



EAST CAMBRIDGESHIRE DISTRICT COUNCIL

THE GRANGE, NUTHOLT LANE,
ELY, CAMBRIDGESHIRE CB7 4EE
Telephone: 01353 665555

MEETING: **LICENSING COMMITTEE**

TIME: 09:30am

DATE: Monday 4th October 2021

VENUE: Council Chamber, Council Offices, The Grange, Nutholt Lane, Ely

ENQUIRIES REGARDING THIS AGENDA: Adrian Scaites-Stokes

DIRECT DIAL: (01353) 665555 EMAIL: adrian.scaites-stokes@eastcambbs.gov.uk

Membership:

Conservative Members

Julia Huffer (Chairman)
Jo Webber (Vice
Chairman)
Christine Ambrose Smith
David Ambrose Smith
Lavinia Edwards
Alan Sharp

Substitutes:

Ian Bovingdon
Bill Hunt
Lisa Stubbs

Lead Officer:

Liz Knox, Environmental Services Manager

Quorum: 5 Members

Liberal Democrat Members

Simon Harries
Mark Inskip
Alec Jones (Lead Member)
Gareth Wilson

Substitutes:

Lorna Dupré
John Trapp
Vacancy

Independent Group

Sue Austen (Lead
Member)

Substitute:

Paola Trimarco

A G E N D A

1. Apologies and Substitutions

2. Declarations of Interest

To receive declarations of interest from Members for any items on the Agenda in accordance with the Members Code of Conduct

3. **Minutes**

To receive and confirm as a correct record the Minutes of the Licensing Committee Meeting held on 11th November 2020

4. **Chairman's Announcements**

5. **Gambling Act 2005 Statement of Licensing Principles – Three Year Review**

6. **The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020**

7. **Senior Licensing Officer's Update [verbal report]**

8. **Forward Agenda Plan**

NOTES:

1. Members of the public are welcome to attend this meeting. There are a number of schemes aimed at encouraging public participation in the Council's activities and meetings. These include Public Question Time at the start of a meeting and a process to enable petitions to be submitted. Details of these can be obtained by calling the telephone number on this Agenda or by logging onto the Council's website.
2. Members of the public can gain entry by reporting to Reception during Office Hours or can enter via the door in the glass atrium at the back of the building for evening meetings.
3. The Council has adopted a 'Purge on Plastics' strategy and is working towards the removal of all consumer single-use plastics in our workplace. Therefore, we do not provide disposable cups in our building or at our meetings and would ask members of the public to bring their own drink to the meeting if required.
4. Fire instructions for meetings:
 - If the fire alarm sounds please make your way out of the building by the nearest available exit i.e. the back staircase or the fire escape in the Chamber. Do not attempt to use the lifts.
 - The fire assembly point is in the front staff car park by the exit barrier.
 - The building has an auto-call system to the fire services so there is no need for anyone to call the fire services.

The Committee Officer will sweep the area to ensure that everyone is out.

5. Reports are attached for each agenda item unless marked "oral".
6. If required, all items on the agenda can be provided in different formats (e.g. large type, Braille or audio tape, or translated into other languages), on request, by calling Main Reception on (01353) 665555 or e-mail: translate@eastcamb.gov.uk
7. If the Committee wishes to exclude the public and press from the meeting, a resolution in the following terms will need to be passed:

"That the press and public be excluded during the consideration of the remaining item no(s). X because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item(s) there would be disclosure to them of exempt information of Category X of Part I Schedule 12A to the Local Government Act 1972 (as amended)."



Minutes of a meeting of the Licensing Committee facilitated via the Zoom Video Conferencing System at The Grange, Nutholt Lane, Ely on Wednesday, 11th November 2020 at 9:30am.

PRESENT

Cllr Julia Huffer (Chairman)
Cllr Christine Ambrose Smith (as a Substitute Member)
Cllr Lavinia Edwards
Cllr Simon Harries
Cllr Mark Inskip
Cllr Alan Sharp
Cllr Paola Trimarco (as a Substitute Member)
Cllr Gareth Wilson

OFFICERS

Stewart Broome – Senior Licensing Officer
Maggie Camp – Legal Services Manager and Monitoring Officer
Liz Knox – Environmental Services Manager
Adrian Scaites-Stokes – Democratic Services Officer
Angela Tyrrell – Senior Legal Assistant
Russell Wignall – Legal Assistant

26. **APOLOGIES**

Apologies were received from Councillors David Ambrose Smith, Sue Austen, Alec Jones and Jo Webber.

27. **DECLARATIONS OF INTEREST**

No declarations of interest were made.

28. **MINUTES**

It was resolved:

That the Minutes of the Licensing Committee meeting held on 14th October 2020 be confirmed as a correct record and be signed by the Chairman.

29. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman made no announcements.

30. **REVIEW OF LICENSING FEES**

The Committee considered a report, V101 previously circulated, that detailed the statutory fees under the Licensing Act 2003 and Gambling Act 2005 and fees where the Authority had discretion to determine.

The Senior Licensing Officer reminded the Committee that the review of licensing fees was done on an annual basis and this report looked towards the 2021-2022 level of fees. The Council set its discretionary fees and charges for the licences that it had the administration for. The Council had to set those fees within the current legislation and in accordance with its Constitution, as set out under Appendix 7. Due consideration also had to be given to the European Court ruling in the Hemmings case. This meant that the Council could be challenged about its fee levels via a variety of routes, so it had to ensure that its fee levels were reasonable, proportionate and did not cross-subsidise other areas. To do that the work undertaken had to be analysed in each area, to ensure the service was as effective as possible. In 2015 a modelling tool had been created to help gauge this, to assist in getting costs recovered and this had been achieved by the end of 2019.

Councillor Paola Trimarco joined the meeting at this point.

Licensing procedures were considered from start to finish, including all aspects of the administration of licences, to determine the work required and assess the costs. Within the budget around 85% cost recovery annually was acceptable, as it was not possible to recover 100% of the costs. Table 1 showed that this year there had been increased income but also increased expenditure. Table 2 set out the work that was chargeable and that most time had been spent on dealing with taxi licences. The increased costs had been due to corporate and operational increases, following job evaluations that resulted in wage increases.

During the COVID pandemic businesses had been affected, meaning income was £15K down on last year. The main loss of this income was due to less alcohol and taxi licence applications, as there had been less event notices and licence transfers. Some taxi drivers had also been holding off acquiring new vehicles, resulting in less applications being made, and no new driver applications had come through.

During August and September the deficit was lower than previously, so things appeared to be settling down. In October the figures were more positive. Overall the number of applications was down by 315 compared to last year. Since those figures were put together, the Government had announced another 'lockdown'. The impact of this was not known, but a projected 15% decrease in income was estimated. It was hoped that the Government's grant to the Council could be used to cover the shortfall. Despite the costs increase, which had been more than expected, the income was only 4% down.

As the economy would take time to recover, any increase if fees would be likely to stifle recovery. It was therefore recommended that the fees remained at the current levels and the situation be reviewed in one year.

In response to the Committee's questions, it was revealed that the Hemmings case went to the European Courts and related to the charging of fees and what they were then used for. The process had to be open and transparent and Councils were expected to review fee levels annually. This would include checking legislative requirements, had to reflect the actual work carried out and account correctly.

A grant had been provided for the Council at the beginning of the pandemic crisis, to help alleviate loss of income. The Council had to justify any expenditure under this scheme, so losses could be covered by the sum awarded.

The Licensing Department's staff had not seen a drop in their workloads, although applications were down enquiries had gone up, due to Regulation changes. Therefore, the staff were still fully employed, as the level of work had not reduced, so they did not need to be re-allocated elsewhere. Some deficits in the statutory fee income would not be recovered. This situation would be monitored to assess exactly where those losses were, so Members could be informed when considering how to move forward.

Although discretionary fees were set within a location, licences could be obtained from other local authorities which allowed licence holders to ply their trade elsewhere, sometimes via sub-contracting services. The Council was not allowed to benchmark its fees by comparing with others. Increasing fees could lead to a downward spiral, meaning less people would want licences thereby making them more expensive leading to less people wanting them. Scrap metal licences had gone up, but this was due to the service being passed over from the Domestic Team and now included for inspections as well as administration.

In 2015 the cost recovery rate was only 50-55%, whereas now, even with the downturn, it was around 70%. Moving forward, there could be an argument to reduce fees to stimulate the licensing trades and this could lead to recovering losses. Income was only one part of the equation, as expenditure also needed consideration when finding cheaper suppliers. There were a number of options that could be considered, once the Council had a better idea what it was up against.

The Committee agreed that licence holders should not be overcharged, as they were suffering during this terrible time. Even with the good news about a possible vaccine, this would not impact the situation until next year. Although there would be a shortfall in income, the suggested strategy with the discretionary fees made sense. A lot of businesses had been impacted and would continue to struggle and would take a long time to recover. Next year would be economically difficult and a recovery plan would be needed for the whole district. It would not be a good argument to raise fees, even though this would lead to a deficit. A three-year view should be taken, so that the budget could be brought back to previous levels.

It was resolved:

- (i) That the statutory fees that East Cambridgeshire District Council was required to charge in respect of the specified licences under the Licensing Act 2003 and Gambling Act 2005 as set out in Appendix 1 and Appendix 2 be noted and it be agreed to implement those fees (or, if subject to statutory amendment, the relevant amended fees) on the 1 April 2021;

- (ii) That Officers be instructed to implement, as appropriate, any other statutory fees that may be brought into force during the 2020/2021 financial year;
- (iii) That Officers be instructed to include the agreed fees in the 2021/2022 annual fees and charges report that is presented to full Council.
- (iv) That the proposed fees relevant to those licences and licensing activities where the authority has the discretion to determine the fees, as set out in Appendix 3 and Appendix 4, be implemented on the 1 April 2021;
- (v) That the proposed fees relevant to Animal Welfare licensing, as set out in Appendix 5, be implemented on the 1 April 2021;
- (vi) That Officers be instructed to include the fees in 2021/22 annual fees and charges report that is presented to full Council;
- (vii) That the proposed fees relevant to hackney carriage, private hire and operator licensing, as set out in Appendix 6, be implemented on the 1 April 2021;
- (viii) That Officers be instructed to include the proposed fees, as set out in Appendix 6, in the 2021/2022 annual fees and charges report that is presented to full Council.

31. **LICENSING OFFICER UPDATE**

The Committee considered a verbal report that updated Members on the work of officers within the Licensing Department.

The Senior Licensing Officer advised the Committee that since last month a lot of time had been spent on implementing the changes to the Licensing Policy. Other work included dealing with enquiries generated by the recent government announcements, including the implications of 'Tiers 1, 2 and 3' relating to COVID, and preparing the options for the CCTV in taxis consultation.

32. **FORWARD AGENDA PLAN**

The Committee considered its Forward Agenda Plan.

The Senior Licensing Officer reminded the Committee that the CCTV consultation report would be considered at its December meeting. The Chairman would be happy to push that work back if needed, due to the pressure of work on the Department.

The meeting concluded at 10:15am.

