3 Surrounded by beautiful beaches and inspiring scenery, the Furness area also has a strong manufacturing economy incorporating marine and nuclear engineering, electronics, offshore engineering and power generation.
- 1.4 Barrow has a vibrant daytime, evening and night-time economy and is the base for many cultural and leisure activities. There are approximately 360 businesses associated with the Licensing Act provisions. These include a multi-screen cinema, theatre, restaurants, public houses, off-licences, nightclubs and take-away food outlets. There is a mixed provision of premises ranging from village halls and small public houses in the rural area to community centres and nightspots in the town itself.
- 1.5 The Licensing Act 2003 requires Barrow Borough Council as the Licensing Authority, to prepare and publish a statement of Licensing Policy. The policy sets out principles that the Council generally applies to promote the licensing objectives when making decisions on applications made under this act. An extensive consultation exercise was held before the policy was published.
- 1.6 The Council is committed to developing Barrow's regional status and appreciates the importance leisure businesses have for the local economy. The Council's policies and priorities aim to reflect the needs and aspirations of existing and new local businesses. The thriving food, drink and entertainment businesses in the area are an important part of the local economy and this policy is critical to their continuing success and for attracting further investment and opportunity to the area. Balanced against this are the Council's legal duties with regard to public safety, nuisance and commitment with its partners to reducing crime and fear of crime.
- 1.7 It is also important to protect and maintain our environment so that residents, visitors and other businesses can enjoy the opportunities for living, visiting and working within the area safely and free from nuisance. The Council values its younger people and is active in ensuring they are offered a wide range of opportunities and experiences to develop while seeking to protect them from harm.
- 1.8 Guidance such as the Licensing Policy aims to advise businesses and individuals on how they can develop, as well as clarifying the national licensing legislation.

1.9 If you require further information on the Licensing Policy please contact our Licensing Section of the Environmental Health Department.

## **2.0 Purpose of Policy**

2.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of this licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act. This is the third review our Licensing Policy and following a public consultation Barrow Borough Council resolved to approve the revised policy on the XXXXX to be effective from 4<sup>th</sup> January 2016 for the next five years.

2.2 This policy statement has amongst other things, four main purposes:

1. To provide Members of the Licensing Committee with a decision making framework. The policy will be taken into account at a hearing following representations.
2. To inform applicants of the parameters within which the Authority are able to make licensing decisions and allow them to take this into account when making applications.
3. To provide guidance to local residents and businesses of the boundaries within which the Licensing Authority will make licensing decisions. This will assist those parties when making representations in relation to various applications.
4. To support the Licensing Authority if it has to demonstrate in a court of law how it reached its licensing decisions.

2.3 The policy will be kept under review and the Licensing Authority will if necessary, after appropriate consultations, make such revisions to it as may be considered appropriate. Any amendments will be incorporated in the licensing statement after each review.

## **3.0 Scope of this policy**

3.1 The Council as the Licensing Authority is responsible for authorising licensable activities, the issue of personal licences and other matters set out in the Act within this district. This policy relates to all those licensable activities identified as falling within the provisions of the Act, namely:

- Retail sale of alcohol
- Supply of alcohol by or on behalf of club members

- Provision of regulated entertainment under certain circumstances that is entertainment (unless exempted by the Act) which is provided for the public, club members or for consideration with a view to profit.
- Supply of late night refreshment that is, supply of hot food and/or hot drink from any premises (subject to any statutory exemption) including food stalls, between 23:00 hours and 05:00 hours.

3.2 In addition to the above the Act also makes provision for the licensing of individuals to sell alcohol (personal licences); the permitting of certain licensable activities on a temporary basis (temporary event notice); and provisional statements.

3.3 A minority of consumers will behave badly and unlawfully once away from premises, and it would be unreasonable to expect licence holders to have control over these individual people.

3.4 The Licensing Authority recognises that the Act is not a cure-all for all anti-social behaviour. There is a breadth of other strategies for addressing these problems, for example:

- Planning controls
- Powers of local authorities to designate parts of the local authority areas as places where alcohol may not be consumed publicly
- Powers of Police and Local Authorities under the Anti-Social behaviour legislation
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- Confiscation of alcohol from adults and children in areas protected by Public Space Protection Orders, formerly Designated Areas and dispersal powers
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
- The power of the Police, other responsible authorities or other person to seek a review of the licence or certificate
- Promotion of positive activities.

## 4.0 General matters

4.1 All references to the “the Act” in this document shall be deemed to mean “Licensing Act 2003” unless otherwise stipulated.

4.2 Barrow Borough Council is the Licensing Authority for this district under the terms of the Act who are responsible for determining all applications for licensable activities, as defined in Section 1 of the Act.



- 4.3 The Licensing Authority recognises that it operates services who act as ‘Responsible Authorities’ i.e. Environmental Health, Planning, Police, Fire Authority, Trading Standards, the Safeguarding Team at Cumbria County Council, the Licensing Authority and the local authorities’ Director of Public Health who are able to make representations on any licence application submitted under the terms of the Act. The Licensing Authority will treat these submissions with the same consideration as any other representations have regard to the terms of the Section 182 Statutory Guidance on this Licensing Policy for the purpose of the Act. Cumbria County Council’s Safeguarding and Review team is the responsible authority in relating to the protection of children from harm.
- 4.4 The Act requires the Licensing Authority to keep a register containing a record of each premises licence, club premises certificate, personal licence issued and temporary event notice received and in doing so will have regard to the information set out in Schedule 3 to the Act.
- 4.5 To comply with this requirement our register may be accessed online by using the following link <http://licensing.barrowbc.gov.uk/licreg/licensing/default/general>

#### **Disclaimer**

- 4.6 Advice and guidance contained in the Statement of Licensing Policy is intended only to assist readers and should not be interpreted as legal advice. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Licensing Act 2003 or of the Guidance or Regulations issued under the Act.

#### **Consultation**

- 4.7 There are a number of groups which have a stake in the leisure industry, including providers, customers, residents and enforcers, all of which have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 4.8 In developing this policy statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Responsible Authorities), the views of existing license holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

#### **Links to other Strategies**

- 4.9 In preparing this Statement of Licensing Policy, the Licensing Authority has had regard to and consulted with those involved in Barrow Borough Council’s local strategies on crime prevention, planning transport, culture, tourism, community, eGovernment and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amending of these strategies will be considered for their impact upon this Statement of Licensing Policy.

