



Monday, 2 September 2024

Dear Sir/Madam

A meeting of the Licensing and Appeals Committee will be held on Tuesday, 10 September 2024 in the Council Chamber, Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB, commencing at 10.00 am.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

Yours faithfully

Chief Executive

To Councillors:	R Bullock (Chair)	S Kerry
	S Webb (Vice-Chair)	H Land
	B C Carr	D D Pringle
	T A Cullen	C M Tideswell
	A Cooper	K Woodhead
	G S Hills	E Winfield
	S P Jeremiah	

A G E N D A

1. Apologies

To receive apologies and to be notified of the attendance of substitutes.

2. Declarations of Interest

(Pages 3 - 10)

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. Minutes

(Pages 11 - 12)

The Committee is asked to confirm as a correct record the minutes of the meeting held on 11 June 2024.

4. Review of the Gambling Act Statement of Principles 2025-2027 (Pages 13 - 60)

To advise Members of the response to the consultation on the Council's draft revised Gambling Act 2005 Statement of Principles for 2025-2027.

5. Modernisation of Conditions to be Attached to Licences Issued for Premises Provided Massage, Special Treatments, Laser Treatments, Tanning and Sauna Services - Result of public consultation (Pages 61 - 84)

To advise Members of the response to the public consultation on the draft conditions to be attached to licences issued under Nottinghamshire County Council Act 1985.

6. Adoption of a Permanent Pavement Licence Scheme under the Levelling Up and Regeneration Act 2023 (Pages 85 - 122)

To advise Members of the new Permanent Pavement Licence Scheme which supersedes the Temporary Licence Scheme. To approve the adoption of the permanent pavement licence scheme and to seek approval for the licence fee.

7. Exclusion of Public and Press

The Committee is asked to RESOLVE that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2, 3, 5 and 7 of Schedule 12A of the Act.

8. Local Government (Miscellaneous Provisions) Act 1976 Hackney Carriage/Private Hire Driver's Licence (Pages 123 - 156)

Report of the Monitoring Officer

DECLARATIONS OF INTEREST

1. Purpose of Report

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda. The following information is extracted from the Code of Conduct, in addition to advice from the Monitoring Officer which will assist Members to consider any declarations of interest.

Part 2 – Member Code of Conduct

General Obligations:

10. Interest

10.1 You will register and disclose your interests in accordance with the provisions set out in Appendix A.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the Council. The register is publically available and protects you by demonstrating openness and willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting which allows the public, Council employees and fellow Councillors know which of your interests gives rise to a conflict of interest. If in doubt you should always seek advice from your Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix A of the Code of Conduct, is a criminal offence under the Localism Act 2011.

Advice from the Monitoring Officer:

On reading the agenda it is advised that you:

1. Consider whether you have any form of interest to declare as set out in the Code of Conduct.
2. Consider whether you have a declaration of any bias or predetermination to make as set out at the end of this document
3. Update Democratic Services and the Monitoring Officer and or Deputy Monitoring Officers of any declarations you have to make ahead of the meeting and take advice as required.
4. Use the Member Interest flowchart to consider whether you have an interest to declare and what action to take.
5. Update the Chair at the meeting of any interest declarations as follows:

‘I have an interest in Item xx of the agenda’

'The nature of my interest is therefore the type of interest is
DPI/ORI/NRI/BIAS/PREDETERMINATION
'The action I will take is...'

This will help Officer record a more accurate record of the interest being declared and the actions taken. You will also be able to consider whether it is necessary to send a substitute Members in your place and to provide Democratic Services with notice of your substitute Members name.

Note: If at the meeting you recognise one of the speakers and only then become aware of an interest you should declare your interest and take any necessary action

6. Update your Member Interest Register of any registerable interests within 28days of becoming aware of the Interest.

Ask yourself do you have any of the following interest to declare?

1. DISCLOSABLE PECUNIARY INTERESTS (DPIs)

A "Disclosable Pecuniary Interest" is any interest described as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and includes an interest of yourself, or of your Spouse/Partner (if you are aware of your Partner's interest) that falls within the following categories: Employment, Trade, Profession, Sponsorship, Contracts, Land, Licences, Tenancies and Securities.

2. OTHER REGISTERABLE INTERESTS (ORIs)

An "Other Registerable Interest" is a personal interest in any business of your authority which relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority; or
- b) any body
 - (i) exercising functions of a public nature
 - (ii) anybody directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of general control or management.

3. NON-REGISTRABLE INTERESTS (NRIs)

"Non-Registrable Interests" are those that you are not required to register but need to be disclosed when a matter arises at a meeting which directly relates to your financial interest or wellbeing or a financial interest or wellbeing of a relative or close associate that is not a DPI.

A matter "directly relates" to one of your interests where the matter is directly about that interest. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter “affects” your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

Declarations and Participation in Meetings

1. DISCLOSABLE PECUNIARY INTERESTS (DPIs)

1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests which include both the interests of yourself and your partner then:

Action to be taken

- **you must disclose the nature of the interest** at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council’s register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not participate in any discussion** of that particular business at the meeting, or if you become aware of a disclosable pecuniary interest during the meeting you must not participate further in any discussion of the business, including by speaking as a member of the public
- **you must not participate in any vote** or further vote taken on the matter at the meeting and
- **you must withdraw from the room** at this point to make clear to the public that you are not influencing the meeting in anyway and to protect you from the criminal sanctions that apply should you take part, unless you have been granted a Dispensation.

2. OTHER REGISTERABLE INTERESTS (ORIs)

2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests i.e. relating to a body you may be involved in:

- **you must disclose** the interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council’s register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not take part in any discussion or vote** on the matter, but may speak on the matter only if members of the public are also allowed to speak at the meeting
- **you must withdraw from the room** unless you have been granted a Dispensation.

3. NON-REGISTRABLE INTERESTS (NRIs)

3.1 Where a matter arises at a meeting, which is not registrable but may become relevant when a particular item arises i.e. interests which relate to you and /or other people you are connected with (e.g. friends, relative or close associates) then:

- **you must** disclose the interest; if it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
 - **you must not take part in any discussion or vote**, but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
 - **you must withdraw** from the room unless you have been granted a Dispensation.
-

Dispensation and Sensitive Interests

A “Dispensation” is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and the Appendix.

A “Sensitive Interest” is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.4 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest in such circumstances you just have to disclose that you have a Sensitive Interest under S32(2) of the Localism Act 2011. You must update the Monitoring Officer when the interest is no longer sensitive, so that the interest can be recorded, made available for inspection and published.

BIAS and PREDETERMINATION

The following are not explicitly covered in the code of conduct but are important legal concepts to ensure that decisions are taken solely in the public interest and not to further any private interests.

The risk in both cases is that the decision maker does not approach the decision with an objective, open mind.

This makes the local authority’s decision challengeable (and may also be a breach of the Code of Conduct by the Councillor).

Please seek advice from the Monitoring Officer or Deputy Monitoring Officers, if you need assistance ahead of the meeting.

BIAS

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. If you have been involved in an issue in such a manner or to such an extent that the public are likely to perceive you to be biased in your judgement of the public interest:

- a) you should not take part in the decision-making process
- b) you should state that your position in this matter prohibits you from taking part
- c) you should leave the room.

PREDETERMINATION

Where a decision maker has completely made up his/her mind before the decision is taken or that the public are likely to perceive you to be predetermined due to comments or statements you have made:

- a) you should not take part in the decision-making process
- b) you should state that your position in this matter prohibits you from taking part
- c) you should leave the room.

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Registerable Interests

These are interests that you are required to register in accordance with the Code of Conduct. They are interests that you would know about in advance of an item coming up (e.g. land you own) and you should have included them when filling in your register of interests.

What type of Registerable Interest do you have in this matter?

Disclosable Pecuniary Interests

These are any interests that are described as DPIs under the Code of Conduct and include both the interests of yourself and of your partner.

Other Registerable Interests

These are personal interests that relate to certain types of bodies that you may be involved in as set out in the Code of Conduct.

Does the matter directly relate to one of your Disclosable Pecuniary Interests?

No

Does the matter directly relate to the financial interest or wellbeing of one of your Other Registerable Interests?

No

Does the matter affect a financial interest or the wellbeing of yourself or of a friend, relative or close associate?

No

Is the financial interest or wellbeing affected to a greater extent than the financial interests or wellbeing of the majority of inhabitants?

No

Would a reasonable member of the public knowing all the facts believe that it would affect your view of the wider public interest?

No

You must:

- Disclose the interest;
- Not speak on the matter;
- Not participate in any discussion or vote; and
- Not remain in the room unless you have a Dispensation

You must:

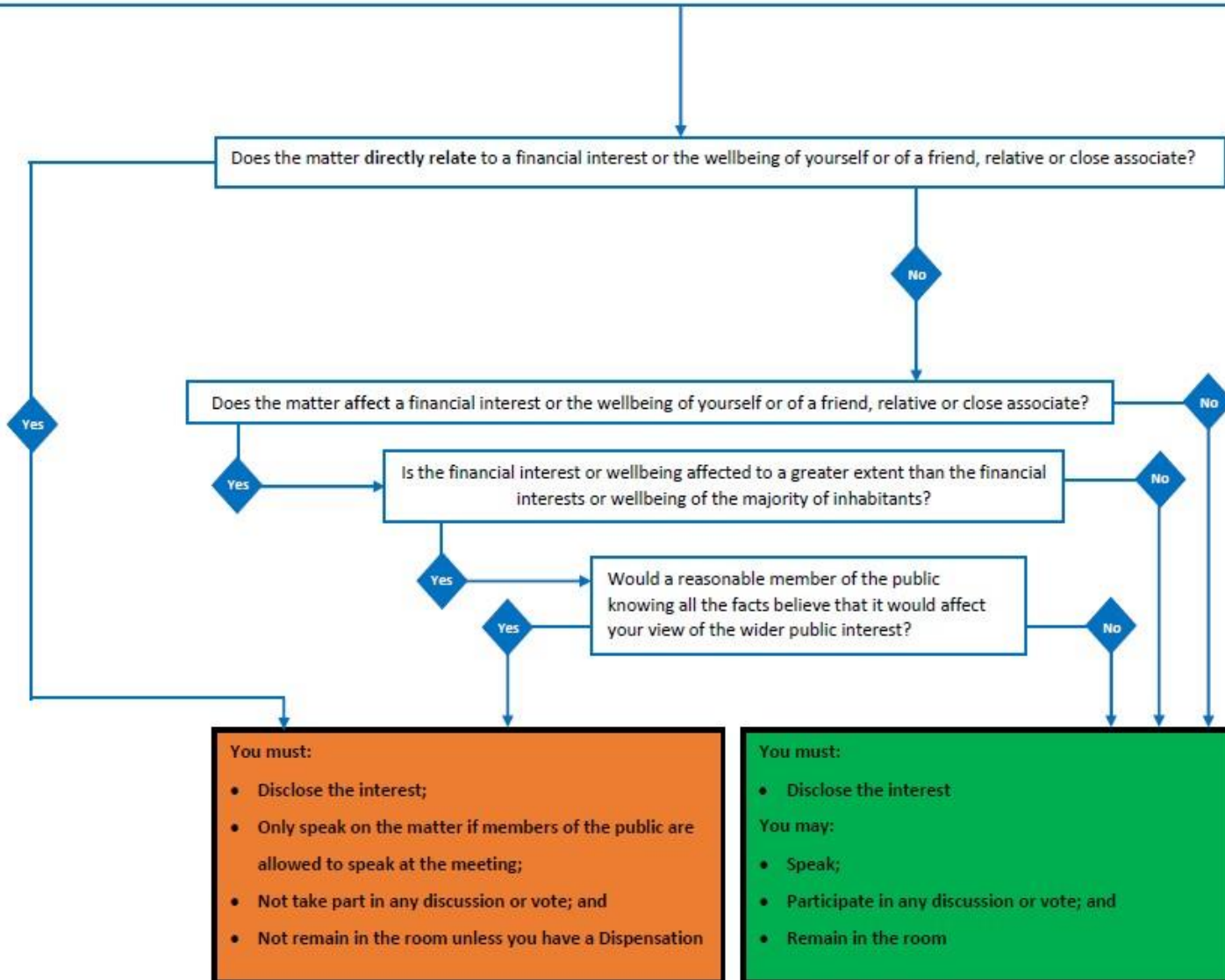
- Disclose the interest;
- Only speak on the matter if members of the public are allowed to speak at the meeting;
- Not take part in any discussion or vote; and
- Not remain in the room unless you have a Dispensation

You must:

- Disclose the interest
- You may:
- Speak;
 - Participate in any discussion or vote; and
 - Remain in the room

Non-Registerable Interests

These are interests that you are not required to register but may become relevant when a particular item arises. These are usually interests that relate to other people you are connected with (e.g. friends, relatives or close associates) but can include your own interests where you would not have been expected to register them.