TITLE:	GAMBLING ACT 2005 LICENSING STATEMENT OF PRINCIPLES – THREE YEAR REVIEW
COMMITTEE:	LICENSING COMMITTEE
DATE:	4 OCTOBER 2021
AUTHOR:	SENIOR LICENSING OFFICER [W68]

1.0 ISSUE

1.1 To approve the revised version of the Council’s Gambling Act 2005 - Statement of Principles for Licensing.

2.0 RECOMMENDATION(S)

2.1 That Members consider the content of this report, and approve the revised version of the Gambling Act 2005 - Statement of Principles for Licensing, subject to such amendments that they consider appropriate having considered the content of this report.

2.2 That Members recommend the approved Gambling Act 2005 - Statement of Principles for Licensing to full Council for adoption to come into effect on 31 January 2022 following a period of publication to be not less than 28 days.

3.0 BACKGROUND

3.1 The draft Statement of Principles of Licensing (**Appendix 1**) was prepared and approved for formal consultation in July 2021 under delegated authority.

3.2 The formal consultation took place between 15 July 2021 and 27 August 2021. No consultee responses were received.

4.0 SUMMARY

4.1 **Table 1** below provides an overview of the amendments to the policy contained in the consultation document.

Table 1

Current policy wording	Proposed amendment
16.17 In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.	16.17 In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected, and in the case of all non-remote casino and bingo and betting licences (except those at a track) and holders of gaming machine general operating licences for adult gaming centres must include a self-exclusion scheme. The Licensing Authority would consider it desirable to have a self-exclusion scheme where one is not formally required.

AGENDA ITEM NO. 5

N/A	<p>13.6 The Licensing Authority may arrange for the inspection of premises, both licensed and otherwise, in response to specific complaints about those premises and the provision of unauthorised gambling activities therein. The Licensing Authority may also, from time to time, arrange a programme of risk-based inspections of licensed premises, consistent with the principles expressed throughout this document. Should officers witness offences or breaches of an authorisation during an inspection, appropriate action will be taken. Where the Licensing Authority considers a multi-agency approach may be beneficial, it will contact the Commission in the first instance to agree if this is appropriate, this also includes any planned test purchase operations, to ensure that these do not conflict with any other ongoing investigations.</p>
N/A	<p>24.1 S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place. The Licensing Authority considers the mention of ‘other sporting event’ should be interpreted widely, and could therefore, include for example football, cricket, or golf.</p>
<p>32.3 The Licensing Authority has very little discretion as regards these notices, aside from ensuring that a statutory limit of eight (8) days in a calendar year is not exceeded.</p>	<p>32.3 The Licensing Authority has very little discretion as regards these notices, aside from ensuring that a statutory limit of eight (8) days in a calendar year is not exceeded. A day is defined as midnight to midnight, and not simply 24 hours across 2 days. A separate OUN is required for each day.</p>
<p>In addition to the four amendments above, the organisational contact list was updated.</p>	

5 CONCLUSIONS

- 5.1 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a Statement of Principles for Licensing that they propose to apply in exercising their functions under the 2005 Act during the three-year period to which the policy applies.
- 5.2 Regulations and the Statutory Guidance to Licensing Authorities, issued by the Gambling Commission specifies the scope and content of the Statement of Principles for Licensing.
- 5.3 The attached draft Statement of Principles for Licensing at **Appendix 1** is in line with these requirements.
- 5.4 Failure to approve a revised policy before 31 January 2022 will result in the inability to determine applications under the 2005 Act until such time as a policy is approved and published.

AGENDA ITEM NO. 5

5.5 The consultation exercise did not attract any positive or adverse comments, and largely reflects legislative and/or statutory guidance changes, and for that reason, Members are recommended to recommend Council to adopt these changes in their entirety, as per the consultation document.

6.0 FINANCIAL IMPLICATIONS

6.1 There are no cost implications over and above the normal costs of administering the 2005 Act.

6.2 An Equality Impact Assessment (EIA) has been completed showing there is no adverse impact on the community.

7.0 APPENDICES

7.1 Appendix 1 Draft Statement of Principles for Licensing

7.2 Appendix 2 Equality Impact Assessment (EIA)

Background Documents

	<u>Location</u>	<u>Contact Officer</u>
The Gambling Act 2005	Room SF208	Stewart Broome
Gambling Commission guidance for Local Authorities published April 2021.	The Grange, Ely	Senior Licensing Officer (01353) 616477



East Cambridgeshire District Council

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES 2022

Published: TBC
Effective: 31 January 2022
Version number:
Date of expiry: 30 January 2025

FOREWORD

This is the sixth Statement of Principles produced by East Cambridgeshire District Council under the Gambling Act 2005 and it will be the basis for all gambling related licensing decisions taken by the Council as the Licensing Authority over the next three years commencing on 31 January 2022.

The Gambling Act 2005 created a unified regulator for gambling in Great Britain called the Gambling Commission and also transferred all responsibilities for licensing gambling premises from the Licensing Justices to Licensing Authorities. These authorities are responsible for issuing a number of different permits as well as temporary and occasional use notices.

The Statement of Principles sets out how the Council, as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that children, vulnerable persons and communities need and expect.

The Council recognises how important this sector of the entertainment industry is within the district and well-run businesses will get the support of the Council. New gambling related developments that are well planned and can demonstrate initiatives that prevent gambling from being a source of crime and disorder, ensure that gambling is conducted in a fair and open way and protect people from being harmed or exploited by gambling are welcomed. However, the Council will not hesitate in dealing firmly where problems of gambling related crime and disorder exist.

The Statement of Principles will be kept under review and it will be amended when issues arise that make change necessary. The Council will seek through the licensing process and the decisions it takes to make East Cambridgeshire a safe and welcoming place for both residents and visitors to enjoy.

Summary of 6th Revision

The matters dealt with by this revision are as follows:

- 1) Amendment of paragraph 16.17 to reflect Social Responsibility Code Provision 3.5.6 regarding self-exclusion schemes in Local Risk Assessments
- 2) Paragraph on premises inspections inserted as paragraph 13.6
- 3) Definition of a track inserted as paragraph 24.1
- 4) Definition of a day added to paragraph 32.3 regarding OUNS
- 5) Updated organisational contact details in Annex B

The list of those consulted can be found on page 27.

**EAST CAMBRIDGESHIRE DISTRICT COUNCIL
GAMBLING ACT 2005
STATEMENT OF PRINCIPLES**

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PART A

1.0 INTRODUCTION

1.1 This Statement of Principles sets out the principles East Cambridgeshire District Council, as the Licensing Authority under the Gambling Act 2005, referred to in this document as 'the Act', proposes to apply in discharging its functions to licensed premises for gambling under the Act, as well as:

- designating the body responsible for advising the Licensing Authority on the protection of children from harm;
- determining whether or not a person is an 'Interested Party';
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

2.0 THE LICENSING OBJECTIVES

2.1 In exercising most of its 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; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.2 The Licensing Authority notes that the Gambling Commission has stated that 'the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling'.

2.3 The Gambling Commission's Licence Conditions and Code of Practice (LCCP) requires gambling premises to undertake a local risk assessment taking into consideration the local information. More information can be found on page 13 starting at section 16.12.

3.0 DESCRIPTION OF THE DISTRICT

3.1 East Cambridgeshire District Council is one of five district authorities and one unitary authority that make up the County of Cambridgeshire. It has a population of approximately 84,700 (mid 2012 est.) and covers an area of almost 65,500 hectares. The district is predominantly rural in character and stretches from the Norfolk border in the north to within a few miles of the city of Cambridge in the South; from the long straight stretch of the New Bedford River in the West to a long border with Suffolk to the East. The district has an outstanding built and natural heritage, including the internationally recognised Ely Cathedral, the National Stud, July Racecourse, Wicken Fen and Anglesey Abbey. Close to Cambridge, the district enjoys excellent connections with regional road and rail networks, as well as London Stansted Airport.

Map of East Cambridgeshire District.



4.0 **RESPONSIBILITIES UNDER THE ACT**

- 4.1 The Act introduced a licensing regime for commercial gambling to be conducted by the Gambling Commission and by licensing authorities, depending on the matter to be licensed.
- 4.2 The Act establishes each district or borough council as the licensing authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. East Cambridgeshire District Council is the Licensing Authority for the East Cambridgeshire District.
- 4.3 The Gambling Commission is responsible for issuing operating and personal licences to persons and organisations who:
- operate a casino;
 - provide facilities for playing bingo or for pool betting;
 - act as intermediaries for betting;
 - make gaming machines available for use in adult gaming centres and family entertainment centres;
 - manufacture, supply, install, adapt, maintain or repair gaming machines;

- manufacture, supply, install or adapt gambling machine software; or
- promote a lottery.

4.4 The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are covered, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt small society lotteries.

4.5 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as they think it is:

- in accordance with any relevant codes of practice;
- in accordance with any relevant Guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives, and
- in accordance with the Licensing Authority's Statement of Principles.

4.6 Before the Licensing Authority can determine an application for a premises licence, an operating and personal licence, or both, must have been obtained from the Gambling Commission.

5.0 STATEMENT OF PRINCIPLES

5.1 The Licensing Authority is required by the Act to publish a Statement of Principles containing the principles it proposes to apply when exercising its functions under the Act.

5.2 In this document this is referred to as 'the Statement'. This Statement must be reviewed and published every three years. The Statement must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Statement must then be published.

5.3 This Statement of Principles takes effect on 31 January 2022.

6.0 CONSULTATION

6.1 In producing this Statement, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Licensing Authority chose to consult with additional local groups and individuals. A full list of all groups and persons consulted is provided at Annex A.

6.2 The Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police for the authority's area;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

6.3 The other groups and people consulted were:

- Organisations, including faith groups and voluntary organisations working with people who are problem gamblers, medical practices or primary care trusts and the Citizens' Advice Bureau;
- Social Services;
- Other tiers of local government;
- Businesses who are holders of GA05 premises licences;
- Responsible authorities under the Act.

6.4 The Licensing Authority's consultation took place between 30 July 2021 and 10 September 2021.

7.0 APPROVAL OF STATEMENT OF PRINCIPLES

7.1 This Statement was approved at a meeting of the full Council on 21 October 2021 and was published via its website. Copies are available on request.

7.2 It should be noted that this Statement does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the statutory requirements of the Gambling Act 2005.

8.0 DECLARATION

8.1 In this Statement the Licensing Authority declares that it has had regard to the licensing objectives of the Act, formal Guidance issued to licensing authorities by the Gambling Commission and any responses from those consulted during the consultation process.

8.2 The Council recognises its diverse responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate schemes such as the Impacts Needs Assessment Scheme.

8.3 Any information and guidance contained within this Statement of Principles is intended only to assist readers and should not be interpreted as legal advice or as constituent of the Licensing Authority's policy. Readers of this document are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005 or the Guidance or Regulations issued under the Act.

9.0 RESPONSIBLE AUTHORITIES

9.1 A full list of the responsible authorities designated under the Act and their contact details are given in Annex B. It should be noted that under the Act, the Licensing Authority is designated as a responsible authority.

9.2 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 that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:

- the competency of the body to advise the licensing authority:
- 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 interest group etc.

9.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates Cambridgeshire Local Safeguarding Children Board, for this purpose.