## **Planning and Building Control**

- 4.10 Where appropriate, the licensing authority will co-ordinate and liaise with the planning authority and will provide information regarding licensed premises in the area, including evidenced alcohol related crime and disorder information where available, to enable Planning Committee to have regard to such matters when making decisions.
- 4.11 The Licensing Authority will ensure that planning, building control and licensing regimes will be separated to avoid duplication and inefficiency.
- 4.12 The licensing authority would expect that applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, the licensing authority acknowledges that applications for premises licences or club premises certificates may be made prior to any relevant planning permission having being sought or granted by the planning authority. Applicants would be expected to ensure that all relevant permissions are obtained.
- 4.13 The licensing authority recognises that licensing applications should not be a re-run of planning applications nor should they cut across decisions taken by planning committee or following appeals against decisions taken by the Council's planning committee. The licensing authority's licensing committee will not be bound by decisions made by the Council's planning committee and vice versa.
- 4.14 Where the granting of any variation to a premises licence or club premises certificate involves a material alteration to a premises, the licensing authority would expect the applicant to apply for relevant planning permission or building control consent where appropriate.
- 4.15 The Licensing Authority recognises that when, as a condition of planning permission a terminal hour has been set for the use of the premises for commercial purposes, and where these hours are different from the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

## **Special Events in the Open Air or in Temporary Structures**

- 4.16 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures such as marquees etc. can provide opportunities for community involvement, civic pride and can attract visitors to the district.
- 4.17 However, the success of such events by the way of contribution to the Council's cultural and tourist strategies depends upon the quality, levels of safety and consideration for the rights of people who work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.

- 4.18 In recognition of the special factors that are relevant, particularly with respect to major open air events such as pop festival or events, the Council has established a multi-agency forum to assist organisers in co-ordinating such events. This includes council departments who have an interest in or legislative role relevant to such events, together with representatives of the various emergency services.
- 4.19 Members of the forum are notified about all proposals to hold such events and where necessary special meetings will be organised in order to consider any communication with organisers.
- 4.20 A useful document which organisers are recommended to obtain is 'The Event Safety Guide' (known as the purple guide), published by the Health and Safety Executive. This is currently being revised and organisers are advised to check online for the latest version.
- 4.21 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

### **Community Applicants**

- 4.22 Whilst this policy is aimed at all licensable activities under the Act it should be noted that the Council sees a distinction between large or permanent activities, such as those proposed by commercial operations and small or temporary activities such as those which might be proposed by cultural or community groups.
- 4.23 Where events are proposed by cultural or community groups, it is recognised that those groups may not have the same skill or the expertise or access to professional advice. Such groups may seek assistance and guidance from the Council by contacting the Licensing Section.
- 4.24 Whatever the nature of the applicant and activity proposed, the overriding matter is that the Council will consider the individual merits of the application and act so as to promote the licensing objectives.

## **5.0 Licensing Objectives**

- 5.1 The Act sets out four licensing objectives which the Licensing Authority has a duty to promote when carrying out its licensing function, namely:
- The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm

5.2 These objectives are the only factors that can be taken into account in determining an application and any conditions attached to a premises licence or club premises certificate must be necessary to promote the licensing objectives. If there are no relevant representations, then an application must be granted and subject only to mandatory conditions and conditions consistent with the applicants operating schedule. Any conditions offered by the applicant within their operating schedule will be attached as conditions to the licence.

5.3 Where it is appropriate to promote these licensing objectives, the controls the licensing authority and responsible authorities will expect to see where relevant:

5.4 Prevention of Crime and Disorder:

- The use of toughened glass/polycarbonate or other plastic/non glass bottles/receptacles;
- Measures to prevent open bottles or other drinks containers being carried from premises;
- Restriction of drinks promotions and responsible retailing;
- Means of providing free water;
- Marketing promotions do not encourage excessive consumption and should be socially responsible;
- Measures to prevent binge drinking;
- Participation in pub/club watch schemes and attendance at meetings;
- Use of appropriate numbers of security personal and stewards ensuring effective controls at all times. Training staff in crime prevention measures;
- Search procedures;
- Use of CCTV inside and outside premises, ensuring digital systems comply with Home Office minimum requirements;
- Adequate lighting;
- Design premises to minimise the opportunity for crime and disorder;
- Quality supervision and surveillance in premises;
- Regular checks by staff of all public areas including toilets;
- Assessment of customer profile ensuring the effective management of customers both inside premises and in outside smoking/external seating areas;
- Anti-discriminatory policies and practice covering such as. homophobia and racism;
- Provision of a means of communication to other venues and the Police.

5.5 Public Safety:

- Promotion of responsible drinking;
- Awareness of drink spiking;
- Zero tolerance drug policies including the appropriate use of searching/amnesty boxes to combat drug crime;
- Assessment of the safe capacity for the venue and adequate monitoring and control measures to avoid overcrowding;
- Regular removal of all glasses and bottles;

- Specific precautions for the use of special effects;
- Adequate provision for ventilation/temperature control;
- Assessment, monitoring and management of noise exposure;
- Assessment for crowd dynamics;
- Safety of gas and electrical services;
- Fire safety and emergency lighting;
- Easy accessible free drinking water.

#### 5.6 Prevention of Public Nuisance:

- Assessment of the likelihood of nuisance affecting local communities through an assessment of the location of premises, character of the surrounding area and the proximity to residential and other sensitive premises. Nuisance could be from noise, odour or light
- Latest admission times
- Measures for the limitation of noise emissions from the premises. These may include as appropriate noise limitation devices, sound insulation, whether windows are to be opened, the installation of acoustic lobbies and double glazing
- Measures to dealing with queuing, where necessary
- Use and management of outdoor areas
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated cab firms, notices in the premises requesting customers to respect neighbours
- Winding down periods particularly in public houses and nightclubs etc.
- Disposal of waste, particularly glass
- Use and maintenance of plant, including air extraction and ventilation systems
- Litter collection in vicinity
- Consideration of an adequate traffic management plan
- Noise from deliveries/collections
- Odour and light nuisance
- Measures to supervise customers' use of beer gardens, smoking and external seating areas

#### 5.7 Protection of Children from Harm:

- Limitation of access dependant on nature of activities
- Use of British Board of Film Classification for film exhibition
- Robust proof of age provisions to include preventions of under 18s entering the premises where appropriate and the requirement for anyone who appears to be under 18 to provide proof of age in the form of a photo driving licence, passport or accredited photo ID card bearing the PASS hologram. PASS is the UK's national guarantee scheme for proof-of-age cards.
- Adoption of the Challenge 21/25 policy
- Adequate staff training on age restricted sales
- Adequate warning signage
- Measures to avoid proxy sales

- Control measures to protect child performances
- Records of refusals (refusal log)
- Suitable design and layout of alcohol display

5.8 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as a cure-all for solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the Responsible Authorities, the Health Authority, local businesses and local people towards the promotion of objectives as outlined.