LICENSING AND APPEALS COMMITTEE

TUESDAY, 11 JUNE 2024

Present: Councillor R Bullock, Chair

Councillors: S Webb (Vice-Chair)
T A Cullen
A Cooper
G S Hills
S P Jeremiah
S Kerry
H Land
D D Pringle
C M Tideswell
K Woodhead
E Winfield

An apology for absence was received from Councillors B C Carr.

1 DECLARATIONS OF INTEREST

There were no declarations of interest.

2 MINUTES

The minutes of the meeting held on 16 January 2024 were confirmed and signed as a correct record.

3 MODERNISATION OF CONDITIONS TO BE ATTACHED TO LICENCES ISSUED FOR PREMISES PROVIDING MASSAGE, SPECIAL TREATMENTS, LASER TREATMENTS, TANNING AND SAUNA SERVICES

The Committee considered the draft conditions to be attached to licences issued under Nottinghamshire County Council Act 1985 prior to public consultation.

RESOLVED that the draft conditions for licensable activities carried out under the Nottinghamshire County Council Act 1985 be approved for the purposes of public consultation.

4 REVIEW OF THE GAMBLING ACT STATEMENT OF PRINCIPLES

Members noted the draft revised Statement of Principles for statutory consultation.

RESOLVED that the draft of the revised Statement of Principles be approved for the purposes of statutory consultation.

5 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2, 3 and 7 of Schedule 12A of the Act.

6 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE

RESOLVED that the application be refused.

Report of the Chief Executive

Review of the Gambling Act Statement of Principles 2025-2027

1. Purpose of Report

To advise Members of the response to the consultation on the Council's draft revised Gambling Act 2005 Statement of Principles for 2025-2027.

2. Recommendation

The Committee is asked to RECOMMEND to full Council that the Statement of Principles be approved for adoption for publication on 3 January 2025 and implementation on 31 January 2025 by full Council on 11 December 2024.

3. Detail

Members approved the content of the draft Statement of Principles on 11 June 2024 for statutory consultation between 17 June 2024 and 28 July 2024.

A number of comments have been received following the consultation and a schedule of the comments and the proposed response together with any proposed amendments to the Statement of Principles as attached at **Appendix 1**.

Members are therefore asked to approve the Statement of Principles attached at **Appendix 2** and recommend that it be approved by full Council on 11 December 2024.

The Equality Impact Assessment which accompanied the report on the draft Statement of Principles is attached at **Appendix 3** and a change table is attached at **Appendix 4**.

The Council is required to publish the Statement by 3 January 2025 and implement the policy on 31 January 2025.

4. Financial Implications

The comments from the Head of Finance Services were as follows:

There are no anticipated financial implications for the Council's approved budget.

5. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

The relevant legislation is set out in the report, Section 349 of the Gambling Act

2005 (The Act) requires the Council in its role as Licensing Authority to prepare and publish a statement of the principles they propose to apply in exercising their functions under the Act. The statement of licensing policy must be reviewed and if necessary revised every three years with the Statement of Licensing Policy then being published.

The form of the statement of licensing policy or any revision is a matter for the Council however, this is subject to Regulations 4 to 6 of the Gambling Act 2005 (Licensing Authority Policy Statement) (England & Wales) Regulations 2006.

it.

All consultation responses should be fully considered when forming the statement of licensing policy, this is in order to minimise the risk of legal challenge. In accordance with the Act, the Council must publish a statement of licensing policy. A failure to adopt and publish a statement of licensing policy will leave the Council open to a significant risk of challenge, including potential judicial review. The Council must also ensure that all aspects of the legislative process, as outlined above, are followed. Pursuant to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the Council's Gambling Policy is required to be part of the Council's policy framework and adoption of that Policy is within the remit of Licensing and Appeals.

6. Human Resources Implications

The comments from the Human Resources Manager were as follows:

Not applicable.

7. Union Comments

The Union comments were as follows:

Not applicable.

8. Climate Change Implications

The climate change implications are contained within the report.

9. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no data protection issues in relation to this report.

10. Equality Impact Assessment

As this is a change to policy an equality impact assessment is included in **Appendix 3** to this report.

11. Background Papers

Nil.

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Gambling Policy Representation Response		
Representation	Comment	Action Recommended
GamCare's comments on the revision of the statement of principles:	<p>GamCare is an independent charity and the leading national provider of information, advice, support and free treatment for anyone affected by problem gambling. They operate the National Gambling Helpline, provide structured support for anyone harmed by gambling, and create awareness about safe gambling and treatments.</p> <p>GamCare interacts with all parties involved in Gambling.</p>	The response is noted and appreciated. However no action is required.
<p>• Page 17</p> <p>We welcome the position Broxtowe Borough Council is taking to go beyond the mandatory and default conditions of the Gambling Act 2005 in its statement of principles.</p>		Noted. No action.
<p>• Local authorities can play a greater role in reducing gambling harm, particularly for those of our clients who experience harm in land-based gambling venues, due to council's licensing responsibilities.</p>		Noted. No action.
<p>• It is vital that Broxtowe Borough Council develops a local picture of the level of gambling harms, in order to best target resources and tailor service provision. This could be achieved by gathering data from the National Gambling Helpline, as well as those already providing services in the area.</p>		Noted. It is suggested that the Committee consider putting this forward as a potential topic for a future Overview and Scrutiny Committee.

Representation	Comment	Action Recommended
<ul style="list-style-type: none"> Building on the proactive approach the council is already taking, we would like to see Broxtowe Borough Council commit in its statement of principles to a public health approach to gambling. 	<p>Whilst it is recognised that Public Health is not a licensing objective. NALG entered into dialogue with the County's Public Health Team a number of years ago as part of the licensing process. The team has written paragraph 2.8 to reflect the Gambling Commission's concerns and give an overview of the issue.</p>	<p>Noted. No action.</p>
<ul style="list-style-type: none"> This commitment should include training frontline and primary care staff to recognise the signs of gambling harm and develop referral pathways to the National Gambling Helpline or local treatment providers. GamCare has worked with Haringey Council to implement a similar system, that has received widespread support. 		<p>Noted. The Council will explore the training undertaken by Haringey Council and consider whether to adopt a similar approach</p>
<p>Page 18</p> <p>In the absence of Cumulative Impact Assessments as a method by which the "aim to permit" approach can be challenged, Broxtowe Borough Council should continue to pursue a Local Area Profile approach that specifically analyses gambling risk, and use this data as a basis from which to scrutinise and possibly oppose a licensing application.</p>		<p>Noted. See above comment relating to the potential to refer this to the Overview and Scrutiny Committee for consideration</p>
<p>The changes to Broxtowe Borough Council's statement of principles should be viewed in the context of the Gambling Act Review and subsequent process of white paper consultations, so take account of the rapidly changing regulatory environment.</p>		<p>Noted. No action</p>



**Broxtowe
Borough
COUNCIL**

Gambling Act 2005 Statement of Principles

2025-2027

Published 3 January 2025



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1.0 Introduction and Scope

Introduction

1.1 Section 349(1) of the Gambling Act 2005 [“the Act”] imposes a statutory requirement upon Broxtowe Borough Council as the statutory Licensing Authority [“the Authority”] to prepare a Statement of Principles [“the Statement”] and to review it every three years. However, should the need arise, the Authority may review and alter the policy within that period.

1.2 In exercising their functions under Section 153 of the Act the Authority shall aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives
- in accordance with the Authority’s statement of licensing principles.

In exercising their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The three objectives are as follows:

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

1.3 The aim of the Authority in this Statement is to address the impact of licensed premises in terms of crime and disorder arising from gambling and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons. The Authority is committed to partnership with all stakeholders with a view to the promotion of this aim. The Authority recognises the impact that unregulated gambling may have on its community and sustainability as a viable local economy and in delivering the gambling regime will, with regard to the principles set out in this Statement, seek to support its local economy and protect vulnerable people. In doing so it will consider each application on its own merits within the context of this Statement, the legislation and guidance and codes of practice issued by the Gambling Commission.

1.4 The Authority will, in the statutory discharge of its functions, have particular regard to the principles to be applied in exercising its powers:

- under Section 157 of the Act to designate in writing a body competent to advise the Authority about the protection of children from harm
- under Section 158 of the Act to determine whether a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence.

1.5 Subject to statutory provision, a review of this Statement will take place periodically and any revisions to the Statement will be made taking into account information

collated over a period of time, the outcomes of related initiatives at central and local government level and following appropriate consultation.

- 1.6 Nothing in this Statement should be regarded or interpreted as any indication that any statutory requirement of gambling or other law is to be overridden.

Declaration

1.7 The Authority in preparation of this Statement has had due regard to:

- the Gambling Act 2005
- the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
- current guidance issued by the Gambling Commission and by the Secretary of State under Section 25 of the Act
- responses from those consulted on the Statement and the reviews thereof.

Consultation

1.8 The Gambling Act requires the licensing Authority to consult the following on the Licensing Authority Statement of Policy or any subsequent revision:

- in England and Wales, 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
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

The Council has consulted various bodies and organisations upon this Statement. The consultation period ran from 17 June 2024 to 28 July 2024.

A full list of consultees is shown in Appendix 1.

Local Area Profile

1.9 The borough of Broxtowe is situated in the south west of Nottinghamshire and forms the western edge of the Greater Nottingham conurbation with the City of Nottingham bordering much of the eastern boundary of the borough. To the west lie the Derbyshire boroughs of Erewash and Amber Valley.

Broxtowe is compact, covering an area of only 8,028 hectares of which two thirds is green belt, and has a population of 110,900 (2021 census). This figure represents 14% of the total population of the county of Nottinghamshire. The administrative centre for the Council is at Beeston, situated 5 miles from the centre of Nottingham. This is also the largest of the four principal towns in the borough, the others being Stapleford, Eastwood and Kimberley, all of which have a thriving evening economy.

In 2021, 16.7% of the borough's population was aged 0 – 15. This is slightly lower than the that for England (18.5%). 9.8% of the population was aged 16 – 24. This was comparable with England (10.6%) but higher than Nottinghamshire (4%) and the East Midlands (4.8%)

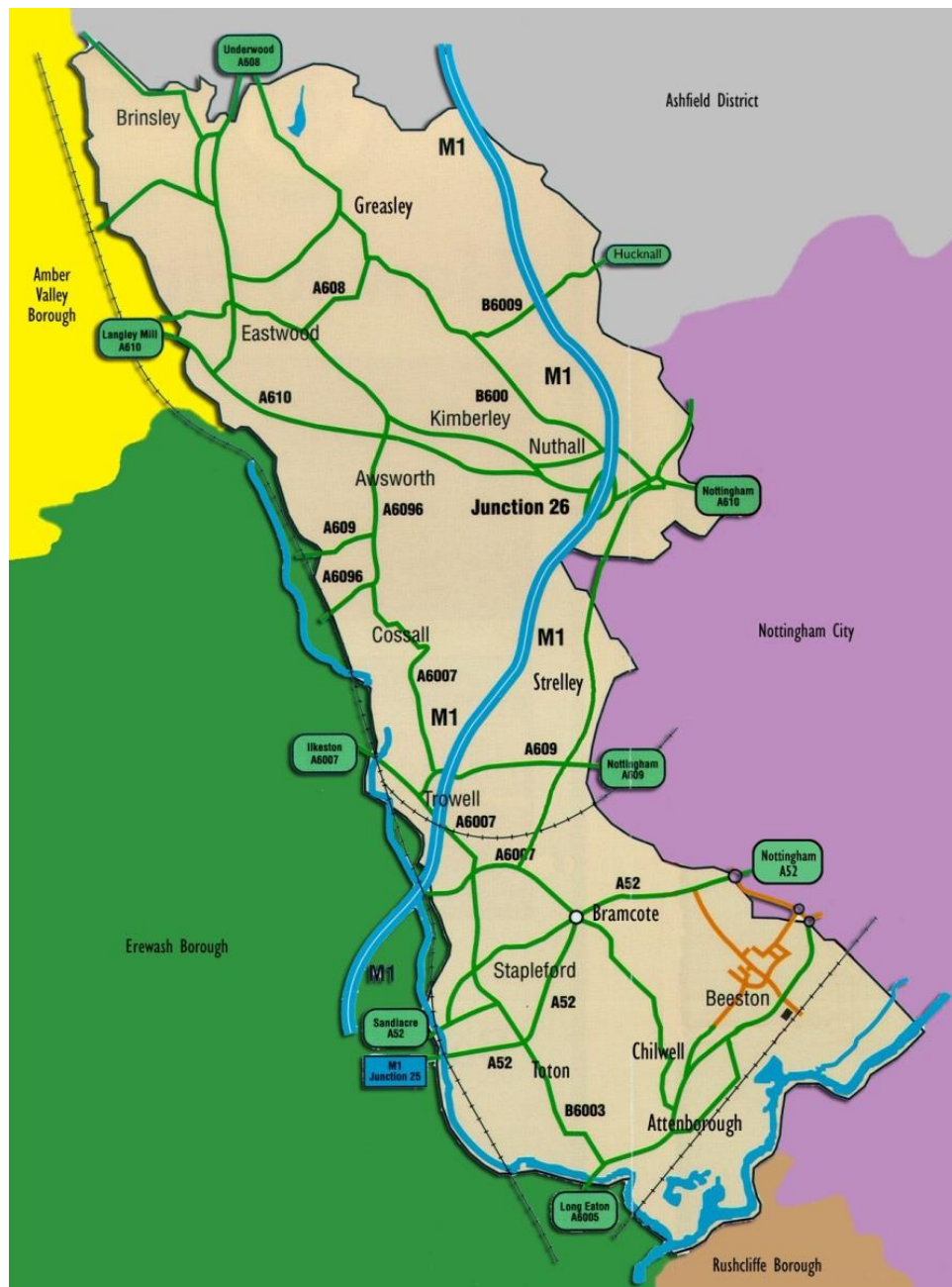
The percentage of the borough's population in the 25 – 49 age group (31.3%), is slightly lower than that for England (33%).