10.0 INTERESTED PARTIES

10.1 Interested parties can make representations about licensing applications or apply for a review of an existing licence. An interested party is defined in the Act as follows:

'... a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

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

10.2 Licensing authorities are required by Regulations to state the principles they will apply in exercising their powers under the Act to determine if a person is an interested party. The principles are:

- Each case will be decided upon its own merits. This Licensing Authority will not apply a rigid rule to its decision-making and will consider the examples of considerations provided in the Gambling Commission Guidance to Licensing Authorities.
- The Licensing Authority will also consider the Gambling Commission Guidance that 'business interests' should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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

10.4 District Councillors who are members of the Licensing Committee will not qualify to act in this way.

10.5 Other than those parties listed in 10.3, this authority will generally require written evidence that a person or 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.

10.6 The Licensing Authority considers that trade associations, trade unions and residents' and tenants' associations qualify as interested parties where they can demonstrate that they represent persons in 10.1 (a) or (b) above.

10.7 In determining if a person lives or has business interests sufficiently close to the premises that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

11.0 EXCHANGE OF INFORMATION

11.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:

- Provisions of the Gambling Act 2005, which include the provision that the Data Protection Act 1998 will not be contravened;
- Guidance issued by the Gambling Commission;
- Data Protection Act 1998;
- General Data Protection Regulation (GDPR) will be observed

- Human Rights Act 1998;
- Freedom of Information Act 2000;
- Environmental Information Regulations 2004;
- Common Law Duty of Confidence;
- Electronic Communications Act 2000;
- Computer Misuse Act 1990;
- Criminal Procedure and Investigations Act 1996; and
- Crime and Disorder Act 1998.

11.2 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail, which will include:

- record of data disclosed;
- project chronology; and
- notes of meetings with other partners and recent correspondence including phone calls.

12.0 PUBLIC REGISTER

12.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations will prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

13.0 COMPLIANCE AND ENFORCEMENT

13.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice as promulgated by the Better Regulation Executive and the Hampton review of regulatory inspections and enforcement and endeavour to be:

- Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable – The authority must be able to justify decisions and be subject to public scrutiny.
- Consistent – Rules and standards must be joined up and implemented fairly.
- Transparent – Enforcement should be open and regulations kept simple and user friendly.
- Targeted – Enforcement should be focused on the problems and minimise side effects.

13.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt 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 of the Act;
- the principles set out in this statement of principles.

13.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act is to ensure compliance with the premises licences and other permissions it authorises.

13.4 The Gambling Commission is the enforcement body for operating and personal licences. Concerns about the manufacturer, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

13.5 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

13.6 The Licensing Authority may arrange for the inspection of premises, both licensed and otherwise, in response to specific complaints about those premises and the provision of unauthorised gambling activities therein. The Licensing Authority may also, from time to time, arrange a programme of risk-based inspections of licensed premises, consistent with the principles expressed throughout this document. Should officers witness offences or breaches of an authorisation during an inspection, appropriate action will be taken. Where the Licensing Authority considers a multi-agency approach may be beneficial, it will contact the Commission in the first instance to agree if this is appropriate, this also includes any planned test purchase operations, to ensure that these do not conflict with any other ongoing investigations.

14.0 LICENSING AUTHORITY FUNCTIONS

14.1 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 by 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 (TUNs);
- receive occasional use notices (OUNs);
- 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.

14.2 It should be noted that licensing authorities are not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

14.3 It should be noted that licensing authorities are not involved in spread betting activities, which are regulated by the Financial Conduct Authority.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

15.0 DELEGATION OF POWERS

15.1 The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act and this can be found at Annex C.

16.0 GENERAL PRINCIPLES

16.1 Premises licences are subject to the requirements set out in the Act, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is considered appropriate.

16.2 Decision making

This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the user of premises for gambling in so far as it considers it is:

- in accordance with any relevant code(s) 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.

16.3 The Licensing Authority is aware that in accordance with Gambling Commission Guidance to Licensing Authorities 'moral objections to gambling are not a valid reason to reject applications for premises licences', except as regards any 'no casino resolution'.

16.4 Definition of premises

The Act defines 'premises' as including 'any place'. Section 152 of the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building could be reasonably regarded as being different premises. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises although this will always be considered in the light of the Guidance issued by the Gambling Commission. It will always be a question of fact in each circumstance. The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

16.5 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

16.6 The Licensing Authority takes note of the Gambling Commission's Guidance to licensing authorities which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes, and is aware that:

- the third licensing objective seeks to protect children from being harmed by gambling, which in practice means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating;

- entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit;
- customers should be able to participate in the activity named on the premises licence.

16.7 The Licensing Authority is aware that Gambling Commission Guidance provides relevant access provisions for each premises type and suggests a list of factors to be considered during the application process. The Licensing Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

16.8 Premises ready for gambling

An application can only be made where the applicant holds an operating licence with the Gambling Commission, or has a pending operating licence application with the Gambling Commission for the premises licence type they wish to submit to the Licensing Authority and they also have a legal right to occupy the premises they wish to licence. If the applicant does not yet have a right to occupy their chosen premises, and/or the premises is under construction, an applicant may wish to apply for a provision statement instead to judge whether a development is worth taking forward (see section 17).

16.9 Plans

Regulations state that plans must show the location and extent of any part of the premises used for gambling. Applicants will be expected to provide plans which are sufficiently detailed to enable the Licensing Authority to determine it will be compliant with the s153 principles of the Gambling Act 2005.

16.10 Applicants should note that the Licensing 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.

16.11 Demand

Demand is a commercial consideration and is not an issue for the Licensing Authority.

16.12 Location

The council is aware that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The council 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.

16.13 With regards to these objectives it is the council's policy, upon receipt of any relevant representations to look at specific location issues including:

- the possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area;
- the possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children;
- the size of the premises and the nature of the activities taking place;
- any levels of organised crime in the area.

16.14 The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives, if an application is to be refused. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

16.15 The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

- a. to take account of significant changes in local circumstance, including those identified in this policy;
- b. when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- c. when applying for a variation of a premises licence; and
- d. in any case, undertake a local risk assessment when applying for a new premises licence.

16.16 The council will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

16.17 In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected, and in the case of all non-remote casino and bingo and betting licences (except those at a track) and holders of gaming machine general operating licences for adult gaming centres must include a self-exclusion scheme. The Licensing Authority would consider it desirable to have a self-exclusion scheme where one is not formally required.

16.18 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

16.19 Such information may be used to inform the decision the council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

16.20 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

16.21 Duplication with other regulatory regimes

The Licensing Authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Licensing 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.

16.22 When dealing with a premises licence application for finished buildings, the Licensing Authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

16.23 Licensing objectives

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the following will be considered:

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

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a licensing objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this licensing objective.

Where an area has known high levels of organised crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of door supervisors.

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

The Gambling Commission does not generally expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way. The Licensing Authority notes that in relation to the licensing of tracks, its role will be different from other premises in that track operators will not necessarily have an operating licence. In such circumstances, the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

The Licensing Authority will consider this licensing objective on a case by case basis to determine if specific measures are required at particular premises including tracks.

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

In practice, the objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

The Licensing Authority will consider if specific measures are required at particular premises with regard to this licensing objective.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

The Licensing Authority will consider this licensing objective on a case by case basis.

16.24 Conditions

The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises, such as buildings subject to multiple premises licences, the Licensing Authority may consider attaching individual conditions related to the licensing objectives.

16.25 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed premises 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.

16.26 In addition, the Licensing Authority will examine how applicants propose to address the licensing objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:

- proof of age schemes;
- CCTV;
- door supervisors;
- supervision of entrances/machine areas;
- physical separation of areas;
- location of entry;
- notices and signage;
- specific opening hours; and
- with particular regard to vulnerable persons, provision of information, leaflets, helpline numbers for organisations such as Gamcare.

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

16.27 The Licensing Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

16.28 The 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. In line with Guidance issued by the Gambling Commission, the Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

16.29 Decisions upon individual conditions will be made on a case-by-case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. Applicants will also be expected to offer their own suggestions as to the way in which the licensing objectives can be effectively met.

16.30 It is noted that there are conditions that the Licensing Authority cannot attach to premises licences. These are:

- any conditions on the premises licence which make 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 Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

16.31 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 door supervisors and is entitled to impose a premises licence condition to this effect.

16.32 Where it is decided that supervision of entrances/machines is appropriate for particular cases, the Licensing Authority will consider if the door supervisors are required to be SIA licensed or not. The Licensing Authority will not automatically assume that all door supervisors need to be SIA licensed, as it is aware that the statutory requirements for door supervision for different types of premises vary.

16.33 Credit

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATMs) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

16.34 Betting machines

The Licensing Authority will, in line with Gambling Commission 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 the age of 18 to bet) or by vulnerable persons, when considering the number, nature and circumstances of betting machines an operator proposes to offer.

16.35 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall 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 or by vulnerable persons.

16.36 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of codes of practice or guidance issued under the Act.

16.37 Nothing contained in paragraphs 16.34 to 16.36 is intended to override the provisions of section 172 of the Gambling Act 2005 to provide gaming machines under the authority of a Premises Licence.

17.0 PROVISIONAL STATEMENTS

17.1 Developers may wish to apply to the Licensing Authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

17.2 S204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

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

17.3 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.

17.4 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.

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

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

17.6 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 representations at the provisional statement application stage;
- which in the Authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and the Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

18.0 REPRESENTATIONS AND REVIEWS

18.1 Representations and applications for a review of a premises licence may be made by responsible authorities and interested parties.

18.2 The Licensing Authority can make a representation or apply for a review of the premises licence on the basis of any reason that it thinks is appropriate. For the purpose of exercising its discretion in these matters, the Licensing Authority has designated the Council's Head of Legal Services as being the proper person to act on its behalf.

18.3 The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:

- frivolous or vexatious;
- based on grounds that will certainly not cause the Licensing Authority to wish to revoke/suspend a licence or remove, amend or attach conditions on the licence;
- substantially the same as previous representations or requests for a review;
- in accordance with any relevant codes of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;

- reasonably consistent with the licensing objectives.

18.4 There is no appeal against the Licensing Authority's determination of the relevance of an application for review.

19.0 ADULT GAMING CENTRES

19.1 Entry to an adult gaming centre is age restricted to persons aged 18 years and over.

19.2 The Licensing Authority will take account of any conditions applied to an operating licence in respect of such premises.

20.0 (LICENSED) FAMILY ENTERTAINMENT CENTRES

20.1 Entry to a (licensed) family entertainment centre is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

20.2 The Licensing Authority will take account of any conditions applied to an operating licence in respect of such premises.

21.0 CASINOS

21.1 The Licensing Authority has not passed a resolution under section 166 of the Act not to issue casino premises licences. Any future decision to pass or not to pass a casino resolution will only be taken after a full consultation process has been undertaken within the area.

21.2 Casinos and competitive bidding

The Licensing Authority is aware that where a licensing authority's area is enabled to grant a premises licence for a new style casino, there are likely to be a number of operators wishing to run a casino. In such situations the Licensing Authority will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State. It should be noted that at the time this statement of licensing policy was adopted this area had not been so enabled.