### **Designated Premises Supervisors (DPS)**

5.9 The main purpose of the 'designated premises supervisor' is to ensure that there is always one specified individual who can be readily identified for the premises where a premises licence is in force. The Licensing Authority will normally expect the DPS to have an active role in the day to day operation of the licensed premises, in particular the sale and supply of alcohol. A DPS does not have to be on site all the time, but should authorise individuals to supervise the day to day management of the premises in his absence.

5.10 A DPS should have sufficient experience and knowledge appropriate for the operation under their control. A DPS should be able to control the activities on site and respond quickly and efficiently to problems.

5.11 A DPS should be able to demonstrate that they:

- Have sufficient knowledge and experience appropriate to the premises that they intend to control
- Are able to respond to problems quickly and to meet with responsible authorities, local residents and ensure adequate direct management of individual premises in a timely manner.

5.12 Following a Police representation the Licensing Authority may refuse an application or remove a DPS where:

- A problem premises exists and the DPS is not capable of fulfilling the duties and expectations of a DPS.
- A proposed DPS cannot demonstrate their suitability for the licensed premises.

## **6.0 Personal licences**

6.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of Personal Licence holder at all material times but if any sales are made when a Personal Licence holder is not present, then they must have been authorised by somebody who

holds a Personal Licence. Regardless of whether a Personal Licence holder is present or not he will not be able to escape responsibility for the action of those he authorises to make such sales.

6.2 The Council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear on their legal responsibilities. Any premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. This paragraph should be read in conjunction with paragraphs 5.9 to 5.12 above, which state the role of the Designated Premises Supervisor.

6.3 The Council recognises it has no discretion regarding the granting of Personal Licences where:

- The applicant is 18 years or over;
- Possesses a licensing qualification;
- Has not had a licence forfeited in the last five years; and
- Has not been convicted of a relevant offence

6.4 An application for a Personal Licence to sell alcohol must be made on the form specified in government guidance or regulations. The application form must be accompanied by the requisite fee. The applicant should also be able to produce evidence of the relevant qualifications.

6.5 Applicants must produce a Disclosure and Barring Scotland Certificate (formerly known as a CRB check) dated within 1 calendar month, of the application form. Applicants are also expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or similar offence.

6.6 Where an application discloses relevant unspent convictions the Council will notify the police of that application and the convictions. The police may make objections on the grounds of crime and disorder. In an objection is lodged a hearing must be held.

6.7 The Council will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of the crime prevention objective. It will consider the seriousness and relevance of the convictions(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Council will normally refuse the application unless there are exceptional and compelling circumstances which justify granting it.

## **7.0 Applications**

7.1 When considering applications, the Licensing Authority will have regard to:

- The Licensing Act and licensing objectives
- Government guidance issued under Section 182 of the Licensing Act 2003
- Any supporting regulations
- This statement of Licensing Policy

- 7.2 This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or to seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 7.3 The Licensing Authority recognises that, in some circumstances, longer licensing hours for the sale of alcohol may help to avoid concentrations of customers leaving premises simultaneously and reduce the potential for disorder. It also recognises that overly restrictive hours may inhibit the development of the night time economies that are important for investment, employment and tourism.
- 7.4 When considering applications where representations have been made, the Licensing Authority will seek to balance those factors against its duty to promote the four licensing objectives and the rights of residents to peace and quiet.
- 7.5 This policy is not intended to duplicate existing legislation and other regulatory regimes that place duties on employers and operators such as Health and Safety at Work etc. Act 1974, Environmental Protection Act 1990, Equality Act 2010, Building Regulations and the Regulatory Reform (Fire Safety) Order 2005. The Licensing Authority will therefore only impose conditions which are appropriate for the promotion of the licensing objectives.
- 7.6 When one part of Barrow Borough Council seeks a premises licence from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local resident or the police, they will be considered fairly by the committee. Those making representations, genuinely aggrieved by a positive decision in favour of a local authority application by the Licensing Authority are entitled to appeal the Magistrates' Court and thereby receive an independent review of any decision made.
- 7.7 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decision of the Licensing Authority.
- 7.8 It should be noted that incomplete applications will not be accepted but returned with an explanation of why it is incomplete.
- 7.9 The Licensing Authority welcomes applications made via Barrow Borough Council's electronic application facility.

## **Community Halls**

- 7.10 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 provides that if a management committee wish either to obtain a new premises licence authorising the sale of alcohol or to vary their existing licence to add



the sale of alcohol as a licensed activity, they can ask for an alternative condition to be imposed which removes the requirement for a DPS to be specified in the licence and removes the requirement for each sale of alcohol to be made or authorised by a personal licence holder.

### **New and Varied Premises Licences/Club Premises Certificates**

- 7.11 Where no premises licence or club premises certificate exists in respect of a premises, an application for a new premises licence or club premises certificate must be made to enable the carrying out of licensable activities.
- 7.12 An application to vary an existing premises licence or club premises certificate should be made where the proposed variation is in respect of changes to the types of licensable activities that are to be undertaken and/or the hours that those activities are to take place, or where structural changes are made to the premises.
- 7.13 Where the proposed variation to a premises licence or club premises certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the exiting premises licence or club premises certificate.
- 7.14 Where a premises licence holder or club wishes to amend a premises licence or club premises certificate, a variation application may be made to the licensing. The process the applicant will undertake will depend on the nature of the variation and its potential impact on the licensing objectives. The variation processes will include:
- Change of name / address of the licence holder or designated premises supervisor;
  - Variation of the licence to specify a new individual as designated premises supervisor;
  - Request to be removed as designated premises supervisor;
  - Request to disapply the mandatory condition at community premises concerning the supervision of alcohol sales by a personal licence holder and the need for a designated premises supervisor;
  - An application for minor variation of a premises licence or club premises certificate.
- 7.15 In addition, when completing section 3 of the application, it is important applicants ensure they provide sufficient time for the alterations to be carried out when stating the date upon which the variation is to take effect. This is to ensure that when the premises licence or club premises certificate comes into force, the plan to which it relates reflects accurately the layout of the building.
- 7.16 If the actual date when the alterations have been completed differs from that requested, applicants must inform the licensing authority so that the premises licence or club premises certificate can be issued correctly. Failure to do so may result in an offence being committed under Section 136 of the Licensing Act 2003 of carrying on a licensable activity otherwise than under and in accordance with an authorisation.