At the time of the Census, 20.3% of the borough's population was aged 50 – 64, similar to the county figure of 21.1%, similar to the figure for the East Midlands (20.1%) and slightly higher than England (19.4%).

Finally, the percentage of the borough's population aged 65 and over was 21.8% at the time of the Census, higher than that for England (18.3%).

A local area profile has been prepared based on local knowledge taking into account a wide range of factors, data and information held by the licensing authority and its partners. It is anticipated that the local area profile will give operators and a better awareness of the local area and the risks, which includes both potential and actual risks.

1.10



Authorised activities

1.11 The Act gives licensing authorities a number of important regulatory functions in relation to gambling. Their main functions are to:

- licence premises for gambling activities
- issue provisional statements for premises
- consider notices given for the temporary use of premises for gambling
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes
- regulate gaming and gaming machines in alcohol licensed premises
- grant permits to Family Entertainment Centres for the use of certain lower stake gaming machines
- grant permits for prize gaming
- consider occasional use notices for betting at tracks
- register small societies' lotteries.

N.B. Spread betting is regulated by the Financial Services Authority.

- Remote gambling, Operator Licences and Personal Licences are dealt with by the Gambling Commission
- The National Lottery is regulated by the Gambling Commission
- Spread betting is regulated by the Financial Services Authority.

In carrying out its licensing functions within the framework established by this Statement, the Authority will have particular regard to:

- maintaining a close working relationship with the responsible authorities
- taking necessary and appropriate steps for the protection of children and other vulnerable persons
- the need to treat each application on its own merits taking into account the individual circumstances at each premise.

Relationship with other legislation

1.12 In complying with the provisions of the Gambling Act 2005, whilst the Authority recognises the requirements of other legislation, this Statement is not intended to duplicate the existing legislation and regulatory orders which incur statutory obligations.

1.13 In particular, in making a determination in respect of any application, the Authority will not take into account irrelevant matters, such as the likelihood of the application receiving planning permission or building regulation approval.

“Demand” for gaming premises

1.14 The Authority will not consider the demand for gaming premises when making decisions about applications for a premises licence under the Act.

Rights of applicants and third parties

- 1.15 This Statement does not override the right of any person to make an application under the Act and have that application considered on its individual merits.
- 1.16 Similarly this Statement does not undermine the right of any third party to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

Data sharing and data security

- 1.17 The Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the General Data Protection Regulations and Data Protection Act 2018 will not be contravened. The Authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

The Gambling Act also allows the exchange of information with persons or bodies for them to exercise their functions under the Act which are listed in Schedule 6 (1).

The Council details its approach to the protection of and access for information on the Council's website

Equality and Diversity

- 1.18 Broxtowe Borough Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion. The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all. Everyone will be treated fairly and with respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination.

Further information on the Council's policy can be viewed on the website at [Strategies, Plans & Policies \(broxtowe.gov.uk\)](http://broxtowe.gov.uk/Strategies,Plans&Policies)

2.0 Local Risk Assessments

- 2.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks. Local risk assessment applies to all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.
- 2.2 Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.

- 2.3 Licensees must review and update as necessary their local risk assessments:
- a) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy
 - b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks
 - c) when applying for a variation of a premises licence
 - d) in any case, undertake a local risk assessment when applying for a new premises licence.
- 2.4 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Risk assessments must also be reviewed:
- when applying for a variation of a premises licence
 - to take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement
 - when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 2.5 The social responsibility provision is supplemented by an ordinary code provision recommending as good practice that licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority.
- 2.6 Where concerns do exist, perhaps prompted by new or existing risks, a licensing authority may request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of license conditions is required.
- 2.7 The licensing authority has an expectation that all local risk assessments will take into account the local area profile of the area.
- 2.8 The 3 statutory licensing objectives for gambling include protecting children and other vulnerable persons from harm and exploitation. Licensing policies are not currently required to address Public Health concerns and Public Health is not a responsible authority, as in the case of alcohol, however the Gambling Commission has recognised the benefits of a Public Health whole population approach (February 2018). The Commission has identified specific groups of people who are particularly at risk:
- ethnic groups
 - youth
 - people who abuse or misuse substances
 - people who have poor mental health
 - other vulnerable users.

It is estimated that there are over 270,000 compulsive gamblers in England (0.5% of uk adult population).

There are no local level estimates available. Gambling harm includes poor physical and mental ill-health and is associated with substance misuse problems especially

alcohol and with smoking. It also contributes to debt problems, relationship breakdown and criminality.

Further information on the Gambling Commissions position on Gambling as a public health issue is available on the Commissions website at the following link.

<https://www.gamblingcommission.gov.uk/authorities/guide/reducing-gambling-harms-resources>

There is less evidence available to support gambling SOLPs (Statement of Licensing Principles at a local level. Nationally there is a significant amount of gambling that takes place on the internet which reduces barriers to where people can gamble. Compulsive gambling is linked with areas of socio-economic deprivation, so identifying areas with potentially higher levels of gambling harm can therefore be informed by the alcohol licensing maps.

3. Making Representations

Who can make a representation?

- 3.1 The Gambling Act allows “responsible authorities” (identified in section 157 of the Act) and “interested parties” to make representations to applications relating to **premises licences and provisional statements**. In the case of reviews, that right is also given to the licensee. With regard to other forms of notification and permit, the right to object is restricted to specified bodies. The following section therefore only relates to representations in respect of **premises licences and provisional statements**.
- 3.2 Premises licences are only necessary for the types of gambling listed below and interested parties may therefore only make representations in respect of:
- casino premises
 - bingo premises
 - betting premises (including tracks)
 - adult gaming centres
 - licensed family entertainment centres.

Interested parties

- 3.3 Interested parties are defined as persons who, **in the licensing Authority’s opinion:**
- live sufficiently close to the premises to be likely to be affected by the authorised activities
 - have business interests that might be affected by the authorised activities, or
 - represent either of the above. This could include, e.g. democratically elected persons such as Councillors or Members of Parliament.

Policy One

- 3.4 In determining if someone lives sufficiently close to the premises to be likely to be affected by the authorised activities or have business interests that are likely to be affected, the Authority may take any or all of the following into account:**
- **the proximity of their home or business to the application premises**
 - **the nature of their residency (e.g. private resident, resident in home for the vulnerable etc)**
 - **the nature of the business making the representation**
 - **the nature of the authorised activities to be conducted on the application premises**
 - **the size and capacity of the application premises**
 - **the likely catchment area for the application premises**
 - **the routes likely to be taken to and from the application premises**
 - **the character of the area**
 - **the density of the built up area**
 - **the topography of the area**
 - **local area profile**
 - **mitigating measures contained within the applicants risk assessment.**

REASON: To ensure that those who are likely to be directly affected by the proposed activities can exercise their right to be heard.

- 3.5** The Authority will interpret the phrase “business interest” widely and not merely confine the phrase to meaning those engaged in trade and commerce. It may therefore include charities, churches, medical practices, schools and other establishments and institutions.
- 3.6** Similarly a wide interpretation will be given to those categories of persons and organisations that represent residents and businesses. These may include residents and tenants associations, trade unions and other associations, as well as individuals whose role is to represent the interests of one or more residents or businesses such as a councillor, MP or legal representative.
- 3.7** If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, then without further evidence relating to the licensing objectives supporting the representation, the Authority would not consider this to be a relevant representation because it relates to “demand” or competition.
- 3.8** It is for the Authority to determine on a case by case basis whether or not a person making a representation is an “interested party”. The Authority may ask for evidence to identify who is being represented and show that they have given authority for representations to be made on their behalf. In cases which are not clear-cut, the benefit of the doubt will usually be exercised in favour of the person making the representation.

Form and content of representation

- 3.9 The Act places a duty on the Authority to aim to permit the use of premises for gambling in so far as the Authority thinks the application is in accordance with:
- this Policy Statement
 - the Commission's Guidance
 - local area profile and applicants risk assessment
 - the Codes of Practice
 - where the application is reasonably in accordance with the licensing objectives.
- 3.10 As these are the main criteria against which an application is to be assessed, representations which address these issues are more likely to be accepted and given weight.
- 3.11 All representations must be made in writing and must be received by the Authority within the time limits set by the relevant regulations. For a representation to be relevant it should:
- be positively tied or linked by a causal connection to particular premises, and
 - relate to the licensing objectives, or
 - raise issues under this policy, the Commission's Guidance or Codes of Practice.
- 3.12 Representations received outside the statutory period for making such representations or which otherwise do not comply with the Regulations will be invalid and will not be taken into consideration when the application is determined. In addition the Authority expects representations to be made in accordance with policy two.

Policy Two

- 3.13 **A representation should indicate the following:**
- (i) The name, address and a contact number for the person making the representation**
 - (ii) The capacity in which the representation is made (e.g. interested party, responsible authority, licensee) and if made as a representative should indicate who is being represented**
 - (iii) The name and address of the premises in respect of which the representation is being made**
 - (iv) The licensing objective(s) relevant to the representation**
 - (v) Why it is felt that the application:**
 - **is not reasonably consistent with the licensing objectives or**
 - **is not in accordance with this Policy, the Commission's Guidance or the relevant Codes of Practice or**
 - **the local risk assessments are not considered suitable and sufficient or**
 - **otherwise should not be granted or**
 - **should only be granted subject to certain specified conditions.**
 - (vi) Details of the evidence supporting the opinion in (v).**

REASON: To ensure the representation is made by a responsible authority or interested party and that it is relevant and directly related to the application premises.

- 3.14 A preferred form of representation is available and can be downloaded at www.broxtowe.gov.uk or requested directly from the service. Whilst representations which are not in the preferred form or which do not fully comply with Policy Two will not automatically be rejected, they may be less likely to comply with the law relating to representations, resulting in them ultimately being rejected or given little or no weight.
- 3.15 Ordinarily where representations are received the Authority will hold a hearing. However, a hearing does not have to be held where the Authority thinks that a representation is frivolous, vexatious or will certainly not influence the Authority's determination of the matter. It is for the Authority to determine whether a representation falls within these categories, however, representations which comply with Policy Two are unlikely to do so.
- 3.16 It is in the interest of those making representations that they include as much detail and evidence as possible at the time the representation is made. The Authority will determine whether a representation should be excluded as frivolous or vexatious based on the normal interpretation of the words. A representation may therefore be excluded if it obviously lacks seriousness or merit, or is designed to be antagonistic. An example may be a representation received from a rival operator which is based solely on the fact that the new premises would compete with their own business.

Irrelevant considerations

- 3.17 Whilst not intended to provide an exhaustive list, the following matters cannot be taken into account and representations relating to them are likely to be discounted:
- need and demand for the relevant premises
 - issues relating to nuisance
 - traffic congestion and parking
 - likelihood of the premises receiving planning permission or building regulation approval.
 - Moral grounds
- 3.18 Any person seeking to operate gambling premises must first have applied for or obtained an operating licence from the Gambling Commission. The Commission will therefore have made a judgement as to the applicant's suitability to operate the proposed form of gambling and therefore this issue is not relevant to the subsequent assessment of the premises licence application. The only exception is in relation to track premises licences. In this case an operator's licence is not required and the suitability of the applicant may, in appropriate cases, be taken into consideration.

Reviews

- 3.19 A premises licence may be reviewed by the Authority of its own volition or following the receipt of an application for a review from a responsible authority or interested party. Reviews cannot be delegated to an officer of the Authority – the lowest level of delegation permitted is to a licensing subcommittee (licensing panel).
- 3.20 The Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers of the Council or of a responsible authority may be involved in the initial investigations of

complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full scale review being conducted.

- 3.21 If at any time the Authority considers it necessary in their scheme of delegation, they will establish a system that determines who initiates reviews and that may include a “filter” system to prevent unwarranted reviews from being conducted.
- 3.22 In relation to a class of premises, the Authority may review the use made of premises and, in particular, the arrangements that premises licence holders may have made to comply with licence conditions. In relation to these general reviews, the Authority would most likely be acting as a result of specific concerns or complaints about particular types of premises which would cause it to want, for example, to look at the default conditions that apply to that category of licence. In relation to particular premises, the Authority may review any matter connected to the use made of the premises if it has reason to suspect that licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives it cause to believe that a review may be appropriate.
- 3.23 Representations and review applications will be considered by the Authority in accordance with the relevant legislation, guidance issued by the Commission, this Statement of Principles, Codes of Practice, local area profile and the premises licence holders local risk assessment.