21.3 Betting machines

The Licensing Authority can 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 or to a casino premises licence where betting is permitted in the casino. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things will 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 or by vulnerable persons.

21.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on decided on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

21.5 Credit

Credit facilities are prohibited in casinos, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

22.0 BINGO PREMISES

- 22.1** Entry to a bingo premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 22.2** The Licensing Authority will take account of any conditions applied to an operating licence in respect of such premises.
- 22.3 Credit**
Credit facilities are prohibited in premises licensed for bingo, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.
- 23.0 BETTING PREMISES**
- 23.1** Entry to a premises where betting takes place other than at a track, previously known as a licensed betting shop, is age restricted.
- 23.2** The Licensing Authority will take account of any conditions applied to an operating licence in respect of such premises.
- 24.0 TRACKS**
- 24.1** S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place. The Licensing Authority considers the mention of 'other sporting event' should be interpreted widely, and could therefore, include for example football, cricket, or golf.
- 24.2** The 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.
- 24.3** In line with Guidance issued by the Gambling Commission, the Licensing Authority will especially consider the impact upon the third licensing objective, 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.
- 24.4** The Licensing 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.
- 24.5** In addition, the Licensing Authority will examine how applicants propose to address the licensing objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:
- proof of age schemes;
 - CCTV;
 - door supervisors;
 - supervision of entrances/machine areas;
 - physical separation of areas;
 - location of entry;
 - notices and signage;
 - specific opening hours; and
 - with particular regard to vulnerable persons, provision of information, leaflets, helpline numbers for organisations such as Gamcare.

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

24.6 Gaming machines

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

24.7 Betting machines

The Licensing Authority will, in line with Part 6 of the Gambling Commission 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 the age of 18 to bet) or by vulnerable persons, when considering the number, nature and circumstances of betting machines an operator proposes to offer.

25.0 TRAVELLING FAIRS

25.1 The Licensing Authority is responsible for deciding whether, and where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, and that the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

25.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair. It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with its neighbouring authorities to ensure that land that crosses the East Cambridgeshire district boundaries is monitored so that the statutory limits are not exceeded.

PART C

PERMITS/TEMPORARY OR OCCASIONAL USE NOTICES/REGISTRATIONS

26.0 GENERAL

26.1 Forms, method of application, definitions and any additional information required for permits covered by this section are available as separate guidance and information documents.

27.0 UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

27.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a 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.

27.2 Statement of licensing principles

The Licensing Authority will expect the applicant to show that there are written 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 suitability of such policies and procedures will be considered on their merits, however, they may include:

- a basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises;
- how the applicant proposes to ensure that children will be protected from harm whilst on the premises;
- training covering how staff would deal with:
 - unsupervised, very young children being on the premises;
 - children causing perceived problems on/around the premises; and
 - suspected truant children.

28.0 GAMING MACHINE PERMITS IN ALCOHOL LICENSED PREMISES

28.1 There is provision in the Act for premises licensed to sell alcohol under part 3 of the Licensing Act 2003 for consumption on the premises to automatically have two gaming machines of categories C and/or D. To use this entitlement the premises licence holder needs to give notice to the Licensing Authority of the intention to make gaming machines available for use and pay the prescribed fee.

28.2 Gaming machines can be located on premises for which a licence for the sale by retail of alcohol or supply of alcoholic liquor for consumption on the premises has been issued. Such premises must have a bar for serving customers.

28.3 Premises restricted to selling alcohol on the premises only with food have no entitlement for the provision of gaming machines on the premises.

28.4 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;
- the premises are mainly used for gaming; or

- an offence under the Act has been committed on the premises.

28.5 Where an application for more than two gaming machines is received, the 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 Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the gaming machines. Measures will cover such issues as:

- gaming machines being in sight of the bar;
- gaming machines being in sight of staff who will monitor that the machines are not being used by those under 18;
- appropriate notices and signage; and
- as regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the provision of information, leaflets/help line numbers for organisations such as Gamcare.

28.6 The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

28.7 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(s).

29.0 PRIZE GAMING PERMITS

29.1 Statement of licensing principles

The Licensing Authority will expect the applicant to show that there are written 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 suitability of such policies and procedures will be considered on their merits, however, they may include:

- a basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises;
- how the applicant proposes to ensure that children will be protected from harm whilst on the premises;
- training covering how staff would deal with:
 - ❑ unsupervised, very young children being on the premises;
 - ❑ children causing perceived problems on/around the premises; and
 - ❑ suspected truant children.

29.2 In making its decision on an application for a permit, the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

30.0 CLUB GAMING AND CLUB MACHINE PERMITS

30.1 Members clubs and miners' welfare institutes may apply for a 'club gaming permit' or a 'club machine permit'. The 'club gaming permit' will enable the premises to provide gaming machines (three machines of categories B4, C or D), equal chance gaming i.e. poker, bingo etc. A 'club machine permit' will enable the premises to provide gaming machines (three machines of categories B4, C or D). Commercial clubs may apply for a 'club machine permit' only.

30.2 To qualify for these special club permits a members club must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming. 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 the Royal British Legion and clubs with political affiliations.

- 30.3** Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that under 18 year olds do not use the adult only gaming machines. These measures may include:
- the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised
 - notices and signage
 - the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 30.4** Before granting the permit the council will need to satisfy itself that the premises meets the requirements of a members' club and that the majority of members are over 18.
- 30.5** The council may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which they have applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 30.6** There is also a 'fast-track' procedure available for premises which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which the council can refuse a permit is reduced. The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming,
 - (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.
- 31.0** **TEMPORARY USE NOTICES (TUNs)**
- 31.1** The organisations designated to receive TUNs and to issue objections are:
- Licensing Authority;
 - Gambling Commission;
 - Cambridgeshire Constabulary;
 - HM Commission for Revenues and Customs;
 - if applicable, any other licensing authority in whose area the premises are situated (if the premises crosses the border between two licensing authority areas).
- 31.2** A TUN may only be granted to a person or company holding an operating licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State prescribing the activities to be covered. TUNs can only be issued for equal chance gaming.
- 31.3** For the purposes of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premises from having a TUN in effect for more than 21 days in any 12 month period by giving a notice in respect of different parts.
- 31.4** The definition of a 'set of premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of 'a set of premises', the Licensing Authority will consider, amongst other things, the ownership, occupation and control of the premises.
- 31.5** The Licensing Authority will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

32.0 OCCASIONAL USE NOTICES (OUNs)

- 32.1** Occasional Use Notices (OUNs) apply only to tracks. Tracks need not be a permanent fixture.
- 32.2** OUNs are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a full betting premises licence for the track.
- 32.3** The Licensing Authority has very little discretion as regards these notices, aside from ensuring that a statutory limit of eight (8) days in a calendar year is not exceeded. A day is defined as midnight to midnight, and not simply 24 hours across 2 days. A separate OUN is required for each day.
- 32.4** The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the notice.
- 32.5** The person designated to receive and validate OUNs is the Environmental Services Manager. A copy of the OUN must be served on the Chief Officer of Police for the district for which the OUN has been served.

33.0 SMALL SOCIETY LOTTERIES

- 33.1** A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part.
- 33.2** The Act creates two principal classes of lotteries: Licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries there are four sub classes, one of which is small society lotteries.
- 33.3** A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These will be administered by the council for small societies who have a principal office in East Cambridgeshire District Council and want to run such lottery.
- 33.4** A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.
- 33.5** To be 'non-commercial' a society must be established and conducted:
- for charitable purposes,
 - for the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity;
or
 - for any other non-commercial purpose other than that of private gain.
- 33.6** The other types of exempt lotteries are 'incidental lotteries' (formally known as incidental non-commercial lotteries), 'private lotteries' and 'customer lotteries'. If you require guidance on the different categories of lotteries, please visit the licensing pages at www.eastcambs.gov.uk.
- 33.7** The National Lottery is not licensed by the Gambling Act 2005 and continues to be regulated by the National Lottery Commission under the National Lottery Act 1993. A small society lottery requires registration with the Licensing Authority.

34.0 USEFUL CONTACTS

The Gambling Commission maintains a list of useful contacts of organisations involved in gambling, some of which provide codes of practice on their particular interest area.

Their contact details can be found on the Gambling Commission's website www.gamblingcommission.gov.uk

LIST OF CONSULTEES – Annex A

Cambridgeshire Constabulary

Cambridgeshire Fire and Rescue Service

Cambridgeshire Local Safeguarding Children Board

Primary care trust

East Cambridgeshire Community Safety Partnership

East Cambridgeshire District Council Environmental Health (Domestic)

East Cambridgeshire District Council Health and Safety Authority

East Cambridgeshire District Council Planning Authority

Gambling Commission

HM Revenue and Customs

Parish, town councils

District councillors

Members of the general public

National bodies representing the gambling and licensed trade

ECDC Premises Licence holders

Local support, faith, and help groups and organisations

RESPONSIBLE AUTHORITIES – Annex B

ORGANISATION	CONTACT AND ADDRESS
Cambridgeshire Constabulary	Licensing Section Chief of Police (Licensing) Cambridgeshire Constabulary Parkside Police Station Parkside Cambridge CB1 1JG Tel: 101 Email: licensingouth@cambs.pnn.police.uk
Cambridgeshire Fire and Rescue Service	Cambridge Fire & Rescue Service Cambridge Fire Station Parkside Cambridge Tel: 01223 376201 Email: danny.hans@cambsfire.gov.uk
Local Safeguarding Children Board	Email: Safeguardingboards@cambridgeshire.gov.uk
Planning Authority	Principal Development Control Officer Development Control The Grange Nutholt Lane Ely CB7 4EE Tel: 01353 665555 Email: plservices@eastcambs.gov.uk
Environmental Health Domestic Section	Senior Environmental Health Officer Domestic Section The Grange Nutholt Lane Ely CB7 4EE Tel: 01353 665555 Email: domlicenceconsult@eastcambs.gov.uk
Environmental Health Health & Safety	Senior Environmental Health Officer Commercial Section The Grange Nutholt Lane Ely CB7 4EE Tel: 01353 665555 Email: foodandsafety@eastcambs.gov.uk
HM Revenue & Customs	HM Revenue & Customs 12 th Floor Alexander House Victoria Avenue Southend-on-Sea Essex SS9 1BD
The Gambling Commission	The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP Tel: 0121 230 6500 Email: info@gamblingcommission.gov.uk

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS – Annex C

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
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 representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
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	
Consideration of an Occasional Use Notice			X

EQUALITY IMPACT ASSESSMENT (EIA) FORM

Name of Policy:	Gambling Act 2005 – Statement of Principles for Licensing
Lead Officer (responsible for assessment):	Stewart Broome
Department:	Licensing
Others Involved in the Assessment (i.e. peer review, external challenge):	
Date EIA Completed:	2/9/21

What is an Equality Impact Assessment (EIA)?

As part of any effective policy development process, it is important to consider any potential risks to those who will be affected by the policy's aims or by its implementation. The Equality Impact Assessment (EIA) process helps us to assess the implications of our decisions on the whole community, to eliminate discrimination, tackle inequality, develop a better understanding of the community we serve, target resources efficiently, and adhere to the transparency and accountability element of the Public Sector Equality Duty.