## Minor Variation Applications

7.17 Small variations that will not impact adversely on the licensing objectives are subject to a simplified minor variations process. On receipt of a minor variation application, the licensing authority will consider whether the variation could impact adversely on any of the licensing objectives and, if so, consult the relevant responsible authorities and take their views into account in reaching a decision. The licensing authority will make a decision without consultation in cases where the variation requested will not undermine the licensing objectives.

7.18 Minor variations **can be** used to:

- Make minor changes to the structure or layout of a premises
- Make small adjustments to the licensing hours
- Remove irrelevant conditions or add volunteered conditions
- Add or remove certain licensable activities

7.19 Examples of where the minor variation process **cannot be** used will include to:

- Extend the period for which the licence or certificate has effect
- Specify, in a premises licence, an individual as the premises supervisor
- Add the sale by retail or supply of alcohol as an activity authorised by a licence or certificate
- Authorise the sale by retail or supply of alcohol at any time between 23:00 hours and 07:00 hours
- Authorise an increase in the amount of time on any day during which alcohol may be sold by retail or supplied
- Vary a licence for community premises so as to apply the condition that very supply of alcohol under that licence must be made or authorised by the management committee
- Substantially vary the premises to which the licence or club premises certificate relates

7.20 The Licensing Authority will consider any relevant representations received within the time limit and take these into account in arriving at a decision.

7.21 If the Licensing Authority fails to determine the application within 15 working days, the application will be treated as being refused and the fee returned. However in such cases the Licensing Authority and applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted may be treated as payment towards the new application fee.

## 8.0 Review of Premises Licence and Other persons

8.1 In addition to Responsible Authorities, any other person can be involved in a number of licensing processes under the Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for

the grant, variation, minor variation or review of premises licences and club premises certificates in regardless of their geographic proximity to the premises. These persons may themselves seek a review of a premises licence.

- 8.2 Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. The Licensing Authority should also consider whether the representation made is frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the Licensing Authority to be repetitious.
- 8.3 While any of these persons may act in their own right, they may also request that a representative makes the representation to the Licensing Authority in their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all can in such a capacity.
- 8.4 The Licensing Authority acknowledges that local councillors can make representations in their own right if they live, or are involved in a business in the vicinity of the premises in question or if they have concerns about any premises regardless of whether they live or are involved in a business in the vicinity of the premises.
- 8.5 The Licensing Authority considers that Trading Associations, Trade Unions and residents and Tenant's Associations qualify as other persons.
- 8.6 The Licensing Authority will not generally view these bodies as other persons unless they have a member who can be classed as an Interested Party.
- 8.7 The Licensing Authority will generally require written evidence that a person is authorised to represent other persons in any case other than that is mentioned in paragraph 8.4 above.

## **Representations**

- 8.8 Any Responsible Authority or other persons may make relevant representations on applications for the grant of a premises licence or club premises certificate and request reviews of licence or certificates that have been granted.
- 8.9 A representation will only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious.
- 8.10 The police may object to the designation of a new designated premises supervisor (DPS) where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective.

- 8.11 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 8.12 The 2003 Act also provides for the suspension and forfeiture of personal licences by the courts following convictions for relevant offences, including breaches of licensing law. The police can at any stage after the appointment of a DPS seek a review of a premises licence on any ground relating to the licensing objectives if problems arise relating to the performance of a DPS.
- 8.13 The Police and Environmental Health Department may make representations in respect of a notification of a temporary event notice on the basis of any of the licensing objectives.
- 8.14 The Licensing Authority must be satisfied that the representation is made by another person, who can generally only be determined by reference to the name and address of the person making it, this authority will not consider any representations that fail to provide those details.
- 8.15 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant or his/her representative. The Licensing Authority accepts that in exceptional circumstances a person may not wish for his/her personal details to be disclosed to the applicant.
- 8.16 Where the Licensing Authority considers that a relevant representation has been made and that exceptional circumstance exists, details of the name and address made be withheld from the copy of the representation that is provided to the applicant or his/her representative.
- 8.17 In all cases, applications and those making representations that are genuinely aggrieved by a decision of the Licensing Committee are entitled to appeal to the Magistrates' Court against the decision of the committee.
- 8.18 Where the Responsible Authorities or other persons do not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the premises licence or club premises certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003.

## Review of Licences

- 8.19 Where possible and appropriate, the Licensing Authority and Responsible Authorities will give early warning to licence holders of any concern about problems identified at premises and of the need for improvement.
- 8.20 Any Responsible Authority or other person may apply for a review of a premises licence or a club premises certificate by serving a notice containing details of the application on the holder of a licence or certificate and to each of the Responsible Authorities.
- 8.21 An application for review will be only 'relevant' if the grounds upon which it is made relates to the promotion of at least one of the four licensing objectives and is not frivolous, vexation or repetitious. An evidentiary basis will be required to be presented to the Licensing Authority.
- 8.22 Where other person applies for a review, the Licensing Authority must be satisfied that a review is relevant. There is no appeal to the decision of the Licensing Authority other than by the way of Judicial Review.
- 8.23 No more than one review from a person other than responsible authorities will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances or where it arises following a closure order.

### Conditions

- 8.24 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.
- 8.25 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of consideration of the representations.
- 8.26 The Licensing Authority actively promotes the benefits of partnership working between the Council and local businesses to enhance business operations and thereby achieve the community benefits of minimisation of waste, enhancement of the street scene, promotion of community safety, reduction of the fear of crime and the encouragement of tourism and inward investment.
- 8.27 To maximise the efficiency of administering licences and reduce the necessity for hearings, the Licensing Authority will actively encourage applicants and clubs to consult with Responsible Authorities, when operating schedules are being prepared to minimise the scope for representations.
- 8.28 Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various

authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives.

- 8.29 Any conditions arising from the operating schedule or as a result of representations will focus primarily upon the direct impact of the activities taking place at licensed premises on those attending the premise and members of the public living, working or otherwise engaged in normal activity in the areas concerned and will cover matters that are within control of the individual licensees.
- 8.30 If an applicant volunteer's prohibition or restriction in his/her operating schedule because his/her own risk assessment had determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence or certificate and will be enforceable as such.
- 8.31 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premise, to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will, therefore, be avoided and no condition will be imposed that cannot be shown to be necessary for promotion of the licensing objective.