4. Licensing Objectives

Preventing Gambling from being a Source of Crime and Disorder

- 4.1 The Gambling Commission will play a leading role in preventing gambling from becoming a source of crime and will maintain rigorous licensing procedures that aim to prevent inappropriate people from providing facilities for gambling.
- 4.2 The Authority places considerable importance on the prevention of crime and disorder and will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in it’s area. A high standard of control is therefore expected to be exercised over licensed premises.
- 4.3 The Authority will, when determining applications, consider whether the granting of a premises licence will result in an increase in crime and disorder. In considering licence applications, the Authority will particularly take into account the following:
- the design and layout of the premises
 - the training given to staff in crime prevention measures appropriate to those premises
 - physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
 - where premises are subject to age restrictions, the procedures in place to conduct age verification checks
 - the likelihood of any violence, public order or policing problem if the licence is granted.
- 4.4 Where an application is received in relation to premises in an area noted for particular problems with organised crime, part of this determination will include consultation with

the police and other relevant authorities. The Authority may then consider whether specific controls, such as a requirement for the provision of door supervisors, need to be applied in order to prevent those premises being a source of crime.

- 4.5 As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Authority does not therefore intend to use the Act to deal with general nuisance issues, for example parking problems, which can easily be dealt with using alternative powers. The Authority has no jurisdiction under the Act to deal with general nuisance issues.
- 4.6 In accordance with the Guidance, the Authority will only seek to address issues of disorder under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance were required to deal with it. Another factor the Authority is likely to take into account is how threatening the behaviour was to those who could see or hear it and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 4.7 The Authority will consult with the police and other relevant authorities when making decisions in this regard and will give due weight to any comments made by the police or other relevant authorities.

Policy Three

- 4.8 The Authority will have particular regard to the likely impact of licensing on related crime and disorder in the district particularly when considering the location, impact, operation and management of all proposed licence applications.**

REASON: Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area.

Ensuring gambling is conducted in a Fair and Open Way

- 4.9 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business (and therefore relevant to the Operating Licence) or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence).
- 4.10 Both issues will be addressed by the Commission through the operating and personal licensing regime. This is achieved by ensuring that:
- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry
 - easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted
 - the rules are fair
 - advertising is not misleading

- the results of events and competitions on which commercial gambling takes place are made public
- machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.

4.11 Because betting track operators do not need an operating licence from the Commission the Authority may, in certain circumstances, attach conditions to a licence to ensure that the betting is conducted in a fair and open way. The Authority may in these circumstances also consider the suitability of the applicant to hold a track premises licence. Such factors which the Authority may take into consideration are set out below:

- references to adduce good character
- criminal record of the applicant
- previous experience of operating a track betting licence
- any other relevant information.

Protection of children and other vulnerable persons from being harmed or exploited by gambling

Access to licensed premises

- 4.12 The access of children and young persons to those gambling premises which are adult only environments will not be permitted.
- 4.13 The Authority will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 4.14 The Authority will consult with the Nottinghamshire Safeguarding Children Partnership and the Nottinghamshire Safeguarding Adults Board on any application that indicates there may be concerns over access for children or vulnerable persons.
- 4.15 Broxtowe Borough Council expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable people are protected from being harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.

The efficiency of such policies and procedures will be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truanting school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems.

The Council will pay particular attention to measures proposed by operators to protect children from harm in Adult Gaming Centres and Family Entertainment Centres. Such measures may include, but would not be limited to, the following:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas

- Specific opening hours
- Self-barring schemes
- Notices/signage
- Measures/training for staff on how to deal with suspected truanting school children on the premises and how to recognise signs of potential child sexual exploitation
- Clear policies that outline the steps to be taken to protect children from harm
- 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.

- 4.16 The Act provides for a Code of Practice on access to casino premises by children and young persons and the Authority will work closely with the police to ensure the appropriate enforcement of the law in these types of premises.

Vulnerable persons

- 4.17 The Authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children. The Act does not define “vulnerable persons” but it will assume for regulatory purposes that “vulnerable persons” include:

- people who gamble more than they want to
- people who gamble beyond their means
- people who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

- 4.18 The Authority encourages applicants to offer controls that limit access by customers to gambling or further access to alcohol where the customer shows signs of inebriation.

- 4.19 Where the legislation allows, the Authority will look particularly closely at applications that are made for premises close to sensitive areas or developments, for example:

- Residential areas
- Schools and other educational establishments
- Residential hostels for vulnerable adults
- Premises licensed for alcohol or gambling.

5. Premises Licences

General Principles

- 5.1 In the Act, “premises” is defined as including “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence provided they are for different parts of the building and different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences where safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and ensure that mandatory conditions relating to access between premises are observed.

In relation to an application to split existing licensed premises, thereby creating multiple premises, the Authority will expect the primary use of each premise to be the main business in accordance with the type of licence held. Any activities other than the primary use will be considered ancillary to the main business.

- 5.2 The procedure for obtaining Premises Licences is set by regulations. Should a licence be granted it will be made subject to mandatory and/or default conditions set by the Secretary of State. The Authority may choose to exclude default conditions if it thinks it appropriate and may also impose other specific conditions which are appropriate to the application where there is a specific evidenced risk
- 5.3 The Gambling Commission plays a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling. With the exception of applicants for track premises, anyone applying to the Authority for a premises licence will have to hold an operating licence from the Commission before a premises licence can be issued. The Authority will not generally therefore be concerned with the suitability of an applicant. Where concerns arise about a person's suitability, the Authority will bring those concerns to the attention of the Commission.
- 5.4 The Authority will however be concerned with issues such as the impact of the licensed premises in terms of crime and disorder and matters such as the location of the premises and their internal layout in terms of protecting children and vulnerable persons. Such issues are discussed in more detail in the paragraphs below relating to the specific types of gambling premises. See local risk assessments at section 2.

Betting Premises and Tracks

- 5.5 Betting premises relates to those premises operating off-course betting that is other than at a track.
- 5.6 Tracks are sites where races or other sporting events take place. Betting operators may operate self contained betting premises within track premises, although they would normally only open on event days. There may be several licensed premises at any track.
- 5.7 Permitted activities include:
 - off-course betting
 - on-course betting for tracks
 - betting by way of betting machines
 - gaming machines as stipulated by regulations.
- 5.8 Factors for consideration when determining the application will be:
 - location, particularly in relation to vulnerable persons
 - suitability of the premises
 - size of premises in relation to the number of betting machines
 - the ability of staff to monitor the use or abuse of such machines
 - the provision for licence holders to ensure appropriate age limits are adhered to.

- 5.9 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.
- 5.10 Mandatory or default conditions may be attached by regulations issued by the Secretary of State. Conditions may be applied by the Authority in support of the licensing objectives if it is felt necessary and appropriate to the application and where there is a specific evidenced risk.
- 5.11 The Authority shall require an appropriately defined plan of the premises to accompany each application.

General Matters Relevant to Tracks

- 5.12 The Authority has a number of premises that may apply for a premises licence to operate as a 'Track' for the purposes of the Gambling Act.
- 5.13 Tracks may be subject to one or more premises licences provided each licence relates to a specified area of the track. The Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) in the determination of premises licence applications for tracks 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.
- 5.14 Track operators are not required to hold an operator's licence granted by the Gambling Commission unless they are operating gambling activities themselves. Therefore, premises licences for tracks issued by the Authority are likely to contain requirements for premises licence holders relevant to their responsibilities in relation to the proper conduct of betting. The Authority recognises that Track operators will have an important role to play in the regulation of gambling activities expect that they will take proactive action appropriate to that role. For example, in ensuring that betting areas are properly administered and supervised.
- 5.15 The 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.
- 5.16 Applicants are encouraged to offer their own measures to meet the licensing objectives; however, appropriate measures/licence conditions imposed by the Authority may cover issues such as:
- proof of age schemes
 - CCTV
 - supervision of entrances / machine areas
 - physical separation of areas
 - location of entrances
 - notices / signage
 - specific opening hours
 - self-barring schemes

- provision of information leaflets / helpline numbers for organisations such as GamCare.

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

Gaming Machines used on Tracks

- 5.17 Guidance from the Gambling Commission addresses where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. The Authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting Premises in Relation to Tracks

- 5.18 A Track may hold a betting premises licence allowing betting to take place within defined areas. There may also be a number of subsidiary licences authorising other gambling activities to take place including off-course betting. Unlike betting offices (bookmakers), a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines. Pool betting may also take place on certain types of tracks and the appropriate operating licence to enable this will be required before a premises licence authorising this activity may be determined by the Authority.
- 5.19 In line with the Commission's Guidance, the Authority will expect operators of self-contained units on tracks to seek an ordinary betting premises licence to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Betting Machines on Tracks

- 5.20 The Authority will take into account the size of the premises and the ability of staff to monitor the use of these machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for Track Betting Premises Licences.
- 5.21 When considering whether to exercise its power to restrict the number of betting machines at a track, the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

Condition on Rules Being Displayed on Tracks

- 5.22 The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office." The Authority encourages applicants to demonstrate in their application and in the conduct of their activity that they will comply with this.

Applications and Plans for Tracks

- 5.23 Regulations set out specific requirements for applications for premises licences and, in accordance with the Gambling Commission's suggestion that, to ensure the Authority gains a proper understanding of what it is being asked to licence, the premises licence application pack for a track includes the information that is required which includes detailed plans for the racetrack itself and the area(s) that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses, fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

The Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that the Council can be satisfied that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan. It would be helpful to the Authority and the Responsible Authorities if the plans were marked using a colour-coded scheme or, at a minimum, by use of a key to denote the use of those areas shown.

Adult Gaming Centres (AGCs)

- 5.24 These premises must be operated by the holder of a gaming machine general operating licence from the Gambling Commission as well as a premises licence from the Authority.
- 5.25 Permitted activities include:
- the provision of gaming machines as stipulated by regulations.
- 5.26 Factors for consideration when determining the application for an AGC will include:
- the location
 - the ability of operators to minimise illegal access by under 18's to the premises.
 - Local Risk Assessment

- 5.27 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.
- 5.28 Conditions may be applied by the Authority in support of the licensing objectives if it is felt necessary. Mandatory and default conditions will be attached by regulations issued by the Secretary of State. No one under the age of 18 is permitted to enter an AGC.

Club Gaming Permits and Club Machine Permits

- 5.29 Club gaming permits authorise qualifying clubs to provide gaming machines as well as equal chance gaming and games of chance as prescribed in regulations.
- 5.30 Club machine permits allow the provision of higher category gaming machines.
- 5.31 Commercial clubs may in some circumstances operate with club machine permits but not club gaming permits.
- 5.32 The Authority may only refuse an application on the following grounds:
- (a) the applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
 - (d) a permit held by the applicant has been cancelled in the previous ten years or
 - (e) an objection has been lodged by the Commission or the police.

And in the case of (a) or (b) must refuse the permit.

- 5.33 The Authority may grant or refuse a permit, but it may not attach conditions to a permit.

Alcohol Licensed Premises

- 5.34 The Act provides an automatic entitlement to provide two gaming machines of category C or D (see glossary). The premises licence holder must notify the Authority of his or her intention and pay the prescribed fee. Although the Authority has no discretion to refuse the notification, the authorisation may be removed if gaming has taken place on the premises that breaches a condition of section 282 of the Act.
- 5.35 The Authority may also issue "licensed premises gaming machine permits" to premises in this category on application for any additional number of category C and/or D machines. This would replace any automatic entitlement under section 282 of the Act.

- 5.36 The Authority must have regard to the licensing objectives and the Gambling Commission Guidance when granting these permits. Factors for consideration will include:
- location, particularly in relation to vulnerable persons
 - suitability of the premises, size of premises in relation to the number of betting machines
 - the ability of staff to monitor the use or abuse of such machines
 - the provision for licence holders to ensure appropriate age limits are adhered to.
- 5.37 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.
- 5.38 It is a condition of the automatic entitlement to make available two gaming machines (of category C or D) that any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine is complied with. The Authority will take account of these provisions and the relevant codes of practice are available on the Gambling Commission website. www.gamblingcommission.gov.uk

Family Entertainment Centres

- 5.39 There are two classes of Family Entertainment Centres (FECs) dependent upon the type of gaming machines provided on the premises:
- FECs with category C and D machines require a premises licence
 - unlicensed FECs provide only category D machines and are regulated through FEC gaming machine permits. An application for a permit may only be granted if the Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Police have been consulted on the application. Applicants will need to demonstrate:
 - a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's
 - that the applicant has no relevant convictions (i.e. those set out in Schedule 7 of the Act)
 - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 5.40 In determining the suitability of the location, consideration will be given to the following factors:
- proximity of premises to schools and vulnerable adult centres (e.g. a centre for gambling addicts)
 - proximity to residential areas where there may be a high concentration of families with children
 - town centre or edge of town centre locations
 - hours of operation
 - proposed operational management to regulate entry by children and vulnerable persons.
- 5.41 It should be noted that a permit cannot be issued in respect of a vessel or a vehicle.