The word 'policy', in this context, includes the different things that the Council does. It includes any policy, procedure or practice - both in employment and service delivery. It also includes proposals for restructuring, redundancies and changes to service provision.

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

The Licensing Authority has a statutory duty to produce and review a Statement of Principles for Licensing under the Gambling Act 2005 every three years or sooner if deemed necessary in order to issue permissions under the Act.

- (b) **Who are its main beneficiaries?** i.e. who will be affected by the policy?

Persons wishing to conduct gambling activities in the district.

- (c) **Is the EIA informed by any information or background data (quantitative or qualitative)?** i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

Yes – a full consultation took place between 15 July 2021 and 27 August 2021. No responses were received.

- (d) **Does this policy have the potential to cause a positive or negative impact on different groups in the community, on the grounds of any of the protected characteristics?** (please tick all that apply)

Ethnicity	<input type="checkbox"/>	Age	<input type="checkbox"/>
Gender	<input type="checkbox"/>	Religion and Belief	<input type="checkbox"/>
Disability	<input type="checkbox"/>	Sexual Orientation	<input type="checkbox"/>
Gender Reassignment	<input type="checkbox"/>	Marriage & Civil Partnership	<input type="checkbox"/>
Pregnancy & Maternity	<input type="checkbox"/>	Caring Responsibilities	<input type="checkbox"/>

Please explain any impact identified: i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

N/A

(e) Does the policy have a differential impact on different groups?	NO
(f) Is the impact <i>adverse</i> (i.e. less favourable)?	NO
(g) Does it have the potential to disadvantage or discriminate unfairly against any of the groups in a way that is unlawful?	NO
(h) How have you engaged stakeholders in gathering evidence or testing the policy proposals? Who was involved, how and when where they engaged? Does the evidence show potential for differential impact? How will you mitigate any negative impacts? Where there is the potential for an adverse impact that cannot be addressed immediately, these should be highlighted in your recommendations and objectives at the end of the EIA.	

A full consultation took place between 15 July 2021 and 27 August 2021.

* The Consultation Register is available to assist staff in consulting with the Council’s stakeholders.

(i) Summarise the findings of your research and/or consultation (please use a separate sheet if necessary).

No responses were received

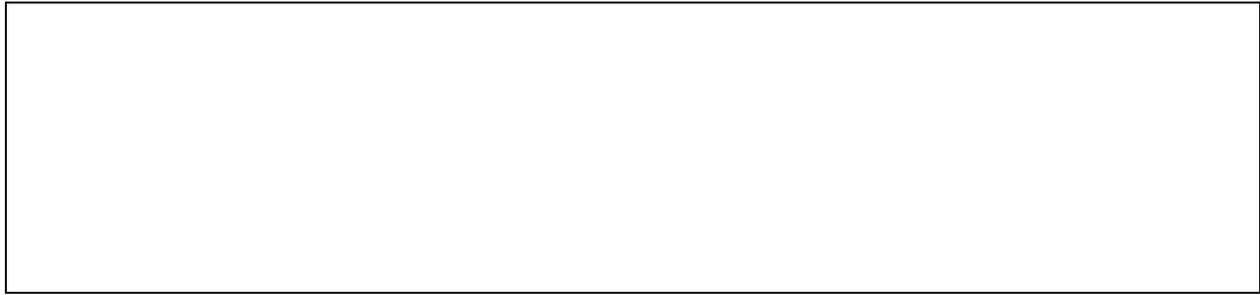
(j) What are the risks associated with the policy in relation to differential impact and unmet needs/requirements? i.e. reputation, financial, breach of legislation, service exclusion, lack of resources, lack of cooperation, insufficient budget etc.

None

(k) Use the information gathered in the earlier stages of your EIA to make a judgement on whether there is the potential for the policy to result in unlawful discrimination or a less favourable impact on any group in the community, and what changes (if any) need to be made to the policy.

Option 1:	No major change - the evidence shows that the policy is robust and no potential for discrimination.	X
Option 2:	Adjust the policy - to remove barriers or to better promote equality.	
Option 3:	Continue the policy - despite potential for adverse impact or missed opportunity to promote equality, provided you have satisfied yourself that it does not unlawfully discriminate.	
Option 4:	Stop and remove the policy – if the policy shows adverse effects that cannot be justified.	

(l) Where you have identified the potential for adverse impact, what action can be taken to remove or mitigate against the potential for the policy to unlawfully discriminate or impact less favourably on one or more communities in a way that cannot be justified? Include key activities that are likely to have the greatest impact (max. 6). Identified actions should be specified in detail for the first year but there may be further longer term actions which need to be considered. To ensure that your actions are more than just a list of good intentions, include for each: the person responsible for its completion, a timescale for completion, any cost implications and how these will be addressed. It is essential that you incorporate these actions into your service plans.



This completed EIA will need to be countersigned by your Head of Service. **Please forward completed and signed forms to the Principal HR Officer.**

All completed EIAs will need to be scrutinised and verified by the Council's Equal Opportunities Working Group (EOWG) and published on the Council's Intranet to demonstrate to local people that the Council is actively engaged in tackling potential discrimination and improving its practices in relation to equalities. Please be aware that you may be asked to attend a half-an-hour session to summarise the findings of the EIA to the Scrutiny and Verification panel.

Signatures:

Completing Officer:	Stewart Broome	Date:	2/9/2021

	Liz Knox	Date:	2/9/2021
Head of Service:	_____	Date:	_____

Title: The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

Committee: Licensing Committee

Date: 4th October 2021

Author: Julia Atkins Senior Environmental Health Officer

[W69]

1.0 PURPOSE/SUMMARY OF REPORT

1.1 For members to endorse the implementation of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

2.0 RECOMMENDATION(S)

2.1 That the Licensing Committee notes the new statutory local authority powers in The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020;

2.2 That Members agree the adoption of:

- i) The East Cambridgeshire District Council Fit and Proper Person Determination Policy for Mobile Homes and Caravan Sites 2021; and
- ii) The East Cambridgeshire District Council Fit and Proper Person Fee Policy for Mobile Home and Caravan Sites 2021; and
- iii) Both policies to take effect from 4th October 2021.

2.3 That the terms of reference of the Licensing Committee be amended to include the new functions introduced by The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020; and

2.4 Members delegate authority to the Monitoring Officer to make the necessary changes to the Constitution to give authority to the Environmental Services Manager to exercise the functions introduced by The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

3.0 BACKGROUND/OPTIONS

Key Issues

3.1 The Council has a statutory duty under the Caravan Sites and Control of

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Development Act 1960 to licence Mobile Home/Caravan sites. At present a licence has to be given where planning permission has been granted. The Council can attach conditions to licences to ensure certain standards relating to the condition of the site, including matters such as layout and services, are maintained.

- 3.2 There are 10 licensed permanent residential Mobile Home/Caravan sites run commercially within East Cambridgeshire (relevant protected sites). An annual inspection of these sites is carried out by Officers to check compliance with licence conditions. An annual fee is charged for the inspections and these fees were published in the Park Homes Fees Policy 2014.
- 3.3 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the manager of a relevant protected site to be a Fit and Proper Person (“the Regulations”). Local authorities are required to introduce a fit and proper person determination test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations¹. The Regulations, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021.
- 3.4 Procedures are in place and applications have been sent out to each relevant site owner to complete. Please see link below:-

[Mobile Homes - Fit and Proper Person Test | East Cambridgeshire District Council \(eastcambs.gov.uk\)](https://www.eastcambs.gov.uk/mobile-homes-fit-and-proper-person-test)
- 3.5 Local authorities will be able to charge two types of fees to cover their costs.
 - An application fee to cover the cost of assessing applications to be included on the fit and proper register.
 - An annual fee if an application is granted subject to such a condition, to cover the cost of monitoring the scheme or conditions attached to entries.
- 3.6 All fees must be published in an authority’s Fees Policy document and must be transparent and reasonable.
- 3.7 Prior to determining the applications and introducing a fee, two policies need to be adopted and published; one for calculating the proposed fee (£230) and one for determining the application (Fit and Proper Person Fee Policy 2021 and the Fit and Proper Person Determination Policy 2021 attached at Appendix 1 and Appendix 2)
- 3.8 A local authority must be satisfied that the site owner “*is a fit and proper person to manage the site*” or, if the owner does not manage the site, “*that a person*

¹ *i.e. it is a non-commercial, family occupied site under Regulation 3

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appointed” to do so by the site owner “*is a fit and proper person to do so*” or has, with the site owner’s consent, “*appointed a person to manage the site.*”

- 3.9 Principally, the fit and proper person determination test applies to a “relevant protected sites”. A relevant protected site is a site which requires a licence and is commercially run with some permanent residency. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park home owners.
- 3.10 The Fee for Fit and Proper Person Register Applications shown in the Fit and Proper Person Fee Policy (Appendix 1) has been calculated by adhering to the Regulations, considering the following matters on which costs are incurred, or likely to be incurred for entry on a fit and proper person register:
- (a) Initial enquiries;
 - (b) letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;
 - (c) sending out forms;
 - (d) updating files/ computer systems and websites;
 - (e) processing the application fee;
 - (f) land registry searches;
 - (g) time for reviewing necessary documents and certificates;
 - (h) preparing preliminary and final decision notices;
 - (i) review by manager or lawyers; review any representations made by applicants or responses from third parties;
 - (j) updating the public register;
 - (k) carrying out any risk assessment process considered necessary and
 - (l) reviews of decisions or in defending appeals.
- 3.11 How the fee has been calculated is provided in Appendix 3 and is set at £230. In setting the fee consideration has been given to the fees set by other authorities to ensure a consistent approach.
- 4.0 Income from the Fit and Proper Person Fees
- 4.1 The potential income will be approximately £2,300. The applications will be considered on a case by case basis, conditions can be added for inclusion on the register for up to 5 years. This will not be a fixed annual income.

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5.0 Legislative Position/Legal Implications

- 5.1 If agreed, the Council is required to adopt and publish the Fit and Proper Person Determination Policy for Mobile Home and Caravan Sites and the Fit and Proper Persons Fee Policy for Mobile Home and Caravans Sites under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

6.0 Consultation

- 6.1 No consultation period is required.

7.0 Anticipated Outcomes

- 7.1 Improvement in the management of the Mobile Home/Caravan sites throughout East Cambridgeshire and nationally to safeguard site occupiers from unscrupulous management practices. It is also anticipated that the condition of sites will be improved.

8.0 ARGUMENTS/CONCLUSIONS

- 8.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 is Statute and therefore must be implemented by the Council.

- 8.2 It is however, at the Local Authority's discretion whether they charge a fee for the administration of the application. As this option is available, it is prudent to adopt this in line with other Local Authorities and to cover some of our administrative costs.

- 8.3 The cost of the Fit and Proper Person Fee has been calculated using a cost matrix, with reference to the Regulations. Only reasonable costs can be included within the calculation, including, for example, administration and officer time to process the application, running checks and placing the named person (if approved) upon the Fit and Person register etc. The fee of £230 was considered to be reasonable.

- 8.4 To comply with the Regulations, the Fit and Proper Fee Policy 2021 and the Fit and Proper Person Determination needs to be adopted and published.