## **9.0 Temporary Event Notices (TEN's)**

- 9.1 The Act sets out the legal requirements relating to TEN's. A TEN is a notification given by an individual to the Licensing Authority where it is proposed to use premises for one or more licensable activities during a period not exceeding 168 hours and can be used to authorise relatively small-scale ad hoc events held in any premises involving no more than 499 people at any one time.
- 9.2 A TEN is typically used to:
- Authorised a licensable activity at a premises not currently licensed, for example selling alcohol at a fete
  - Temporarily extending the hours for providing a licensed activity at an existing licensed premises for a specific event
  - Provide for licensable activities not authorised by the existing licence.
- 9.3 The premises user must give the Licensing Authority notice of the proposed event and give a copy of the notice to the Police and Environmental Health.
- 9.4 Where a notice or any part of it, is submitted in writing, it is the responsibility of the premises user to ensure that a copy of the notice has been sent to the Police as stipulated in the Act. Where a notice has been submitted electronically copies will be forwarded to the responsible authorities by the Local Authority.

- 9.5 The premises user must give notice a minimum of 10 clear working days' prior to the event. This does **NOT** include the date of submission, the date of the event, weekends or bank holidays. In a significant number of cases this time period does not allow sufficient time for the organiser to liaise with the Police or Environmental Health and other relevant bodies to ensure that the event passes off safely with minimum disturbance to local residents. Therefore the Licensing Authority will normally expect that the TEN will be submitted no later than 28 days before the planned event. The giving of 28 days' notice allows for responsible discussions to take place with the Police and Environmental Health. The Licensing Authority will consider any breach of previous informal agreements to be an important matter when considering an objection to a TEN.
- 9.6 Late TENs can be submitted up to five working days but no earlier than nine working days before the event due to take place, and unless given electronically to the Licensing Authority, must also be sent to the Police and Environmental Health. A TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 9.7 A key difference between standard and late TENs is the process following an objection notice from the Police or Environmental Health. Where an objection notice is received in relation to a standard TEN the Licensing Authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the Police or Environmental Health gives an objection to a late TEN the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions.
- 9.8 The Licensing Authority will also actively encourage the organiser to notify other relevant agencies such as the Fire Authority (crowd safety and management) in order to obtain expert advice on how best to minimise the risk of injury and public nuisance. A TEN does not exempt the premises user from any requirements under planning law and he should ensure that the appropriate planning consent is in place.

## 10.0 Cumulative Impact Policy

### Need for Licensed Premises

- 10.1 There can be confusion about the difference between "need" and the "cumulative impact" of premises on the licensing objectives. "Need" concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its Statement of Licensing Policy.

### Cumulative Impact of a Concentration of Licensed Premises

- 10.2 “Cumulative Impact” means the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its Statement of Licensing Policy.
- 10.3 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local residents can be placed under severe pressure but this not be attributable to any individual premises.
- 10.4 The Licensing Authority can only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting, or likely to result, in unacceptable levels of crime and disorder or public nuisance.
- 10.5 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any part of the licensing objectives.
- 10.6 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspect as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be upon the objectors to provide evidence that additional licences or the variation of existing licences would produce the cumulative impact claimed.

### **Advice and Guidance**

- 10.7 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003 provide and Welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority and the Responsible Authorities will offer as much advice and guidance to applicants as resources permit.
- 10.8 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that he/she discusses his/her proposal with the Licensing Team and those from who they think representations are likely prior to submitting an application. Once an application has been logged, there are statutory timescales imposed upon the



application and determination process, which restricts the opportunity for such discussions, liaison and mediation.

10.9 Other mechanisms for controlling cumulative impact include:

- Planning controls
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late night, street cleaning and litter patrols
- Powers of local authorities to designate parts of the local authority areas where alcohol may not be consumed publicly, namely the issuing of Public Space Protection Orders to these areas
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- The confiscation of alcohol from adults and children in areas with Public Protection Orders
- Police powers to quickly close down premises that are causing nuisance or disorder;
- The power of police, other responsible authorities or local resident or business to seek a review of the licence or certificate in question.

## **11.0 Early Morning Restriction Orders (EMROs)**

11.1 The power for Licensing Authorities to make, vary or revoke an EMRO set out in sections 172A to 172E of the Act.

11.2 An EMRO enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objective.

11.3 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.

11.4 It is the Council's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However where this has been deemed to fail then an EMRO could be considered as a possible solution.

11.5 An EMRO:

- Applies to the supply of alcohol authorised by premises licences, club premises certificate and temporary event notices

- Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods or unlimited time period (e.g. an EMRO could be introduced for a few weeks to apply to a specific event)
- Applies to the whole or any part of the Licensing Authority's area
- Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service
- Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Act

## EMRO Request

- 11.6 It is expected that the need of an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate from Cumbria Police, Environmental Health or residents association. It may come via another Responsible Authority. It is likely more than one organisation may be involved in the process.
- 11.7 It is anticipated that the request would be referred to Licensing where a designated procedure will be applied to determine if an EMRO is appropriate. If appropriate, the request will be referred to the Licensing Committee. Members would be supplied with evidence of the issues being experienced in the area in support of the EMRO. The Licensing Committee will decide if, on the strength of the evidence provided, that an EMRO is appropriate for the promotion of the licensing objectives and further work is to be undertaken to support the case. Members may decide that other measures would be more effective in dealing with the problems, or that licensing holders should engage with the authorities in an attempt to rectify matters before the request is considered further.

## Evidence

- 11.8 Section 182 Guidance to Licensing Authorities states that "The Licensing Authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The Licensing Authority should consider the evidence from partners, including responsible authorities and local community safety partnerships, alongside its own evidence, to determine where an EMRO would be appropriate for the promotion of licensing objectives."
- 11.9 The level of evidence Licensing Committee will consider to support an EMRO is:
- Police evidence of reported alcohol related crime
  - Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance

- Data gathered from complaints made to Licensing on matters which affect the licensing objectives
- Anecdotal evidence from residents organisations, ward members and other representatives of people living in specific areas
- Evidence obtained during the public consultation and associated public meetings

11.10 In addition the Section 182 guidance suggests other sources of evidence such as:

- Health related statistics such as alcohol-related emergency attendance and hospital admissions

11.11 This should, in part be provided by the organisation or group who are proposing an EMRO should be in force.

11.12 Once the Licensing Committee is satisfied that an EMRO is required to address the issues in an area, and all other measures have been tried and failed to address these issues, the formal process of implementing an EMRO will begin. The design of the EMRO will include:

- The days (period of those days) on which the EMRO would apply
- The area to which the EMRO would apply
- The period for which the EMRO would apply
- The date from which the proposed EMRO would apply

## Consultation

11.13 The proposed EMRO will be advertised for at least 42 days. The proposal will be published on the Council's website and in a local newspaper. A notice will be sent to all affected people in the area who hold a premises licence or a club premises certificate, or people who use TENs or who would hold a provisional statement. A notice will be displayed in the area, and sent to responsible authorities and adjacent licensing authorities.