5.42 All applicants must be 18 years of age. The Authority will require an applicant to supply appropriate premises and indemnity insurance details.

Prize Gaming Permits

5.43 These permits cover gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming - the prize is determined by the operator before play commences.

5.44 Consideration will be given to the following factors:

- proximity of premises to schools and vulnerable adult centres (e.g. a centre for gambling addicts)
- proximity to residential areas where there may be a high concentration of families with children
- town centre or edge of town centre locations.

5.45 It should be noted that a permit cannot be issued in respect of a vessel or a vehicle.

5.46 The applicant must be 18 years of age or over. Relevant convictions will be taken into account, especially with respect to child protection issues.

Travelling Fairs

5.47 Provided a travelling fair allows only category D gaming machines to be made available, and the facilities for gambling (whether by way of gaming machine or otherwise) amount together to no more than an ancillary amusement at the fair, then no application for a licence is required under the Act. The Authority will want to satisfy itself from time to time that gambling at a travelling fair is within the definition of section 286 of the Act. A guide for those wishing to operate gambling machines at travelling fairs is available on the Commission's website.

Small Society Lotteries

5.48 Small society lotteries are distinguished from large society lotteries by the amount of the proceeds that they generate. 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. Other lotteries are dealt with by the Gambling Commission.

5.49 Small society lotteries are required to be registered with the local authority in the area where their principal office is located.

Temporary Use Notices

5.50 Premises which are not licensed for gambling may be used by a licensed operator for an aggregate period of 21 days in 12 months for prescribed types of gambling. In order to do so, the operator must serve a temporary use notice (or notices) on the Authority, the Commission and the Police. These are the only bodies who may object to such a notice. There are a number of statutory limits as regards Temporary Use

Notices. It is noted that it falls to the Authority to decide what constitutes a “set of premises” where Temporary Use Notices are received relating to the same building/site (see Gambling Commission’s Guidance to Licensing Authorities).

Occasional Use Notices

5.51 Betting on unlicensed tracks may be authorised for up to 8 days in a calendar year by the service of occasional use notices by the occupier of the track or the person responsible for the administration of the event. The Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Authority will need to consider whether a Notice in respect of premises can be dealt with under the definition of a “Track”. It will also need to consider whether the Applicant is permitted to avail him/herself of the notice, however, there is no provision for objections to be made to this type of activity or for it to be prohibited.

Casinos

No Casino Resolution

5.52 The Authority has not passed a “no Casino resolution” under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Authority decide in the future to pass such a resolution, it will update this Policy Statement with details of that resolution.

Bingo

5.53 The holder of a bingo operating licence will be able to apply for a bingo premises licence to provide any type of bingo game including cash and prize bingo. Commercial bingo halls will also require a bingo premises licence from the Authority. If the only type of bingo to be provided is prize bingo, then this may be authorised by way of a permit.

5.54 If children are allowed to enter premises licensed for bingo, then controls must be in place to prevent them from participating in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Authority will expect to see that:

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

5.55 The Gambling Commission has issued guidance about the need for licensing authorities to take into account the suitability and layout of bingo premises. Therefore plans should make clear what is being sought for authorisation under the bingo premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence. . It would be helpful to the Authority and the Responsible Authorities if the plans were marked using a colour-coded

scheme or at a minimum by use of a key to denote the use of those areas shown. The Gambling Commission has issued guidance on the division of a building into more than one premises which can be found at www.gamblingcommission.gov.uk.

- 5.56 A limited number of gaming machines may also be made available at bingo licensed premises.
- 5.57 Bingo is a class of equal chance gaming and is permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold as directed by the law, otherwise it will require a bingo operating licence which will have to be obtained from the Gambling Commission.

Provisional Statements

- 5.58 Developers may wish to apply to the 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 to hold an operating licence in order to apply for a provisional statement.

6. Inspection and Enforcement

General Statement

- 6.1 The Authority will have regard to its general/corporate enforcement policy, the relevant provisions of the Act, any relevant guidance and/or codes of practice when considering taking enforcement action.
- 6.2 It is the intention of the Authority to establish and maintain enforcement protocols with other enforcement agencies.

Inspections

- 6.3 The Authority will inspect gambling premises and facilities for compliance with the Act and any licence conditions through the application of a risk based inspection programme.
- 6.4 The inspection programme will in principle operate a light touch in respect of low-risk premises whilst applying greater attention to those premises which are considered to present a higher risk.
- 6.5 In addition to programmed inspections, the Authority will also investigate any evidence based complaints that it receives.

Policy Four

- 6.6 **The Authority will adopt a risk based assessment approach for determining the frequency of compliance inspections. The risk rating will be based broadly on the following factors:**
- **location of the premises and their impact on the surrounding area**
 - **enforcement history of the premises**

- nature of the licensed or permitted operation
- potential to have an adverse affect on the licensing objectives
- management record.
- Local risk assesment

REASON: To provide a targeted and cost efficient enforcement service which will encourage and improve operating practice, promote the licensing objectives, and drive out poor practices; whilst at the same time meet accepted best practice principles of compliance inspection.

Enforcement

- 6.7 In general the Gambling Commission will take the lead on the investigation and, where appropriate, the prosecution of illegal gambling. There may be occasions on which the Authority is better placed to take the lead, particularly where there is illegal activity on a smaller scale confined to the Authority's area.
- 6.8 Where a licensed premise is situated in more than one administrative area, then the Authority will liaise with the other authority to determine the most appropriate course of action and who will lead any investigation or prosecution.
- 6.9 Part 15 of the Act gives "authorised persons" power of investigation and section 346 enables licensing authorities to institute criminal proceedings in respect of offences described in that section. In exercising these functions the Authority will have regard to the relevant provisions of the Gambling Act 2005, national guidance, relevant codes of practice, and the enforcement policy of the Council.

The Authority will endeavour to follow the principles of better regulation and the Regulators Code. The principles require that enforcement should be:

- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised
 - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny
 - **Consistent:** rules and standards must be joined up and implemented fairly
 - **Transparent:** regulators should be open, and keep regulations simple and user friendly
 - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 6.10 The Authority will work closely with the Gambling Commission and exchange information on suspected illegal gambling and any proposed action that the Authority considers necessary.
- 6.11 The main enforcement and compliance role for the Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for operator and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Authority but will be notified to the Gambling Commission.

- 6.12 The Authority may institute proceedings in respect of a number of offences as identified in section 346 of the Act.
- 6.13 The Authority will avoid duplication with other regulatory regimes.

Glossary of terms

Many of the terms used in this statement of licensing policy are defined in the appropriate section of the Act. Section 353 identifies various terminologies and directs the reader to the relevant section of the Act, where appropriate, for a full and complete meaning of the term.

In the interests of clarity the following terms, which are used in this statement of licensing policy, are defined below.

Terminology	Definition
“the Act”	The Gambling Act 2005 (c19)
“Authority”	This refers to the “Licensing Authority” as defined by section 2 of the Act
“authorised person”	An officer of a Licensing Authority, and an officer of an Authority other than a Licensing Authority, both of whom have been authorised for a purpose relating to premises in that Authority’s area
“authorised local Authority officer”	An officer of a Licensing Authority who is an authorised person for a purpose relating to premises in that Authority’s area
“gambling commission”	An organisation established under section 20 of the Act that is responsible for regulating gambling in Great Britain
“guidance”	“Guidance to Licensing Authorities”, issued by the Gambling Commission under section 25 of the Gambling Act 2005
“interested parties”	Defined at paragraph 2.3 of this statement of licensing principles
“mandatory condition”	A condition that must be placed on a licence by virtue of regulations
“regulations”	Refers to regulations made under the Gambling Act 2005
“responsible authorities”	Public bodies that must be notified of applications for premises licences and they also have the right to make representations in relation to those applications. They are listed in full in section 157 of the Act.
“Category C & D Machines”	These are machines normally sited in pubs and arcades and are subject to a lower limit for stakes and payout.

Appendix 1

List of Consultees

List of bodies and organisations consulted

Broxtowe Borough Council (All Members)
All Parish and Town Councils in the Borough
Licensing Solicitors
BBPA
Association of British Bookmakers
BACTA
The Bingo Association
Nottinghamshire Police (CJ) Liquor Licensing
Nottinghamshire Fire and Rescue Service
Nottinghamshire Social Services
Gamcare
Gamblers Anonymous
Novomatic Ltd (Luxury Leisure)
Working Mens Club & Institute Union
Mecca Bingo
Equalised Club
Stapleford Conservative Club
Safeguarding Children Partnership
Safeguarding Vulnerable Adults Board
Gambling Commission
HM Customs and Excise
Business in Sport and Leisure

Appendix 3**Equality Impact Assessment**

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and equality. The majority of the Act came into force on 1 October 2010.

Public bodies are required in it to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited under the Act
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- foster good relations between people who share a protected characteristic and people who do not share it.

The public sector Equality Duty came into force on 5 April 2011. The duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, delivering services and in relation to their own employees.

The Equality Duty encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

The new equality duty replaces the three previous public sector equality duties, for race, disability and gender. The new equality duty covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – including lack of belief
- sex
- sexual orientation.

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

Having due regard means consciously thinking about the three aims of the equality duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies, including how they act as employers, how they develop, evaluate and review policies, how they design, deliver and evaluate services, and how they commission and procure from others.

Having due regard to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics
- meet the needs of people with protected characteristics, and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the equality duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic.

The Equality Duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people's impairments when making decisions about policies or services. This might mean making reasonable adjustments or treating disabled people better than non-disabled people in order to meet their needs.

There is no explicit requirement to refer to the Equality Duty in recording the process of consideration but it is good practice to do so. Keeping a record of how decisions were reached will help public bodies demonstrate that they considered the aims of the Equality Duty. Keeping a record of how decisions were reached will help public bodies show how they considered the Equality Duty. Producing an Equality Impact Assessment after a decision has been reached will not achieve compliance with the Equality Duty.

It is recommended that assessments are carried out in respect of new or revised policies and that a copy of the assessment is included as an appendix to the report provided to the decision makers at the relevant Cabinet, Committee or Scrutiny meeting.

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary.

Public bodies should take a proportionate approach when complying with the Equality Duty. In practice, this means giving greater consideration to the Equality

Duty where a policy or function has the potential to have a discriminatory effect or impact on equality of opportunity, and less consideration where the potential effect on equality is slight. The Equality Duty requires public bodies to think about people's different needs and how these can be met.

Equality Impact Assessment (EIA)

Directorate:	Chief Executive's	Lead officer responsible for EIA	Nicola Rowlands
Name of the policy or function to be assessed:		Gambling Act 2005 Statement of Principles 2025 - 2027	
Names of the officers undertaking the assessment:		Nicola Rowlands	
Is this a new or an existing policy or function?		Existing	
<p>1. What are the aims and objectives of the policy or function?</p> <p>The aim of the Authority in this Statement is to address the impact of licensed premises in terms of crime and disorder arising from gambling and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons. The Authority is committed to partnership with all stakeholders with a view to the promotion of this aim. The Authority recognises the impact that unregulated gambling may have on its community and sustainability as a viable local economy and in delivering the gambling regime will, with regard to the principles set out in this Statement, seek to support its local economy and protect vulnerable people. In doing so it will consider each application on its own merits within the context of this Statement, the legislation and guidance and codes of practice issued by the Gambling Commission.</p> <p>The authority must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005 (the Act) i.e.</p> <ul style="list-style-type: none"> • Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. • Ensuring that gambling is conducted in a fair and open way. • Protecting children and other vulnerable persons from being harmed or exploited by gambling. <p>The licensing authority aims to permit the use of premises for gambling:</p> <ul style="list-style-type: none"> • 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 and;
- In accordance with the Authority's Statement of Licensing Principles.

2. What outcomes do you want to achieve from the policy or function?

The Statement of Principles is intended to define how applications are made and dealt with under the relevant legislation. It also sets out matters that applicants must consider when making such applications and gives clear guidance on matters to be considered by the licensing authority when determining the applications. It will inform interested parties of the principles that the Licensing Authority will consider when exercising its duties under the Gambling Act 2005.

It will also assist in supporting the Council's objectives as set out in the Equality and Diversity Policy

3. Who is intended to benefit from the policy or function?

Applicants, Responsible Authorities as defined in the Act, other stakeholders, the public and the licensing authority will benefit from the policy. In particular councillors, as decision makers and representatives of their residents will understand the considerations required.