9.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 9.1 The Government's intention is that the cost of administering the Park Homes licensing regime will be met from fee income and this includes the introduction of the Fit and Proper Person Test and the fee for processing this. However, as the number of the sites in East Cambridgeshire is quite small, any income from the introduction of this fee is also likely to be minimal and any additional workload is likely to have to be accommodated within existing resources.

AGENDA ITEM NO. 6

- 9.2 The potential initial income will be £2,300. This will fluctuate annually. Renewal of individual applications may vary from 1 to 5 years depending on the circumstances.
- 9.3 An initial Equality Impact Assessment (INRA) has been completed. The Policy will have a neutral impact on all groups in the Community.

10.0 APPENDICES

- Appendix 1-Fit and Proper Fee Policy 2021
- Appendix 2-Fit and Proper Determination Policy 2021
- Appendix 3-Calculation of Fees
- Appendix 4-Initial INRA

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
(List any background documents used in preparation of report not attached as appendices, or state 'none')	Room (Location: i.e. The Grange,) Ely	Julia Atkins Senior Environmental Health Officer (01353) 616304 E-mail: julia.atkins@eastcambs.gov.uk

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

Mobile Homes Act 2013

Caravan Sites and Control of Development Act 1960

Model Standard Conditions Residential Parks 2008



Appendix 1

East Cambridgeshire District
Council
(Draft) Fit and Proper Person Fee
Policy
for Mobile Home and Caravan Sites
2021

Directorate			
Service	Environmental Services		
Author	Julia Atkins/Karen See		
Approved by			
Approval date		Review date	2025

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1. Executive Summary

This Policy lays out the legislation and the requirements of the **Fit and Proper Person Fee Policy**. It is a legal requirement to publish this Policy prior to charging a fee. This Policy also shows how the fixed fee was calculated to aid transparency.

A fee of **£230** has been determined which is considered fair and reasonable. The fee covered by the **Fit and Proper Person Fee Policy** will be increased annually by the same percentage that is applied to other fees in the Council's Fees and Charges Schedule. However, should a more significant change in fees be required, then the **Fit and Proper Person Fee Policy** will be revised, subject to Committee agreement following a consultation and published.

2. Introduction

- 2.1 A site owner under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034) ("the Regulations") must apply to their local authority for themselves or their appointed manager, to be added to the Register of Fit and Proper Persons managing sites in their area ("the register") for 'relevant protected' sites.
- 2.2 A 'relevant protected' site is a site, which requires a licence, which is not solely for holiday purposes or is otherwise not capable of being used all year round. A relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person, Sections 12A -12E of the Caravan Sites and Control of Development Act 1960, as implemented by Section 8 Mobile Homes Act 2013.
- 2.3 The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
- 2.4 The Regulations permit the local authority to determine a fee for an application or registration for someone to be added to the Fit and Proper Person Register. It is necessary for this fee to be paid and failing to pay this may mean that the site owner is in breach of the requirements of the Regulations.
- 2.5 Site owners are required to submit a completed application from 1 July until October 2021 and pay the Fit and Proper Person application fee. Where an **annual** inspection fee is requested (see **Park Homes Fee's Policy April 2014**), the annual payment will be necessary in addition to the Fit and Proper Person Fee prior to inclusion on the register.

3. Fee for Fit and Proper Persons Register Applications

Initial application fee

3.1 A fixed initial application fee has been calculated:

The local authority has considered the following matters on which costs are incurred, or likely to be incurred (by various departments, including costs incurred by outsourcing contracts), when determining its fee policy for consideration of applications for entry on a fit and proper person register:

- (a) Initial enquiries;
- (b) letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;
- (c) sending out forms;
- (d) updating files/ computer systems and websites;
- (e) processing the application fee;
- (f) land registry searches;
- (g) time for reviewing necessary documents and certificates;
- (h) preparing preliminary and final decision notices;
- (i) review by manager or lawyers; review any representations made by applicants or responses from third parties;
- (j) updating the public register;
- (k) carrying out any risk assessment process considered necessary and
- (l) reviews of decisions or in defending appeals.

3.2 **Appendix 1**, gives the breakdown of the necessary steps, the officer time, level of officer and full costs to process an average application. This is to show how the fee to be imposed was calculated. The fee imposed is considered fair and transparent. Other Local Authority fees have also been considered to ensure consistency.

3.3 Therefore, the fee has been set at **£230** for the fit and proper person application.

4. Additional considerations for an application fee:

- 4.1 The local authority will be required to conduct relevant background checks regarding the applicant's background in management and their financial standing. The results of these checks will allow the local authority to decide on whether or not to accept the application. The time taken for these checks should be accounted for in the fee, irrespective whether or not the entry on the register is granted.
- 4.2 Where an applicant contacts the local authority before making an application, to ascertain the likelihood of the success of that application, the authority is expected to provide informal advice, for example, the conditions surrounding an application, for example the information required to be submitted and general guidance on making the application. There is further guidance relating to this in the **Fit and Proper Person Determination Policy**.
- 4.3 Any preliminary advice the local authority provides, prior to receiving an application, must be accounted for in the fee and cannot be charged separately.

5. Such other matters as the local authority considers to be relevant

5.1 Where no fee is applied

In certain circumstances, the local authority may determine that no fee is required to be paid. A site is exempted from a fee only if it is occupied by members of the same family and is not being run as a commercial residential site.

5.2 An appointed manager fee

This is where the local authority is provided with the site owner's consent to appoint an individual to manage a site. The costs associated with this should be reasonable and are recoverable from the site owner.

5.3 Revising Fees

The purpose of publishing the fee policy is to show that the fees imposed by the local authority are fair and transparent so that anyone required to pay a fee can understand the charges.

The local authority may revise its fee at any time. Any changes will need to be justifiable and reasonable, ensuring full transparency for the site owner. The fee covered by the **Fit and Proper Person Fee Policy** will be increased annually by the same percentage that is applied to other fees in the Council's Fees and Charges Schedule. However, should a more significant change in fees be required, then the **Fit and Proper Person Fee Policy** will be revised, subject to Committee agreement, following a consultation and published.

6. Amending conditions attached to an entry on a register

- 6.1 A local authority may alter the conditions attached to an entry on a register (by adding new conditions or changing or deleting existing ones), following a review. The local authority must notify the site owner of its interim decision (except in the case where it is deleting a condition) and consider any representations made by the site owner, before reaching a final decision. If the site owner is unhappy with the decision to alter, or not alter, the conditions, they will have a right of appeal to the First-tier Tribunal (Property Chamber).
- 6.2 There are no requirements for a site owner to make an application for a condition to be altered. Any costs involved with amending existing conditions, or adding new conditions to an entry, must also be factored into the cost of calculating the annual fee.

Site visits – Officer and travel time

- 6.3 Officer time can be considered as part of the fee, where site visits are required to ascertain whether or not site condition(s) are met. Travel time to and from the site, including fuel costs, can also be considered and could be calculated using a single value for travel costs which could be applied to all sites.

Payment of fees

- 6.4 As outlined above, a local authority is not required to consider an application for entry on the register unless that application is **accompanied by the correct fee**. If the correct fee is not paid, the application will not be valid and the site owner could be in breach of the Regulations.
- 6.5 If a local authority decides not to approve an application the applicant is not entitled to a refund of the fee paid.
- 6.6 The annual fee must be set as a condition to any entry being added to the register. The condition should state the amount and date by which the annual fee payment is due, also stating that failure to make such payment will be a breach of the condition and may lead to legal proceedings being issued.



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Appendix 2

East Cambridgeshire District Council

(Draft)Fit and Proper Person Determination Policy for Mobile Home and Caravan Sites 2021

Directorate			
Service	Environmental Services		
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Approved by			
Approval date		Review date	2025

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1. Executive Summary

The [Fit and Proper Person Determination Policy](#) lays out the legislation and shows the steps the Council goes through to determine whether or not an applicant is 'fit and proper' to manage a 'relevant protected' Mobile Home or Caravan Site. A 'relevant protected' site, is a licenced site which has permanent residential homes, whether solely permanent residential or mixed with holiday use and let on a commercial basis.

The fit and proper person requirement outlined in this Policy will provide a safeguard to examine site owners, or their managers in order to prevent site owners/managers posing a risk to the welfare or safety of persons occupying mobile homes on the site.

The Policy also sets out different circumstances which may arise, including refusal of putting a person on the register or removal from it if this is required etc. and the procedures for these different circumstances.

If approved, the applicant will be placed on the Council's Fit and Proper Person Register on the East Cambridgeshire District Council website, generally for a period of 5 years, although a shorter period may be granted at the discretion of the Council. On expiry, a new application is required.

Conditions may also be attached to the approval e.g. the annual payment must be paid within 4 weeks from the date of the letter requesting payment.

2. Introduction

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the manager of a site to be a Fit and Proper Person ("the Regulations"). Local authorities are accordingly required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations¹.

The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021.

A local authority must be satisfied that the site owner "*is a fit and proper person to manage the site*" or, if the owner does not manage the site, "*that a person appointed*" to do so by the site owner "*is a fit and proper person to do so*" or has, with the site owner's consent, "*appointed a person to manage the site.*"

¹ *i.e. it is a non-commercial, family occupied site under Regulation 3

Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the local authority can instead appoint a person to manage the site, but only with the consent of the site owner.

Principally, the fit and proper person test applies to a “relevant protected site”. A relevant protected site is a site, which requires a licence and which is not solely for holiday purposes or is otherwise not capable of being used all year round. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park home owners.

3. The Evidence

When conducting the fit and proper person assessment, ECDC will consider the following points relevant to the application:

3.1 Is the individual able to conduct effective management of the site?

This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. It follows that, the local authority must have regard to:

- (i) whether the person has a sufficient level of competence to manage the site;
- (ii) the management structure and funding arrangements for the site or
- (iii) the proposed management structure and funding arrangements.

(a)Competence to manage the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

(b)The management structure and funding arrangements for the site

ECDC will consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The local authority will want to ensure that the applicant has a robust management plan, this will be reviewed to ensure it addresses the following issues: the pitch fee payment, proximity of the manager to the site, manager’s contact details for residents (including out of office and emergency contact details), the complaints procedure, maintenance, staffing, and refuse removal.

It is advisable that the site is managed by an applicant based in the UK and a management structure would be unlikely to be suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. This is because there may be complex issues as a result of this. Should this happen, legal advice will be obtained. The applicant's interest in the land will also have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage the site effectively.

(c) The proposed management structure and funding arrangements in place for managing the site

ECDC will consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be readily available.

Another consideration is if funding is through a third party (including an associated company), the local authority should be wary if this is not disclosed as this will impact on the local authority's ability to deem whether the application is financially viable.

3.2. Personal information relating to the applicant concerned. This would include a criminal record check and should include evidence that the applicant:

- (a) has not committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- (b) has not contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- (c) has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- (d) has not harassed any person in, or in connection with, the carrying on of any business;
- (e) is not or has not been within the past 10 years, personally insolvent;
- (f) is not or has not been within the past 10 years, disqualified from acting as a company director;
- (g) has the right to work in the United Kingdom and,
- (h) is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

3.3 Records of harassment relating to the applicant concerned. Local authorities have a duty to investigate any conduct which could amount to harassment and any evidence obtained should be reviewed to determine whether it is sufficient to be used to prosecute a site owner. Local authorities may also rely on convictions by the courts as evidence of harassing behaviour which would reduce the risk of the local authority being successfully challenged on any refusal to approve an applicant on this basis.