11.14 Any affected by the EMRO has 42 days in which to make a representation on any aspect of the EMRO design. If relevant representations are received then a hearing will be held to consider them. If there are a number of representations, the Licensing Authority may consider whether to hold the hearing over several days. The hearing will commence within 30 working days of the end of the notice period.

11.15 As a result of the hearing the Licensing Authority has three options:

- To decide that the proposed EMRO is appropriate for promotion of the licensing objectives
- To decide that the proposed EMRO is not appropriate and therefore the process should be ended
- To decide that the proposed EMRO should be modified. In this case it may be necessary to advertise again

## **Formal Decision**

- 11.16 Once the Licensing Authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination will be put to full Council for its final decision. Once the EMRO is made, the authority will send a notice to all affected persons and make it available for 28 days on the website.
- 11.17 A variation or revocation of an order will follow the same process. However an order could be applied for a specified time and in this case the order ceases to apply on the final day.
- 11.18 Once an EMRO is in place, the Licensing Authority will update this policy as soon as possible to include reference to the EMRO in this section.
- 11.19 There are currently no EMROs in place for this area.

## **12.0 Late Night Levy**

- 12.1 The Police Reform and Social Responsibility Act 2011 has also introduced via the Act the power for the Licensing Authority to charge a late night levy (“the levy”) to all premises within the Local Authority area. The late night levy is a discretionary power allowing Councils to collect an annual fee from all licensed premises in the Council area that are authorised to sell alcohol between the hours of midnight and 6am as a means of raising a contribution towards the costs of policing the night time economy.
- 12.2 Any decision to introduce, vary or cease a levy will be made by full Council in conjunction with the Police and Crime Commissioner and Local Constabulary. However any decision in relation to the administration and design of the levy will be delegated to the Licensing Committee.
- 12.3 The Licensing Authority recognises that a levy would cover the whole of the Council area and not just those premises that may be associated with problems or those premises within any cumulative impact area. Therefore, serious consideration will always be given to the introduction of a levy. Furthermore, the Licensing Authority will always give serious consideration as to whether or not a levy would be an economically viable proposal.

## **13.0 Enforcement**

- 13.1 Barrow Borough Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community, and at providing a ‘level playing field’ on which businesses can trade fairly. The administration and enforcement of the licensing regime is one of these services. The Authority has adopted the Better Regulation Deliver Office Regulators’ Code designed to ensure effective and efficient Public Protection services. Specifically, Barrow Borough Council is committed to

accordance with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.

- 13.2 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law the four licensing objectives that it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or break the law consistently.
- 13.3 The Licensing Authority works in partnership with all of the Responsible Authorities under the Act on enforcement issues. This joint working provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are operated well.

#### **14.0 Administration, Exercise and Delegation of functions**

- 14.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 14.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.
- 14.3 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licence and certificates where no representations have been made, has been delegated to Licensing Authority officers.
- 14.4 The Licensing Committee will consist of twelve Councillors. Licensing Sub-Committees of three Councillors are expected to consider the bulk of applications where a hearing is necessary. Ward Councillors will not sit on Sub-Committee involving an application within their ward.
- 14.5 Every determination of a licensing application by the Licensing Committee or Licensing Sub-Committee shall be accompanied with clear, cogent reasons for the decision.
- 14.6 It is expected that the authority's licensing officers will deal with the majority of licence applications and will decide whether representations are irrelevant, frivolous or vexatious. The person making a representation, which is considered to be frivolous or vexatious, will be given written reasons for that decision.
- 14.7 The authority will ensure that members and officers are appropriately trained to carry out their duties under the Act.
- 14.8 The table at Appendix 1 sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.

14.9 Officers, a Licensing Sub-Committee and even the full Licensing Committee may decline to exercise their delegated powers in any particular case. On such occasions, officers may refer a matter to a Sub-Committee, the Sub-Committee to full Committee and the full Committee to the full Council.

## Appendix 1 – Table of Delegated functions

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If representation made	If no representation made
Application for Provisional statement		If representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate		If representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate by way of minor variation			All cases
Application to vary Designated Premises Supervisor (DPS)		If Police object	All other cases
Request to be removed as DPS			All cases
Application to transfer of Premises Licence		If a Police representation	All other cases
Application for Interim Authorities		If a Police representation	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of Police / Environmental Protection objection to a TEN		All cases	
Determination of film classification		All cases	

A Full Committee will consist of 12 members. A Sub-Committee will consist of 3 members.

## Appendix 2 – Appeals procedure

Other than in the case of personal licences, an appeal has to be made to the Cumbria Magistrates Court Service, South Cumbria Magistrates Court, Abbey Road, Barrow-in-Furness, Cumbria, LA14 5QX or Cumbria Magistrates Service, Kendal Magistrates Court, The Court House, Burneside Road, Kendal, Cumbria, LA9 4TJ. In the case of personal licences, the appeal must be made to the Magistrates' Court for the area in which the Licensing Authority (or any part of it) which made the decision is situated.

An appeal has be commenced by the giving of notices of appeal by the appellant to the Magistrates' Court with a period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.

On determining an appeal, the court may:

- Dismiss the appeal
- Substitute for the decision appeal against any other decision which could have made by the licensing authority
- Remit the case to the licensing authority to dispose of it in accordance with the direction of the court.

The court may make such order as to costs as it thinks fit.



### Appendix 3 – Guides of Best Practice

1. Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications).
2. The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6.
3. Guide to Fire Precautions in existing places of entertainment and like premises (The Stationery Office) (“The Primrose Guide”) ISBN 0 1 340907 9.
4. Managing Crowds Safely in Public Venues ISBN 0-11-882132-5
5. 5 steps to Risk Assessment: Case Studies (HSE 2006) INDG 163 (rev2)
6. The Guide to Safety at Sports Grounds (The Stationery Office, 2008) (“The Green Guide”) ISBN 978-0-11-702074-0
7. Good Practice Guide on the Control of Noise from Pubs and Clubs – The Institute of Acoustics.
8. Safer Nightlife – London Drugs Policy Forum  
<http://217.154.230.218/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS LDPF safer nightlife.pdf>
9. Talk to Frank – The a-z of drugs [www.talktofrank.com](http://www.talktofrank.com)
10. The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks – <http://www.portman-group.org.uk/?pid=3&level=1>
11. British Board of Film Classification – Classification Guidelines – <http://www.bbfc.co.uk/what-classification/guidelines>
12. HSE Guide – The Radiation Safety of laser installation used for display purposes [HS(G)95] HSE Books ISBN 0-7-76-0691
13. Alcohol Harm Reduction Strategy for England – [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)
14. Alcohol Concern – [www.alcoholconcern.org.uk/servlets/doc/80147](http://www.alcoholconcern.org.uk/servlets/doc/80147)
15. Safety Guidance for Street Arts, Carnivals, Processions and large scale performances Independent Street Arts Network  
[www.streetartsnetwork.org/pages/publications.htm](http://www.streetartsnetwork.org/pages/publications.htm)
16. National Alcohol Harm Reduction Strategy tool kit – [www.alcoholconcern.org.uk/servlets/doc/801](http://www.alcoholconcern.org.uk/servlets/doc/801)