The Responsible Authorities are:

- (a) a licensing authority in England and Wales in whose area the premises is wholly or partly situated
- (b) the Gambling Commission
- (c) the chief officer of police or chief constable for the area in which the premises is wholly or partially situated
- (d) the fire and rescue authority for the same area
- (e) in England and Wales, the local planning authority, or in Scotland, the planning authority
- (f) the relevant authority as defined in s.6 of the Fire (Scotland) Act 2005
- (g) an authority which has functions in relation to pollution to the environment or harm to human health
- (h) anybody, designated in writing by the licensing authority, as competent to advise about the protection of children from harm
- (i) HM Revenue & Customs
- (j) any other person prescribed in regulations by the Secretary of State.

4. Who are the main stakeholders in relation to the policy or function?

Operators of gambling premises, holders of gambling permits, operators of gaming machines on licensed premises, Responsible Authorities (as defined in the Gambling Act 2005), the public and the licensing authority are all stakeholders in the policy. The Statement of Principles is statutorily reviewed every 3 years. The Statement of Principles review is widely consulted upon with all stakeholders.

5. What baseline quantitative data do you have about the policy or function relating to the different equality strands?

Just under 0.5% of the population in the UK have been identified as 'problem gamblers' with a further 1.4% identified as being of low to moderate risk of problem gambling (Gambling Commission Survey June 2021) While these percentages are small, this amounts to around 250,000 problem gamblers in total and a further 750,000 'at risk'.

Statistics for the Gambling Commission contained within the NatCen "Gambling behavior in Great Britain" show overall, the highest participation rates in any form of gambling activity were among adults aged between 25 and 64 (between 60% and 62%), while the lowest rates were found among the youngest and oldest age groups; 46% of 16 to 24 year olds and 47% of those aged 75 and over had gambled in the past year.

<https://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2016.pdf>

There are currently 15 premises in the Borough. 7 betting shops, 7 Adult Gaming Centres and 1 Bingo Premises. There have been no reported issues relating to any of the equality strands.

What baseline qualitative data do you have about the policy or function relating to the different equality strands?

Certain groups are more likely to experience problems with gambling including those on lower incomes or unemployed, those from Asian/Asian British and Black British backgrounds, homeless people and prisoners. (Problem gambling in Birmingham - A Rapid Assessment Report. Carl Packman, Research and Good Practice Manager, Toynbee Hall Karen Rowlingson, Professor of Social Policy, University of Birmingham May 2018)

Broxtowe's 'White' population is 81%. The largest black and minority ethnic (BME) groups in the borough are Indian and Chinese and these tend to belong in the younger age groups.

At the time of the last census, 51% of the population was female and 49% male.

The Licensing Authority, Nottinghamshire Police and the Nottinghamshire Authorities Licensing Group (NALG) have worked with representatives of the Gambling Commission and Nottinghamshire county NHS in developing this Statement of Principles to address the impact of licensed premises with a view to protecting children and vulnerable persons.

6. What has stakeholder consultation, if carried out, revealed about the nature of the impact?

The Statement of Gambling principles is widely consulted upon every three years. This is a statutory requirement. Previous consultees included:
Poppleston Allen Licensing Solicitors

Fraser Brown Solicitors

John Gaunt Solicitors

British Beer and Pub Association

Association of British Bookmakers

British Amusement Catering Trade Association.

The Bingo Association

Nottinghamshire Police (CJ) Liquor Licensing

Nottinghamshire Fire and Rescue Service

Nottinghamshire Social Services

Gamcare

Gamblers Anonymous

Novomatic Ltd (Luxury Leisure)

Working Mens Club & Institute Union

Mecca Bingo

Equalised Club

Stapleford Conservative Club

Nottinghamshire Safeguarding Children Board

Nottinghamshire Safeguarding Adults Board

Gambling Commission

- In 2012 there were no responses.

- In 2015 the only response to the consultation was a trade response dealing with application matters.
- In 2018 there were two responses
- In 2021 there were no responses

Should any response from the 2025 - 27 consultation indicate concerns, the matter will be reported to the Licensing and Appeals Committee for consideration and resolution.

7. From the evidence available does the policy or function affect or have the potential to affect different equality groups in different ways?

In assessing whether the policy or function adversely affects any particular group or presents an opportunity for promoting equality, consider the questions below in relation to each equality group:

Does the policy or function target or exclude a specific equality group or community? Does it affect some equality groups or communities differently? If yes, can this be justified?

The policy does not target or exclude any particular body. However, a number of issues of vulnerability and safeguarding are addressed in the statement. See Para 4.15. There are a number of measures aimed at ensuring that no underage activities take place. There are also measures in place to support vulnerable people who may gamble more than they want to, gamble beyond their means or are unable to make informed decisions due to alcohol, drugs or mental impairment.

Applicants are required to submit a local risk assessment with applications to consider the above relevant matters identified in the statement and ensuring that they support the Licensing objectives.

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

• Is the policy or function likely to be equally accessed by all equality groups or communities? If no, can this be justified?

The revised policy will apply equally across all groups and communities in the borough.

• Are there barriers that might make access difficult or stop different equality groups or communities accessing the policy or function?

There are no barriers in respect of the policy being accessed and utilised by any equality group or community. The policy is available for all to use. However, safeguards are in place to support vulnerable persons and prevent under age gambling.

• **Could the policy or function promote or contribute to equality and good relations between different groups? If so, how?**

The implementation of the Gambling Act 2005 and the Statement of Principles engendered a close working relationship with all stakeholders across the County. Safeguarding and vulnerability issues have been and continue to be dealt with by NALG

• **What further evidence is needed to understand the impact on equality?**

Should any evidence arise as a result of the comprehensive consultation process or indeed become apparent during the life of the statement, it will be considered and if necessary acted upon. There are no barriers to revisiting the statement and revising if necessary throughout the three year period.

8. On the basis of the analysis above what actions, if any, will you need to take in respect of each of the equality strands?

Age:

One of the Licensing Objectives is “Protecting children and other vulnerable persons from being harmed or exploited by gambling.” We will consult with the Nottinghamshire Safeguarding Children Board and continue to liaise with them throughout the life of the statement through the Nottinghamshire Authorities Licensing Group (NALG).

There are a number of measures in place in the statement that operators may use to protect children from harm, not only from gambling but the wider child protection issues.

Disability:

The policy recognises the potential vulnerability associated with low IQ and encourages licensees to risk assess their activity with this in mind. No specific adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Gender:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Gender Reassignment:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Marriage and Civil Partnership:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Pregnancy and Maternity:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Race:

The policy recognises the potential vulnerability associated with ethnicity and encourages licensees to risk assess their activity with this in mind No specific adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Religion and Belief:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Sexual Orientation:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Care Experience:

It is recognised that this group potentially has particular vulnerability. The location of permitted establishments is a factor to be taken account of in the licensing arrangements set out in the policy. No specific adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Head of Service:

I am satisfied with the results of this EIA. I undertake to review and monitor progress against the actions proposed in response to this impact assessment.

Signature of Head of Service:

Appendix 4

Policy Section	Suggested Change	Reason for Change
<p>Page 6 - Consultation</p> <p>The Council has consulted various bodies and organisations upon this Statement. The consultation period ran from 30 September 2021 to 29 October 2021.</p>	<p>The Council has consulted various bodies and organisations upon this Statement. The consultation period ran from 17 June 2024 to 28 July 2024.</p>	<p>Updating the consultation period for the policy.</p>
<p>Page 6 – Local Area Profile</p> <p>Broxtowe is compact, covering an area of only 8,028 hectares of which two thirds is green belt, and has a population of 109,487 (2011 census). This figure represents 14% of the total population of the county of Nottinghamshire. The administrative centre for the Council is at Beeston, situated 5 miles from the centre of Nottingham. This is also the largest of the four principal towns in the borough, the others being Stapleford, Eastwood and Kimberley, all of which have a thriving evening economy.</p>	<p>Broxtowe is compact, covering an area of only 8,028 hectares of which two thirds is green belt, and has a population of 110,900 (2021 census). This figure represents 14% of the total population of the county of Nottinghamshire. The administrative centre for the Council is at Beeston, situated 5 miles from the centre of Nottingham. This is also the largest of the four principal towns in the borough, the others being Stapleford, Eastwood and Kimberley, all of which have a thriving evening economy.</p>	<p>Updating population figure.</p>

Policy Section	Suggested Change	Reason for Change
<p>Page 6 and 7 - Local Area Profile</p> <p>In 2011, 15.81% of the borough’s population was aged 0 – 14. This was very low by national standards. 12.04% of the population was aged 15 – 24. This was comparable with Nottinghamshire (11.76%), but lower than the East Midlands (13.31%) and England (13.08%).</p> <p>The percentage of the borough’s population in the 25 – 44 age group (26.21%), is slightly lower than that for England (27.53%).</p> <p>At the time of the Census, 27.59% of the borough’s population was aged 45 – 64, similar to the county figure of 27.87%, but higher than that for the East Midlands (26.48%) and England (25.37%).</p> <p>Finally, the percentage of the borough’s population aged 65 and over was 18.35% at the time of the Census, higher than that for England (16.34%).</p>	<p>Page 6 and 7 – Local Area Profile</p> <p>In 2021, 16.7% of the borough’s population was aged 0 – 15. This is slightly lower than the that for England (18.5%). 9.8% of the population was aged 16 – 24. This was comparable with England (10.6%) but higher than Nottinghamshire (4%) and the East Midlands (4.8%)</p> <p>The percentage of the borough’s population in the 25 – 49 age group (31.3%), is slightly lower than that for England (33%).</p> <p>At the time of the Census, 20.3% of the borough’s population was aged 50 – 64, similar to the county figure of 21.1%, similar to the figure for the East Midlands (20.1%) and slightly higher than England (19.4%).</p> <p>Finally, the percentage of the borough’s population aged 65 and over was 21.8% at the time of the Census, higher than that for England (18.3%).</p>	<p>Updating information from the 2021 census.</p>

Report of the Chief Executive

Modernisation of Conditions to be Attached to Licences Issued for Premises Providing Massage, Special Treatments, Laser Treatments, Tanning and Sauna Services - Result of Public Consultation

1. Purpose of Report

To advise Members of the response to the public consultation on the draft conditions to be attached to licences issued under Nottinghamshire County Council Act 1985.

2. Recommendation

The Committee is asked to RECOMMEND to full Council that the conditions be approved for adoption. To give licence holders fair notice and opportunity to meet the new standards, the new standards will be introduced on 1 January 2025.

3. Detail

Members approved the content of the modernisation of conditions to be attached to the licences issued for premises providing Massage, Special Treatments, Laser and IPL Treatments, Tanning and Sauna Services under the Nottinghamshire County Council Act 1985 for public consultation between 17 June 2024 and 28 July 2024.

The current conditions attached to such licences have been in need of modernisation for some time, and this report is the conclusion of the work undertaken by relevant teams across all of the Nottinghamshire authorities, to promote and update the conditions attached to such licences.

A Massage and/or Special Treatments Licence is required under Part IV of the Nottinghamshire County Council Act 1985, by any person carrying on a business to provide the following services:

- Full body and part body massage
- Electric treatment
- Radiant heat, light or electric vapour treatment
- Sauna or other baths for therapeutic treatment
- UV tanning equipment including sunbeds and sun showers

- Laser and/or Intense Pulse Light (IPL) treatment using Class 3B and Class 4 Lasers.

All local authorities in Nottinghamshire, including Broxtowe Borough Council, have reviewed the conditions applied to Massage and Special Treatment Licences to ensure consistency across the County, and to ensure the minimum standards of safety and hygiene for clients and practitioners are promoted through the conditions attached to such licences.

No comments have been received following the consultation. Members are therefore asked to approve the conditions attached at **Appendix 1** and recommend that it be approved by full Council on 11 December 2024.

4. Financial Implications

The comments from the Head of Finance Services were as follows:

There are no additional financial implications for the Council at this stage with any costs being contained within existing budgets.

5. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

The legal implications are set out in the report, these conditions derive from the Nottinghamshire County Council Act 1985 (Part IV). This is applicable to all the relevant licensing authorities in Nottinghamshire and is to ensure a high safety standard across the board and to ensure consistency.

6. Human Resources Implications

The comments from the Human Resources Manager were as follows:

Not applicable.

7. Union Comments

The comments from the Union were as follows:

Not applicable.

8. Climate Change Implications

There are no Climate Change implications contained within the report.

9. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no Data Protection issues in relation to this report.

10. Equality Impact Assessment

As there is no change to policy an equality impact assessment is not required.

11. Background Papers

Nil.

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Appendix 1

Nottinghamshire County Council Act 1985 (Part IV)
Licensing of Premises for Massage and/or Special Treatments

Part 1 – Conditions applicable to Establishments offering Massage and Special Treatments

In these conditions:

“Council” or “Local Authority” means the Local Authority who may issue a massage and special treatments licence.

“Establishment” means and includes any premises used or represented as being or intended to be used for the reception or treatment of persons requiring massage or special treatment.