A local authority may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints ECDC will take these into consideration in the fit and proper person determination. These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the management of the site or the site owner's lack of experience/skills in dealing with customers. ECDC may also wish to address any underlying issues by attaching conditions to the individual's entry on the register. Upon rejection of a person's application by any other local authority this will be centrally recorded and include the details of the person involved and the reasons for the rejection.

3.4 Other items that will be taken into consideration

- a) "The applicant" is defined at paragraph 2 of the Regulations as "the person who makes an application under regulation 6".
- b) The "relevant person" is also defined at paragraph 2 of the Regulations to mean "the subject of the fit and proper person assessment under Regulation 7".
- c) The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) is also an important factor to be considered in the fit and proper person assessment.
- d) Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners as that information would have already needed to have been provided in their own application forms.
- e) It is not routinely required to provide information of all current or past associates of the site owner. However, prior to making any final decisions, the local authority will consider the conduct of past and current associates relevant to that individual's application. **The site owner can be asked to provide additional information during the application process.**
- f) Local authorities will be required to establish whether an individual is considered to be an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents' rights, or the quiet enjoyment of their homes.
- g) The Regulations are drafted widely giving the opportunity for local authorities to take into consideration other relevant matters.

h) Local authorities are able to decide the specific matters they deem relevant to the fit and proper person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the park site or any other park site owned or managed by the site owner or site manager in another local authority area. Additionally, the site owner's conduct regarding other business, outside of the park homes sector, can also have implications on the financial and management arrangements of the site in question. Any matters which the local authority believe to be of relevance to the application will primarily focus on the relevant person's conduct, competence and their suitability to manage the site.

4. Applications

The Regulations use various terms in the application process and these are outlined below:

As mentioned earlier "Relevant person" is defined in paragraph 2 of the Regulations and is "the subject of the fit and proper person assessment under Regulation 7". Please note that this could be the site owner or person appointed to manage the site by the site owner.

"Relevant officer" is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is a company, a relevant officer will be a director or other officer of the company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

"Required Information" is defined in paragraph 14 of Schedule 2 of the Regulations (even though the Regulations incorrectly state that this information is contained in paragraph 13) as: the person's name and business contact details; details of the person's role or proposed role in relation to the management of the site; where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application; details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the fit and proper register, must include the following:

a) Details of the site and the applicant:

- (1) The applicant's name and business contact details.
- (2) Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
 - (i) the person's name;
 - (ii) details of the person's role (if any) in relation to the management of the site.
- (3) The name and address of the site.
- (4) Evidence of the applicant's legal estate or equitable interest in the site.
- (5) Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
- (6) The name and business contact details of any other person that has a legal estate or equitable interest in the site.

b) The name and address of each other relevant protected sites:

- (1) for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
- (2) in which the applicant has a legal estate or equitable interest; or
- (3) that the applicant manages.

The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

c) Information relating to the site manager

In circumstances where a "site manager" has been appointed to manage a site more information is needed. The person who is applying for the site manager to be registered as a fit and proper person (the relevant person) must provide the following information: the site manager's name and details of that person's role (if any) in relation to the management of the site.

If the site manager has appointed or intends to appoint a further individual ("A"), 'Required Information' would also be needed from A. And where A is not a relevant officer of the site manager, the relevant officer to whom A is accountable for the day-to-day management of the site, should be the one to provide the Required Information.

d) Additional information when the applicant is the relevant person and an individual

When the applicant is the relevant person, is an individual, and the applicant has appointed, or intends to appoint, someone else (“B”) to be responsible for the day-to-day management of the site, ‘Required Information’ would be needed from B. If B is not an individual but is, instead, for example, a company, and B has appointed an individual (“C”) to do the-day-to day management, ‘Required Information’ would be needed from C. Where C is not a Relevant officer of a company, the relevant officer to whom C is accountable for the day-to-day management of the site would also need to provide the Required information.

e) Additional information where applicant is relevant person and not an individual

When the applicant is the relevant person but is not an individual and the applicant has appointed or intends to appoint someone else (“B”) to be responsible for the day-to-day management of the site, Required information would be needed from this person. If B is not a Relevant officer of the applicant the person to whom B is accountable for the day-to-day management of the site (“C”) would also need to provide the Required Information. Where B itself is not an individual, the individual (“D”) that B has appointed or intends to appoint to be responsible for the day-to-day management of the site would also need to provide the Required Information. Where D is not a Relevant officer of B, the relevant Officer to whom D is accountable for the day-to-day management of the site would also need to provide the Required Information.

It can be seen from the above that the Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the management structure might be) has been assessed by the local authority as a fit and proper person to do so. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

f) Criminal record certificate/s

Criminal Records Certificates must be issued under section 113A (1) of the Police Act 1997 and will be required where: (a) the Relevant person is an individual and (b) for each individual in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.

The Criminal record may be either basic or enhanced, at the discretion of the local authority. Initially East Cambridgeshire District Council is accepting **basic Criminal Record checks** with the application. Where further information is deemed necessary, it is at the Council's discretion to carry out an enhanced Criminal Record check or to request this.

The certificate must have been issued no more than six months before the date of the application. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

g) Declaration

A declaration made and signed by the "appropriate person", which means:

- (a) where the applicant is a company, a director or other officer of the company;
- (b) where the applicant is a partnership, one of the partners;
- (c) where the applicant is a body corporate and the conduct of the management of the body is vested in its members, a member;
- (d) where the applicant is not a body falling within (a) to (c) above, a member of the management committee;
- (e) where the applicant is an individual, that individual.

Where the applicant is not the relevant person, the declaration must confirm that the applicant has made all reasonable enquires into the matters mentioned in paragraph 9 of the Regulations and considerations relevant to the fit and proper person assessment as set out below.

The declaration should also state that the information provided in the application is correct and complete to the best of the applicant's knowledge and belief.

5. Assessment

5.1 Considerations relevant to fit and proper person assessment

Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site.

To be able to secure the proper management of the site, the local authority will (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements as mentioned earlier in the Policy.

6. Decisions, notification and rights of appeal

6.1 The local authority will make a decision on the application in a timely and practicable manner and either:

- (a) where the decision is to grant the application unconditionally and include the relevant person on the register for 5 years, serve a final decision notice on the applicant; or
- (b) otherwise, serve a preliminary decision notice on the applicant.

6.2 On receipt of an application the local authority may:

- (a) grant the application unconditionally;
- (b) grant the application subject to conditions; or
- (c) reject the application.

6.3 Granting the application unconditionally

Where ECDC is satisfied that the applicant meets the fit and proper person test unconditionally, they must include the applicant on the register for 5 years. The authority must issue a final decision notice to the applicant to inform them of its decision.

The final decision notice will clearly state:

- (a) the date the final decision notice is served;
- (b) the final decision;
- (c) the reasons for the decision;
- (d) when the decision is to take effect;
- (e) information about:
 - (i) the right of appeal to the First Tier Tribunal; and
 - (ii) the period within which an appeal may be made.

6.4 To include the applicant on the register subject to certain condition(s)

In some circumstances, ECDC will specify that the individual for the fit and proper person test will only be successful if certain conditions are met. If these conditions are satisfied, the local authority can grant an application subject to those condition(s). The local authority can also grant an application for less than 5 years.

It may be the case that a local authority decides to include the person on a register subject to condition(s), if it would only be satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. An applicant will be able to appeal against the decision to attach (or vary) any condition to an entry on the register. ECDC will have clear and justifiable reasons for attaching any condition(s) and any conditions imposed can be enforced by the local authority.

Conditions will need to be clearly stated for the applicant’s understanding and this will also allow for local authorities to ensure that they are enforceable.

An example of the requirements are included in the Table 1 below.

Table 1

Specific	The specific condition/s a site owner is being requested to address.
Measurable	The conditions required and the outcome(s) expected.
Achievable	The applicant should be reasonably expected to be able to achieve the condition. For example, it may not be reasonable to expect a site owner of one small site to have the same resources to introduce the same procedures as a medium sized company.
Realistic	The applicant should have a clear understanding of how the required outcome can be reached and that there are no circumstances or factors which would make the achievement of the outcome impossible or unlikely.
Timebound	A clear timescale in which the task/action must be completed.

The fit and proper person test is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person’s ability to secure the proper management of the site.

Where a person has contravened legislation, or committed offences, it is not recommended that conditions are set in relation to those matters. This is because such a condition would be unlikely to meet the tests set out above. For example, if a person has committed fraud or violence, that specific incident cannot be reversed by requiring the person to perform a specific task.

In cases where the person has committed those listed offences or contravened legislation, these breaches will be considered, together with all the other information available, when reaching a preliminary decision.

An example of a condition could relate to the payment of an annual fee. A condition can also be set with respect to ensuring the relevant person has the ability to secure the proper management of the site. In summary, conditions can relate to any factors which are relevant to the person’s competence to manage the site, the management structure, or funding arrangements for the site, an associated person’s influence, and any other relevant factors.

The payment of the annual fee for relevant sites will be a condition placed on all approvals at ECDC.

6.5 Decisions not to include the applicant on the register (Refusal)

Should the local authority determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, a local authority can refuse to grant the application.

6.6 Preliminary Decision Notice

Where a local authority makes a decision to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a preliminary decision notice to the applicant must be issued.

The preliminary decision notice must clearly state:

- (a) the date the preliminary decision notice is served;
- (b) the preliminary decision;
- (c) the reasons for it;
- (d) the date it is proposed that the final decision will have effect;
- (e) information about the right to make written representations
- (f) where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- (g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any conditions.

6.7 Right to make a representation

An applicant who receives a preliminary decision notice will have 28 days in which to make representations to the local authority. The 28-day period begins with the day after the day on which the notice was served.

The local authority is obliged to consider and take any representations it receives into account before making a final decision.

6.8 Final decision notice

The local authority must, as soon as reasonably practicable, after the end of the period allowed for making representations, make a final decision and serve the decision notice on the applicant.

The final decision notice must set out:

- (a) the date the final decision notice is served;
- (b) the final decision;
- (c) the reasons for it;
- (d) when the decision is to take effect;
- (e) information about the right of appeal and the period within which an appeal may be made;
- (f) where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and

(g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

6.9 Appeals

The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) (“the tribunal”) within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decisions served by the Local Authority. These could include:

- (a) including the relevant person on the register for an effective period of less than 5 years;
- (b) including the relevant person on the register subject to conditions; and
- (c) rejecting the application.

Where an applicant accepts a local authority’s decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.

An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

6.10 Withdrawal or amendment of notice

There may be circumstances where a local authority may decide not to continue or to withdraw a previously agreed action such as after serving:

- (a) a preliminary decision notice but before service of the final decision notice;
- (b) a final decision notice but before the decision to which it relates takes effect; or
- (c) a notice of proposed action but before the proposed action is taken.