17. Point of Sale Promotions – British Beer & Pub Association - [www.beerandpub.com](http://www.beerandpub.com)
18. Fire safety risk assessment – small (up to 60) and medium (60-300) places of assembly ISBN – 10:1851128204
19. Fire safety risk assessment – large (300+) places of assembly ISBN –10:1851128212
20. Fire Safety risk assessment – open air events and venues ISBN -9781851128235

*This is not intended to be an exhaustive list of reference guides but is offered for guidance and may be revised. Where an activity proposes an activity not covered by the above every effort should be made to research current best practice guidance.*

## Appendix 4 – List of Consultees

(In addition each of the other Cumbrian Authorities consulted with relevant local organisations as part of the countywide consultation process)

Admiral Taverns (Nevada) Ltd, 150 Aldersgate Street, London, EC1A 4EJ

All Parish Councils within the Barrow Borough Council area

Arts Council England, 14 Great Peter Street, London.

Askam and Ireth Parish Council

Bargain Booze, Weston Road, Crewe

Barrow Barwatch

Barrow Borough Council - All elected Members

Barrow LVA

Berwin Leighton Paisner, Bouverie House, 154 Fleet Street, London.

Blackhursts Solicitors, 22 Edward Street, Blackpool.

Bond Pearce inc. Cartwrights Licensing Team, Bristol Bridge House, Bristol

British Beer & Pub Association, P O Box 538, Halifax.

British Beer & Pub Association, Market Towers, London.

British Institute of Innkeeping, 80 Park Street, Camberley

British Transport Police, Citadel Station, Rosehill, Carlisle.

Bronagh Kennedy, HR Director & General Counsel, Mitchells & Butlers Retail Ltd, 27 Fleet Street. Birmingham B3 1JP

Brown Barron & Co Solicitors, 65 Duke Street, Barrow-in-Furness.

Butterfield Consultancy, 203 Dudley Hill Road, Undercliffe, Bradford

Cains Beer Company Plc, The Robert Cain Brewery, Stanhope Street, Liverpool.

Campaign for Real Ale

Chief Executive, Association of Licensed Multiple Retailers, 9b Walpole Court, London

Community Safety Officer, Cumbria County Council, Penrith.

Cumbria Assoc of Local Councils.

Cumbria County Council Trading Standards

Cumbria Drugs Action Team

Cumbria Fire Service B Division, Phoenix Road, Barrow-in-Furness.

Cumbria Food Liaison Group

Cumbria Health & Safety Liaison Group

Cumbria Housing Group

Cumbria Magistrates Court Service, Abbey Road, Barrow-in-Furness. Cumbria

Cumbria Partnership NHS Foundation Trust

Cumbria Police Headquarters Carleton Hall, Penrith.

Cumbria Pollution Liaison Group

Cumbria Tourist Board, Ashleigh, Holly Road, Windermere.

Dalton with Newton Town Council

Denby & Co Solicitors 119 Duke Street, Barrow-in-Furness.Cumbria  
Dickinson Dees Law Firm, St Ann's Wharf, Newcastle  
Director Education Services, Cumbria County Council, 5 Portland Square, Carlisle.  
Disability Rights Association, DCR Helpline, Freepost MIDO1264, Stratford-upon-Avon.

Enterprise Inns,3 Monkspath Hall Road, Solihull, West Midlands, B90 4SJ  
Equity, 12 Blackfriars Street, Salford  
European Entertainment, The Park, Oaksey, Malmesbury, Wilts.

First Quench Retailing Ltd, Enjoyment Hall, Bessamer Road Welwyn Garden City Herts.  
Forresters Solicitors, 117 Duke Street, Barrow-in-Furness. Cumbria  
Frederick Robinson Ltd, Unicorn Brewery, Stockport.  
Freemans Solicitors, 7 St Mary's Place, Newcastle-upon-Tyne.

Gail Heard - Solicitor Ltd, 21 Victoria Place, Carlisle.  
Gala Group, Newcastle House, Castle Boulevard, Nottingham.  
Guest Walker & Co Solicitors 12a The Shambles, York.

Hammonds Solicitors, Rutland House, 148 Edmund Street Birmingham.  
Hart Jackson & Sons Solicitors, PO Box 2, 8 & 10 New Market Street, Ulverston.  
Hartleys (Ulverston) Ltd, The Old Brewery, Ulverston. Cumbria  
Harvey Ingram Owston Solicitors, 20 New Walk, Leicester.  
Health & Safety Executive, 2 Victoria Place, Carlisle  
Honeycombe Leisure/Nectar Taverns, Derby House, Lytham Road, Fulwood, Preston.

Inn Court Licensing Consultants, 65 Mapplewell Crescent, Great Sankey, Warrington.

James Hall & Co (Southport) Ltd, Spar Distribution Centre, PO Box 38, 89-91 Blackpool Road, Preston.  
Jazz Services, 132 Southwark Street, London  
Joelson Wilsons Solicitors, 30 Portland Place, London.  
John Gaunt Solicitors, Omega Court, 372 Cemetery Road, Sheffield.

Kidd Rapinet Solicitors, 14 & 15 Craven Street, London.

Ladbrokes Betting & Gaming Ltd, Imperial House, Raynor's Lane, Harrow, London  
Leisure Link, 3 The Maltings, Wetmore Road, Burton on Trent  
Lindal and Marton Parish Council  
Livingstons Solicitors, 9 Benson Street, Ulverston.