“Licence Holder” means the holder of this Licence issued by the Council under Part IV of the Nottinghamshire County Council Act who is responsible for compliance with these conditions

“Massage and Special Treatment or Licensable Treatment” means and includes (a) massage, or (b) electric treatment or radiant heat, light, electric vapour or sauna or other baths for therapeutic treatment or (c) other similar treatment that requires a licence from the Local Authority under Part IV of the Nottinghamshire County Council Act 1985.

“Operator” means any person providing a licensable treatment on behalf of the Licence Holder.

“Premises” means the premises identified in the body of this licence as the place from which the Licence Holder operates.

“User(s) or Client(s)” means any person receiving the massage or special treatment provided or operated by the Licence Holder.

1. This licence relates only to Licensable Treatments of the kind specified at the Establishment listed on this licence.
2. The Licence Holder shall notify the Council in writing of all new Operators engaged in giving treatment with their names, addresses and qualifications within 28 days of those Operators commencing treatment.
3. An application for the grant or renewal of a licence shall be made on the official form supplied by the Council, which shall be properly completed and signed by the person or persons actually proposing to or carrying on the Establishment.
4. Unless the licence is previously revoked, the licence will expire twelve months from the date of issue.
5. The Council may on application of the Licence Holder, or of any person to whom he wishes to assign the licence, transfer the licence to that person after receipt of a completed application form and payment of the appropriate fee.

Documents

6. The Licence Holder shall set a list of fees and charges for all Licensable Treatments given at the Establishment. The list of fees and charges shall be displayed in a prominent place in the Establishment for Clients to see and on any website for the Establishment.
7. The Licence Holder shall not, suffer or permit in the Establishment, any act of an indecent or disorderly character and shall take all necessary steps to exclude from the Establishment a Client or any other person who has committed such an act in the Establishment.
8. Unless the Licence Holder has written consent from the Council, the Licence Holder shall not employ anyone at the premises whose licence has previously been revoked or who has been refused a licence because they were unsuitable to hold a licence or employ anyone at the premises where the Council has previously considered that individual to be unsuitable because of misconduct.

Practitioners and Clients

9. All Operator(s) shall be adequately trained and competent or supervised by a competent Operator.
10. The Licence Holder shall prepare and maintain a register of all Operators including trainees who carry out Licensable Treatments at the Establishment. The register shall include the following:
 - a. Name and home address
 - b. Date of birth
 - c. A photograph of the Operator
 - d. A list of licensable treatments the operator can carry out
 - e. Details of their qualifications and training including any copies of certificates

11. Trainee and newly qualified Operators shall be supervised until the Licence Holder is satisfied that they are competent to practice. Trainees can only carry out Licensable Treatments under the supervision of an Operator who has attained the relevant qualification and/or experience for that Licensable Treatment.
12. The Licence Holder shall ensure all Operators employed in the Establishment shall be decently and properly dressed at all times, except for those persons receiving treatment in accordance with the conditions of this Licence.
13. The Licence Holder shall ensure all Operators complete a consultation form for all Clients prior to treatment that shall include:
 - a. Their name, date of birth and contact details
 - b. Nature of the treatment
 - c. Relevant medical history, health related questions and assessment including contraindications to treatment
 - d. Name of the operator giving the treatment.
 - e. A declaration that the risks associated with the treatment have been explained to the Client and understood.
14. The Licence Holder shall ensure that all Clients are provided with verbal and written aftercare advice that can be made available to them following the treatment. Evidence that Clients have received written aftercare advice shall be retained.

Premises

15. All internal walls, doors, windows, partitions, floors and floor coverings, ceilings shall be kept clean and in good repair as to enable them to be cleaned effectively.
16. All treatment rooms shall ensure the privacy of Clients at all times.
17. All treatment rooms that are provided with door locks shall be capable of being opened from the outside in the case of an emergency.
18. The premises, all furniture, instruments and equipment used for treatment purposes shall be kept clean, fit for purpose and in such good repair as to enable them to be cleaned effectively.
19. All tables, couches and seats used by Clients in the treatment areas shall have a smooth impervious surface and be cleaned and disinfected between each Client's use or have such suitable covering which shall be changed and where appropriate disposed of after each Client's use.
20. Operators shall ensure that any article or instrument used in the treatment:
 - a. is clean and in good repair and so far, as is appropriate, is sterile.
 - b. has not previously been used in connection with any other Client unless it consists of a material which can be and has been adequately cleaned and,

so far as is appropriate, sterilised.

21. The Licence Holder shall provide suitable and sufficient washing facilities to enable hygienic practices by all Operators including:
- a. A wash hand basin located to minimise the risk of cross contamination
 - b. Hot and cold running water at the wash hand basin
 - c. Drainage to the wash hand basin
 - d. Antibacterial soap
 - e. Drying facilities

All waste material and other litter from the treatment shall be placed in a suitably covered receptacle with adequate facilities provided for the disposal of the waste.

Nottinghamshire County Council Act 1985 (Part IV)**Licensing of Premises for Massage and/or Special Treatments****Part 2 – Conditions applicable to Establishments offering Sauna, Steam Rooms and/or Spa Pool Treatments**

In these conditions:

“Council” or “Local Authority” means the Local Authority who may issue a massage and special treatments licence.

“Establishment” means and includes any premises used or represented as being or intended to be used for the reception or treatment of persons requiring massage or special treatment.

“Licence Holder” means the holder of this Licence issued by the Council under Part IV of the Nottinghamshire County Council Act who is responsible for compliance with these conditions

“Premises” means the premises identified in the body of this licence as the place from which the Licence Holder operates.

“Sauna” means an insulated enclosure usually made of wood, together with heat generating equipment usually in the form of a heat-generating stove. Benches are provided within the sauna enclosure. Saunas provide a dry heat and the temperature may range from 85°C to 100°C for up to a 10 minute treatment.

“Spa Pool” means a pool full of warm water at approximately body temperature, designed for sitting in rather than swimming. It has jets of water, air bubbles or combination of both to provide a warm water massage. This includes jacuzzi and hot tubs in communal areas.

“Steam Room” means an enclosure made of an impervious material and steam generating equipment. They are designed to operate at temperatures of up to 50°C regulated by a thermostat with relative humidity of 80 to 100%. They produce a wet humid heat and are intended for indoor use. The treatment usually lasts between 6 and 12 minutes.

“User(s) or Client(s)” means any person receiving the massage or special treatment provided or operated by the Licence Holder.

Age

1. The Licence Holder shall ensure no person under the age of 16 is permitted to use the Sauna or Steam Room facilities alone. Persons aged 14 or 15 years are permitted to use the Sauna or Steam Room if accompanied by a parent or guardian.

Facilities

2. Guidelines on the safe use of the Sauna, Steam Room and/or Spa Pool shall be clearly displayed upon the entrance to the Sauna and/or Steam Room or near each unit.
3. Sauna/Steam Rooms shall have:
 - a) Adequate lighting to enable users to enter and exit safely
 - b) High and low level vents to provide adequate ventilation
 - c) A glazed panel to allow safe access and egress by Clients and supervising staff
 - d) A clock or timer visible to users from within the Sauna/Steam Room in order to monitor time elapsed in the Sauna and/or Steam Room facility
 - e) A thermometer indicating the temperature inside the sauna and/or steam room
4. Shower facilities shall be provided close to the Sauna, Steam Room and/or Spa Pool and Clients shall be advised to shower before entering.
5. A supply of fresh drinking water shall be available close to the Sauna and/or Steam Room, free of charge.
6. The temperature control device shall not be accessible to users of the Sauna and/or Steam Room.
7. Where the Sauna has hot coals, the coals shall be suitably protected by a guard rail or barrier that extends at least 100mm above the height of the coals.
8. There shall be a non-verbal alarm system in the facility linked to a manned reception area for summoning help when users are left unattended. The alarm shall continue to sound until it is manually switched to the 'off' position in order to silence it. The non-verbal alarm system shall be fitted within easy reach of a person using the equipment
9. The alarm system shall be tested daily when the Sauna, Steam Room and/or Spa Pool is available for use and the Licence Holder shall ensure records are maintained to show these checks are carried out by a competent person.
10. Clients shall be made aware of the alarm mechanism and how to use it.

Procedures

11. The Licence Holder shall have a written policy detailing the action to be taken in the event of the alarm system being activated. This shall be communicated to all relevant Operators.
12. The surface of the Sauna and/or Steam Room shall be cleaned and disinfected each day in accordance with manufacturer's instructions and with cleaning materials specified by the manufacturer.
13. The Licence Holder shall provide a procedure whereby all Steam Rooms are checked on a half hourly basis for cleanliness and for state of health of the user e.g. signs of fainting.

Spa Pool Management

14. Regular testing of the Spa Pool water shall be carried out by or on behalf of the Licence Holder to confirm that the water is chemically and bacteriologically within acceptable limits.
15. Records showing the pH and disinfectant levels (Chlorine, Bromine etc) shall be retained at the Establishment and be available to a Local Authority Officer upon request.
16. The Licence Holder must have a written policy of action to be taken in the event of an unsatisfactory microbiological result or other health concerns associated with use of the pool.
17. The Licence Holder shall have a written procedure detailing steps taken to ensure the maximum bather load for the facility is not exceeded.
18. The Spa Pool shall be emptied and refilled at regular intervals in accordance with the manufacturer's guidance and usage but in any event at least every week.
19. The water circulation system shall be in operation for a minimum of three hours per day.
20. Water jets shall be operated for a minimum of one hour per day.
21. The pool shall be drained and refilled if left unused for 5 days or more.

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Nottinghamshire County Council Act 1985 (Part IV)
Licensing of Premises for Massage and/or Special Treatments

Part 3 – Conditions applicable to Establishments offering the use of UV Tanning Equipment

In these conditions:

“Council” or “Local Authority” means the Local Authority who may issue a massage and special treatments licence.

“Establishment” means and includes any premises used or represented as being or intended to be used for the reception or treatment of persons requiring massage or special treatment.

“Licence Holder” means the holder of this Licence issued by the Council under Part IV of the Nottinghamshire County Council Act who is responsible for compliance with these conditions

“Operator” means any person providing a licensable treatment on behalf of the Licence Holder.

“Premises” means the premises identified in the body of this licence as the place from which the Licence Holder operates.

“User(s) or Client(s)” means any person receiving the massage or special treatment provided or operated by the Licence Holder.

“UV Tanning Equipment” means any electrically-powered device designed to produce tanning of the human skin by the emission of ultra-violet radiation, provided by or made available at the Establishment.

1. The Licence Holder shall not permit:
 - The use of UV tanning equipment by
 - the hire of UV tanning equipment by, or
 - the sale of UV tanning equipment to persons aged under 18 years
2. All UV tanning equipment shall be adequately supervised. Tanning equipment shall not be used without the knowledge and authorisation of staff. Self-service UV tanning equipment is prohibited.
3. The Licence Holder shall ensure appropriately trained and competent Operators are available to provide adequate advice, supervision and assistance to Users. The training shall include suitable instruction in the control, use and operation of UV tanning equipment and its health and safety aspects. This shall be documented and available upon request by an Authorised Officer of the Local Authority.
4. Users shall be given full instruction on how to operate the equipment correctly and safely.
5. The Licence Holder shall ensure all Users are assessed and the following details recorded:
 - the Users skin type
 - any Contra Indicators relevant to this type of treatment
 - a record of the date and details of each use by the User
 - confirmation that full instruction on how to operate the equipment correctly and safely has been given
6. The Licence Holder shall ensure the details recorded for each User required by Condition 5 above are reviewed on an annual basis. Evidence of the annual review shall be retained by the Licence Holder.
7. The Licence Holder shall prepare a schedule of maximum exposure times based on the information supplied by the manufacturer of the UV Tanning Equipment and/or bulbs and the Operator shall advise Clients of suitable exposure levels to avoid over-exposure.
8. The Licence Holder shall ensure that the user is only exposed to a suitable strength and length of treatment appropriate for the user's skin category thereby not exposing Clients to any undue risk from using UV tanning
9. All UV tanning equipment shall be compliant with a maximum UV output of 0.3W/m² as specified in BS EN 60335-2-27 and any superseding standard.
10. Service and repair of the UV Tanning Equipment shall be carried out by a competent person in accordance with the manufacturer's instructions or operating manual for the UV Tanning Equipment. The Licence Holder shall produce, upon request by an Authorised Officer of the Local Authority, maintenance records for the UV tanning equipment.

11. A readily identifiable emergency stop mechanism shall be provided within easy reach of the User using the UV tanning equipment for use in an emergency to enable the user to switch off the equipment.
12. A suitable and sufficient warning system shall be provided that is accessible by the User to enable them to summon assistance. This shall be maintained in working order at all times.
13. All doors to treatment areas and individual tanning booths shall be able to be locked for user privacy and be capable of being overridden in an emergency, to allow access and egress.
14. The Licence Holder shall provide adequate protective eyewear free of charge. The user shall be advised to wear eye protection at every tanning session. Eye protection shall be properly cleaned and disinfected between each use or single-use protection provided.
15. The Licence Holder shall provide suitable facilities for Users to enable the removal of cosmetics; body sprays etc before using of the UV tanning equipment.
16. Arrangements shall be made to ensure that the surface of the UV tanning equipment is cleaned and disinfected after each use in accordance with manufacturer's instructions.
17. Signs shall be displayed in prominent positions giving current guidance to users as to the risks associated with UV Tanning treatments.
18. Where new tubes are fitted to UV tanning equipment, signs shall be displayed in a prominent position advising users to reduce their exposure times. These warning signs shall be displayed in accordance with timeframes specified by the tube manufacturer.