To withdraw or amend a notice, the local authority must serve notice to the person on whom the original notice was served.

There are no requirements for notices to contain specific information, however, it is recommended that a withdrawal or amendment notice should state:

- (a) That it is withdrawing/amending the original notice (a copy of the original notice should be attached for reference);
- (b) the reasons for withdrawing the notice;
- (c) the date it takes effect; and,
- (d) the implications of the decisions in relation to the person’s entry on the register.

6.11 Removal from the register

If, after a person is included in the register, and new evidence relevant to the person's inclusion becomes available, the local authority may decide to:

- (a) remove the person from the register;
- (b) impose a condition on the inclusion of the person in the register whether or not there are conditions already imposed;
- (c) vary a condition; or
- (d) remove a condition.

Local authorities must use their judgement when determining whether to review an entry and consider any subsequent actions are required. It is recommended that any such decision should be related to the person being a fit and proper person rather than, for example, site licensing issues which are governed separately. If the local authority decides to take any of the actions listed in the paragraph above, the local authority must serve a notice of any proposed action on the occupier.

The notice of proposed action must clearly state:

- (a) the date the notice of proposed action is served;
- (b) the action the local authority proposes to take;
- (c) the reasons for it;
- (d) the date it is proposed that the local authority will take the action;
- (e) information about the right to make written representations;
- (f) where the proposed action requires the removal of a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- (g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with said conditions.

A notice of proposed action is not required if the local authority decides to remove a condition attached to an entry. A removal of a condition is viewed widely as being a positive step, which is unlikely to be opposed. It is for that reason that a notice of proposed action is not required. As good practice though, it is recommended that local authorities make the site owner or their manager aware of the decision in writing and also ensure the register is updated.

6.12 Notice of action taken

Where a notice of proposed action is given, the occupier will have 28 days, starting from the day after the notice is served, in which to make representations.

The local authority must, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.

Where the local authority decides to take the action, the local authority must serve a further notice on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.

The notice of action must set out—

- (a) the date the notice of action is served;
- (b) the fact that they have taken the action;
- (c) the reasons for doing so;
- (d) the date the action was taken;
- (e) information about the right of appeal and the period within which an appeal may be made;
- (f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulations; and
- (g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

7. Offences

There are 3 offences which can occur within the Regulations. They are as follows:

- a) Operating a site in contravention of the fit and proper person regulations - The site owner will have certain defences under the Regulations in any proceedings brought against them.
- b) Withholding information or including false or misleading information in the registration application - The site owner will not have any defences under the Regulations in any proceedings brought against them for this offence.
- c) Failing to comply with a specified condition - The site owner will have certain defences under the Regulations in any proceedings brought against them.

Local authorities are responsible for enforcing the regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

8. Defences

8.1 One defence is available to a site owner who has inherited a site and would be found to have a reasonable excuse for failing to make an application within the relevant periods as set out below.

The below table outlines limited circumstances where a site owner may have a defence.

Table 2 -Relevant periods in specific circumstances

Row	Circumstance	Relevant period for making an application in the circumstance
1	the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021.	From 1 st July 2021 before 1 October 2021, the day on which regulation 4 came into force
2	the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a)(removal from the fit and proper register after new relevant evidence becomes available).	not less than two months before the end of the period of the person's inclusion in the register
3	at the time that the occupier became entitled to within the period of 3 months possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register)	beginning with the day after the day on which the person became the occupier of the land
4	at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row 3 above	within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
5	a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	within the period of 3 months beginning with the day after the relevant day
6	a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above	within the period of 28 days beginning with the day after the relevant day
7	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the local authority's decision the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 (application for inclusion in the register) in relation to the site	within the period of 3 months beginning with the relevant day

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8	the breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row 7 above	within the period of 28 days beginning with the relevant day
9	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6	within the period of 3 months beginning with the relevant day
10	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above	within the period of 28 days beginning with the relevant day

9. The Fit and Proper Persons Register

- 9.1 The local authority must set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in their area. This register must be open to inspection by the public during normal office hours. This register also must be published online.
- 9.2 The register will provide a record of the outcome of the fit and proper person tests the local authority have carried out for sites. The register must include the following:
- (a) the name and business contact details of the person;
 - (b) the name and address of the relevant protected site to which the application relates;
 - (c) the status of the person (site owner or manager of the site);
 - (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
 - (e) whether any condition is attached to the person's inclusion in the register; and
 - (f) where any condition is attached to the person's inclusion in the register—
 - (i) the number of any such conditions;
 - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - (iii) the date any condition is varied or satisfied (if applicable).
- 9.3 Where a person has met the fit and proper person test, the register will give details of that person and of the site, including decisions made on how long a person's inclusion is for, up to a maximum of 5 years.
- 9.4 In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.

9.5 Where there are rejected applications, the following information must be included in the register:

- (a) the name and address of the site to which the application relates;
- (b) that an application in respect of the site has been rejected; and
- (c) the date on which the application was rejected.

9.6 Details of the rejected application will remain on the register until a successful fit and proper person application is made in respect of the owner or manager of the site.

It must be noted that the name of the rejected applicant will not be included on the register. Local authorities will however be able to consider requests for further information about the entry on the register, for example, the details of the specific conditions attached and any additional information, on a case by case basis and in accordance with data protection legislation.

9.7 Where the local authority has, with the site owner's consent, appointed a person to manage the site, the local authority must include the following information:

- (a) the name and business contact details of the person;
- (b) the name and address of the site which the person has been appointed to manage;
- (c) the status of the person;
- (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- (e) whether any condition is attached to the person's inclusion in the register; and
- (f) where any condition is attached to the person's inclusion in the register—
 - (i) the number of any such conditions;
 - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - (iii) the date any condition is varied or satisfied (if applicable).

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APPENDIX 3 (confidential) CALCULATION OF FEE FOR FIT AND PROPER PERSON		Officer/s level	Hourly Rate £ including overheads	Average No of hrs taken	Total Sum £
1) Initial Enquiries		TO	36.57	0.25	9.1425
2) Letter writing, Telephone calls to make appointments and requesting any documents or other information from the site owner or from a third party in connection with the fit and proper process		TO	36.57	0.5	18.285
3) Sending out forms		AO	30.04	0.25	7.51
4) Updating files/Computer systems and websites		AO	30.04	0.25	7.51
5) Processing the application fee		AO	30.04	0.25	7.51
6) Land Registry Searches		AO	30.04	0.5	15.02
7) Reviewing necessary documents and certificates		SEHO	43.78	0.5	21.89
8) Preparing preliminary and final decision notices		SEHO	43.78	1.25	54.725
9) Review by manager or lawyers: review any representations made by applicants or responses from third parties		SEHO	43.78	0.25	10.945
10) Updating the public register		AO	30.04	0.25	7.51
11) Carrying out any risk assessment process considered necessary		SEHO	43.78	0.5	21.89
12) Reviews of decisions or in defending appeals		SEHO	43.78	1.25	54.725
TOTAL SUM					236.6625
Thereby £230 is a reasonable fee	Aug-21				

Appendix 4

Impact and Needs/Requirements Assessment (INRA)
Initial Screening

Initial screening needs to take place for all new/revised Council policies. ‘Policy’ needs to be understood broadly to include all Council policies, strategies, services, functions, activities and decisions. This stage must be completed at the earliest opportunity to determine whether it is necessary to undertake an INRA for this activity.

Name of Policy:	Fit and Proper Fee Policy 2021
Lead Officer (responsible for assessment):	Fit and Proper Determination Policy 2021 Julia Atkins
Department:	Environmental Services
Others Involved in the Assessment (i.e. peer review, external challenge):	Karen See/Liz Knox
Date Initial Screening Completed:	25.8.21

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

(The two Policies are interrelated and therefore a single INRA has been carried out on them both together to stop duplication.)

The Fit and Proper Person Fee Policy 2021 is to show how the fee has been calculated to process a Fit and Proper Person application for Mobile Home/Caravan Site owners/managers and to implement The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020,

The Fit and Proper Person Determination Policy 2021, outlines the Regulations and the method as defined in them, to process a Fit and Proper Application.

The outcome we want to achieve from both Policies is that we comply with the legislation and that management of these sites is improved to safeguard site occupiers

(b) Who are its main beneficiaries? i.e. who will be affected by the policy?

Mobile/Park/Caravan Home site owners/managers and site occupiers on relevant propertied commercially run residential sites.

(c) Is this assessment informed by any information or background data? i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

No. This is a statutory requirement.

(d) Does this policy have the potential to cause an impact (positive, negative or neutral) on different groups in the community, on the grounds of (please tick all that apply):

Ethnicity

Age

Gender

Religion and Belief

Disability

Sexual Orientation

Please explain any impact identified (positive, negative or neutral): i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

There will be a positive impact on the site occupiers, covering all groups of the community. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, aims to improve the management of the relevant protected sites which may ultimately improve housing conditions in Mobile Home/Caravan Park Homes in the community.

There will be a negative impact on site owners as a fee will be charged for processing their application to apply to be placed on the Fit and Proper Person Register but at present this is only minimal negative impact as there are only 10 site owners/managers within ECDC.

In particular, with regards to site occupiers, there are a large number of elderly persons, some who are disabled and some ethnic minority groups within this type of accommodation within East Cambridgeshire.

Any information for site residents will therefore need to be available in different formats i.e. online, in different languages and in Braille, if requested.

(e) Does the policy affect service users or the wider community?	NO
(f) Does the policy have a significant effect on how services are delivered?	NO
(g) Will it have a significant effect on how other organisations operate?	NO
(h) Does it involve a significant commitment of resources?	NO
(i) Does it relate to an area where there are known inequalities, e.g. disabled people’s access to public transport etc?	NO

If you have answered **YES** to any of the questions above, then it is necessary to proceed with a full equality impact assessment. If the answer is **NO**, then this judgement and your response to the above questions will need to be countersigned by your Head of Service and then referred to the Council’s Equal Opportunities Working Group (EOWG) for scrutiny and verification. Please forward completed and signed forms to Nicole Pema, Principal HR Officer **Signatures:**

Completing Officer: Julia Atkins **Date:** 25.8.21

Head of Service: _____ **Date:** _____

LICENSING COMMITTEE

LEAD OFFICER: Liz Knox, Environmental Services Manager

ANNUAL AGENDA PLAN

DEMOCRATIC SERVICES OFFICER: Adrian Scaites-Stokes

Meeting on: 10 th November 2021 9:30am		Meeting on: 8 th December 2021 9:30am		Meeting on: 12 th January 2022 ** 9:30am	
Deadline for reports/dispatch: 29 th October 2021		Deadline for reports/dispatch: 26 th November 2021		Deadline for reports/dispatch:	
• Chairman's Announcements		• Chairman's Announcements		• Chairman's Announcements	
• Forward Agenda Plan		• Forward Agenda Plan		• Forward Agenda Plan	
• Licensing Officers Update	S Broome Senior Licensing Officer	• Licensing Officers Update	S Broome Senior Licensing Officer	• Licensing Officers Update	S Broome Senior Licensing Officer
• CCTV in Taxis	S Broome Senior Licensing Officer				

** This meeting date is likely to be changed, due to a Planning Enquiry scheduled for that week in January.