Mitchells of Lancaster 11 Moor Lane Lancaster.  
Mr A Davidson Trust, Cumbria Infirmary, Carlisle.  
Mr B Archibold, Senior Education Officer, 5 Portland Square, Carlisle.  
Mr B Bennison Head of Cultural Policy, Cultural Strategy Unit, Arroyo Block, The Castle, Carlisle  
Mr D Clark, Corporation, The Park, Oaksey, Malmesbury Wilts  
Ms S McCabe Honeycombe Leisure Derby House Lytham Road Fulwood

Musicians Union 40 Canal Street Manchester Preston.  
National Society for the Prevention of Cruelty to Children Quays Reach 14 Carolina Way  
Salford Greater Manchester M50 2ZY

Poole Townsend Solicitors 69-75 Duke Street Barrow-in-Furness.  
Popleston Allen 27 Stoney Street The Lace Market Nottingham.  
Premises Licence Holders  
Pubmaster Ltd Greenbank, Hartlepool.  
Punch Taverns Jubilee House Burton on Trent

Scottish & Newcastle Retail Lakeside House The Lakes Northampton  
Showman's Guild of Great Britain 11 St Mary's Place, Bury  
Showmans Guild, 8 Fitzroy Place, Glasgow.  
Smithson Clarke Solicitors, Ward's Building, 31-39 High Bridge, Newcastle-upon-Tyne.  
Spirit Group Ltd, 107 Station Street, Burton on Trent, Staffordshire  
Stanley H Cross & Co Solicitors, 10 Ashfield Road, Chorley.

Temple Heelis Solicitors, Plane Tree House, Ambleside.  
The Association of Licensed Multiple Retailers, Third Floor, International House, Ealing.  
Thwaites Inns PO Box 50, Star Brewery, Blackburn  
Trust Inns

United Co-op, Finance Department, Co-operative House, Civic centre, Wythenshawe.  
University Hospitals of Morecambe Bay NHS Trust Ashton Rd Lancaster  
University of Cumbria Kendal Street Carlisle, Cumbria, CA2 5UF

Watson Burton, 20 Collingwood Street, Newcastle-upon-Tyne.  
Waugh & Musgrave Solicitors PO Box 1, 1 Main Street, Cockermouth.

## Appendix 5 – Application addresses

**Original application and fees should be sent to the Licensing Team.  
Copies of applications should be sent to the under-mentioned responsible authorities,  
clearly making the envelope ‘Licensing Act Application’.**

Principal Licensing Officer  
Environmental Health Department  
Barrow Borough Council  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [commercial@barrowbc.gov.uk](mailto:commercial@barrowbc.gov.uk)

Commercial Team (Health & Safety)  
Environmental Health Department  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [commercial@barrowbc.gov.uk](mailto:commercial@barrowbc.gov.uk)

Environmental Protection Team  
Environmental Health Department  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [environment@barrowbc.gov.uk](mailto:environment@barrowbc.gov.uk)

Development Services Manager  
Town Hall  
Duke Street  
Barrow-in-Furness  
LA14 2LD  
Tel: 01229 876543  
Email: [consultplanning@barrowbc.gov.uk](mailto:consultplanning@barrowbc.gov.uk)

Public Health Lead  
Public Health, Cumbria County Council  
The Courts  
Carlisle. CA3 8NA  
Tel: 01228 606060  
Email: [publichealthenquiries@cumbria.gov.uk](mailto:publichealthenquiries@cumbria.gov.uk)

Chief Officer of Police  
Licensing  
Cumbria Constabulary  
Barrow Police Station  
Market Street  
Barrow-in-Furness  
LA14 2LE  
Tel: 101  
Email: [rupert.anderson@cumbria.police.uk](mailto:rupert.anderson@cumbria.police.uk)

Fire Safety Group Manager  
Cumbria Fire & Rescue Service  
B Division HQ  
Phoenix Road  
Barrow-in-Furness  
LA14 2NS  
Tel: 01229 407800  
Email: [barrow.technical@cumbria.gov.uk](mailto:barrow.technical@cumbria.gov.uk)

Trading Standards (Licensing)  
Cumbria County Council  
Neville House  
Neville Street  
Ulverston  
LA12 0BL  
Tel: 01229 404040  
Email: [trading\\_standards.barrow@cumbriacc.gov.uk](mailto:trading_standards.barrow@cumbriacc.gov.uk)

Health and Safety Executive (HSE)  
2 Victoria Place  
Carlisle  
CA1 1ER  
Tel: 0300 003 1747  
Web: [www.HSE.gov.uk](http://www.HSE.gov.uk)  
(where the HSE is the enforcing authority for health & safety matters in the premises)

Cumbria LSCB  
Childrens Services  
Lower Goal Yard, 1<sup>st</sup> Floor, The Courts  
Carlisle. CA3 8NA  
Tel: 01228 226898  
Email: [LSCB@cumbria.gov.uk](mailto:LSCB@cumbria.gov.uk)

## Other Useful Addresses

Arts Council England  
14 Great Peter Street  
London SW1P 3NQ  
Tel 0845 300 6200  
Email: [enquiries@artscouncil.org.uk](mailto:enquiries@artscouncil.org.uk)  
Web: [www.artscouncil.org.uk](http://www.artscouncil.org.uk)

Association of Licensed Multiple Retailers  
3rd Floor International House  
Ealing  
London W5 5DB  
Tel: 0208 579 2080  
Email: [info@almr.org.uk](mailto:info@almr.org.uk)

British Beer and Pub Association  
Market Towers  
1 Nine Elms Lane  
London SW8 5NQ  
Tel: 0207 627 9191  
Email: [web@beerandpub.com](mailto:web@beerandpub.com)  
Web: [www.beerandpub.com](http://www.beerandpub.com)

British Institute of Innkeeping  
Wessex House  
80 Park Street  
Camberley  
Surrey GU15 3PT  
Email: [reception@bii.org](mailto:reception@bii.org)  
Tel: 01276 687 449

Senior Education Officer  
Access and Inclusion  
Children's Services  
5 Portland Square  
Carlisle  
CA1 1PU  
Tel: 01228 606789

Disability Rights Commission  
DCR Helpline  
Freepost MID01264  
Stratford Upon Avon CV37 9BR  
Tel: 08457 622 633  
Web: [www.drc-gb.org](http://www.drc-gb.org)

Equity  
Guild House  
Upper Martins Lane  
London WC2H 9E  
Tel: 0207 379 6000  
Email: [info@equity.org.uk](mailto:info@equity.org.uk)  
Web: [www.equity.org.uk](http://www.equity.org.uk)

British Board of Film Classification  
3 Soho Square  
London W1D 3HD  
Tel: 0207 4401 570  
Email: [helpline@bbfc.co.uk](mailto:helpline@bbfc.co.uk)  
Web: [www.bbfc.co.uk](http://www.bbfc.co.uk)

Cumbria Magistrates Court Service  
South Cumbria Magistrates Court  
Abbey Road  
Barrow in Furness  
Cumbria LA14 5QX