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Nottinghamshire County Council Act 1985 (Part IV)
Licensing of Premises for Massage and/or Special Treatments

Part 4 – Conditions for the Use of Class 3B and Class 4 Lasers and Intense Light Systems (ILS)

In these conditions:

Authorised User	Means any person who is suitably qualified to use Class 3B and Class 4 Lasers and/or Intense Light Systems at the Premises
The Controlled Area	Means the room in which a specified piece of the Prescribed Equipment is used
Duty Holder	Means the legal duty holder for the purposes of the Nottinghamshire County Council Act 1985 and health and safety legislation
Expert Registered Healthcare Professional (ERHP)	The ERHP is an expert doctor, dentist, clinical scientist or registered nurse with verifiable clinical expertise in using laser/ILSs to treat patients/clients and who can demonstrate that they have the necessary knowledge and experience to produce a treatment protocol. The ERHP must also be registered with their appropriate professional body and must ensure that any protocols written are within their area of expertise
Intense Light System (ILS)	Means an intense light, being broadband non-coherent light which may or may not be filtered to produce a specified range of wavelengths; such radiation being delivered to the body with the aim of causing thermal, mechanical or chemical damage or physiological changes to structures such as the hair follicles, skin blemishes, or blood vessels while sparing surrounding tissues as far as is reasonably practicable. ILS includes IPL's (Intense Pulsed Light System).
Laser	Means a Class 3B or Class 4 laser product, as defined in part 1 of the BS EN 60825-1 (Safety of laser products – Equipment classification and requirements)
Laser Protection Advisor (LPA)	Means any person holding a current Certificate of Competence from a recognised assessing body to act as a Laser Protection Adviser or Radiation Protection

Adviser e.g. a member of the RPA 2000 or Association of Laser Safety Professionals (ALSP).

The LPA is the person providing expert advice on laser/IPL safety. The LPA will be knowledgeable and have expertise in matters relating to optical radiation equipment safety. The duties of the LPA include undertaking hazard analysis and risk assessment for each laser and IPL installation which are accepted by the employer to form part of the service's overall risk assessment framework. The LPA advises on laser/ILS safety training, the suitability of personal protective eyewear and ensuring that Local Rules are produced, signed, dated and implemented for each installation.

Laser Protection Supervisor (LPS)

Means a person having undergone the laser safety Core of Knowledge as defined by the Medicines and Healthcare Products Regulatory Agency and who is employed at the Premises to ensure that the Local Rules, risk assessments, operating practices, policies and procedures are implemented

The Local Rules

Means the Risk Assessments and Operating Practices prepared in accordance with condition 3 below

The Premises

Means the premises identified in the body of this licence as the place in which the Prescribed Equipment is operated

The Prescribed Equipment

Means the Laser/Intense Light System(s) identified in the body of this licence, as stipulated in the Premises Licence. The equipment must be legitimately CE-marked to indicate conformity with the relevant European Directive(s)

Specified Treatments

Means the treatments identified in the body of this Licence which are permitted to be carried out in the Premises using the Prescribed Equipment

The Treatment Protocol

Means a protocol produced or approved by an Expert Registered Healthcare Professional (ERHP) in relation to the practitioner's relevant area of practice which includes the matters specified in Condition 2.2 below

1. USE OF LASERS AND INTENSE PULSED LIGHT SYSTEMS

- 1.1. Only the Specified Treatments may be provided at the Premises and only the Prescribed Equipment may be used to provide those Treatments.
- 1.2. No person shall be permitted to use the Prescribed Equipment unless they are appropriately trained in accordance with Section 7 and listed on the Register of Authorised Users in accordance with Section 4.
- 1.3. This Licence shall be displayed in a prominent position within the Premises where it can be easily viewed by Clients.
- 1.4. Written confirmation shall be provided by the Client prior to treatment that the risks and complications associated with the treatment which they are about to receive have been explained to them and have been understood by them, and that they consent to the treatment.
- 1.5. No persons under the age of eighteen (18) years may receive Specified Treatment(s) unless for the purpose of medical treatment provided under the supervision or direction of a registered medical practitioner.

2. TREATMENT PROTOCOL

- 2.1. A Treatment Protocol shall be produced by an Expert Registered Healthcare Professional (ERHP) and submitted to the Council for each treatment, specific to the Prescribed Equipment used, before that treatment is carried out or the equipment is used. If any revisions or amendments are made to the Treatment Protocol during the term of the licence, a copy of the revised Protocol shall be submitted to the Council as soon as is reasonably practicable and in any event within seven working days of those revisions taking effect.
- 2.2. A Treatment Protocol shall include the following:
 - 2.2.1. name and technical specifications of the equipment to which the Protocol relates
 - 2.2.2. contraindications to treatment
 - 2.2.3. treatment technique – general
 - 2.2.4. the treatment technique specific to application
 - 2.2.5. the risks and complications to be explained to the Client prior to treatment
 - 2.2.6. cleanliness and infection control
 - 2.2.7. pre-treatment tests
 - 2.2.8. post-treatment care
 - 2.2.9. recognition of treatment-related problems
 - 2.2.10. emergency procedures
 - 2.2.11. permitted variation on machine variables

2.2.12.procedure in the event of equipment failure

2.2.13.a version number or date

- 2.3. The treatment protocol shall be signed by the Expert Registered Healthcare Professional (ERHP) to confirm that the document is fit for purpose.
- 2.4. The Treatment Protocol shall be followed at all times this licence is in force and the equipment remains Prescribed Equipment.

3. LOCAL RULES

- 3.1. Local Rules shall be produced and submitted to the Council for the Prescribed Equipment and if applicable for each handpiece on multi-platform laser/ILS to be used at the Premises before that equipment is used. If any revisions or amendments are made to the Local Rules during the term of the licence, a copy of the revised Local Rules shall be submitted to the Council as soon as is reasonably practicable and in any event within seven working days of those revisions taking effect.
- 3.2. The Licence Holder shall employ the services of a certified LPA to assist in the production of the Local Rules. Evidence of the LPA's laser/ILS certification should be available for reference on site.
- 3.3. The Local Rules document shall be issued, signed and dated by both the LPA and the duty holder.
- 3.4. The LPA shall visit the Premises in person initially to produce the Local Rules, risk assessments and operating practices. The risk assessment shall be signed, dated and include a date for next review/assessment.
- 3.5. A laser/ILS safety audit shall be completed every year and an on-site visit at least every four years by the LPA.
- 3.6. The Prescribed Equipment shall only be used in accordance with the Local Rules.
- 3.7. The Local Rules shall include information on the following:
 - 3.7.1. An assessment of the risks associated with the use of the Prescribed Equipment
 - 3.7.2. Device description (including output, serial numbers etc.) for all Prescribed Equipment
 - 3.7.3. Written procedures for safe use of the Prescribed Equipment (to include information on prevention of use by unauthorised persons; safe operation of device etc.)
 - 3.7.4. Adverse incident procedures including actions that shall be taken in cases of emergency e.g. eye exposure and details of the local accident and emergency department
 - 3.7.5. Emergency shutdown procedures (as set down in manufacturer's instruction manual or treatment protocol)

- 3.7.6. Details of the nominated LPA (including his or her name, business address and telephone number)
 - 3.7.7. Details of nominated the LPS (including his or her full name, business address and telephone number)
 - 3.7.8. Training requirements for Authorised Users for the use of Prescribed Equipment
 - 3.7.9. A detailed plan of the Controlled Area(s), showing each piece of the Prescribed Equipment to be used in the Area and details of access to the Equipment, together with a complete plan of the Premises
 - 3.7.10. Responsibilities of Authorised Users
 - 3.7.11. Details of Protective eyewear (including information relating to when eyewear be worn and the minimum specification of protection required)
- 3.8. The Local Rules shall be updated if there are any changes made to any of the items detailed in Condition 3.7 above. Each update shall be approved by the LPA.
- 3.9. The Local Rules relevant to each specific piece of Prescribed Equipment shall be kept in the Controlled Area relating to that piece of Equipment whilst it is being operated.

4. REGISTER OF AUTHORISED USERS

- 4.1. A Register of Authorised Users shall be kept at the Establishment which includes details of trained personnel and signed declarations by those individuals stating that they accept and understand the procedures drawn up for the use of Prescribed Equipment.
- 4.2. Copies of any training or qualification certificates held by the Authorised Users shall be kept with the Register of Authorised Users.
- 4.3. Authorised Users shall sign statements to the effect that they have read, understood and will follow Local Rules at all times.

5. REGISTER OF LASER USE

- 5.1. A register shall be maintained for each piece of Prescribed Equipment to record the following information each time that the equipment is operated:
 - 5.1.1. the full name, date of birth and address of the person treated or a unique link to the customer details kept elsewhere
 - 5.1.2. date and time of treatment
 - 5.1.3. the Authorised User's signature
 - 5.1.4. the treatment given, including the site and an indication of the size of the area treated, type of treatment; equipment used and Laser/ILS parameters used
 - 5.1.5. any accident or adverse effects

5.2. The Register shall be either:

- a. A bound hard copy book with sequentially numbered pages with the front page containing details of the name and serial number of Prescribed Equipment, or;
- b. An electronic record that does not allow overwriting to the original entry

6. LASER PROTECTION SUPERVISOR (LPS)

6.1. A suitably qualified and authorised member of staff having day to day responsibility for the premises shall be identified as the Laser Protection Supervisor (LPS), who shall ensure that the Register is maintained and the Local Rules and licence conditions are adhered to.

7. TRAINING

7.1. All Authorised Users shall hold the Core of Knowledge Training Certificate. Core of knowledge training shall be repeated periodically at least every 5 years.

7.2. Authorised Users shall only use the Prescribed Equipment for treatments for which they have received the appropriate training; including suitable and sufficient training provided by the manufacturer or supplier for each specific piece of Prescribed Equipment and if applicable each handpiece that they operate on a multi-platform laser/ILS.

7.3. All Authorised Users shall receive regular update training, both planned and in reaction to relevant technological and medical developments.

7.4. Details of all training shall be recorded in the Register of Authorised Users required by Condition 4.1 above.

8. CONTROLLED AREA

8.1. Prescribed Equipment shall only be used in a Controlled Area designated for its use in accordance with Condition 3.7.9 above.

8.2. The Controlled Area shall be clearly defined and not used for any other purposes, or as access or egress to other areas when treatment is being carried out.

8.3. An approved warning sign or light entry system which complies with current British Standards shall be in place on the door of the Controlled Area which shall only be on display when the Prescribed Equipment is in use.

8.4. The door to the Controlled Area shall be fitted with a suitable locking device to control access, which can be operated from the outside in an emergency.

8.5. Any windows in the Controlled Area shall be fitted with opaque blinds approved by the LPA, unless otherwise agreed in writing by the Local Authority.

8.6. The Controlled Area shall be kept clear of clutter.

- 8.7. Surfaces within the Controlled Area shall be of a matt or eggshell finish wherever possible. Mirrors and/or other reflective surfaces shall be covered or removed during treatment, and jewellery shall not be worn by the Authorised User or Client.
- 8.8. All Prescribed Equipment shall comply with current and any superseding standards (BS EN 60601-2-22; and BS EN 60601-2-57 for ILS) and shall display labels identifying them, their wavelength or range of wavelengths and the maximum output fluence, energy or power of the radiation emitted. The labels shall be clearly visible on the Prescribed Equipment.
- 8.9. Lasers/ILS's shall be serviced annually or in accordance with the Manufacturers' Instructions, by a competent person. A record of all such servicing, and any repairs to the Laser/ILS equipment shall be kept at the Premises.
- 8.10. The LPS shall ensure that the key or access code to any Prescribed Equipment is kept secure and only Authorised Users have access to the key or access code.
- 8.11. No more than one Prescribed Equipment shall be switched on in the Controlled Area during Client treatment.
- 8.12. When the Prescribed Equipment is in stand-by mode or in operation, the number of persons in the room shall be kept to a minimum.

9. PROTECTIVE EYEWEAR

- 9.1. Protective eyewear which has been approved in writing by the LPA shall be worn by everyone within the Controlled Area whenever there is a risk of exposure to the laser beam/intense light radiation.
- 9.2. All protective eyewear shall be clearly marked with the wavelength range and protection offered as detailed in the Local Rules and shall comply with BS EN 207:2009 for lasers and BS ISO 12609-1 and -2:2013 for ILS, as amended.
- 9.3. Protective eyewear shall be maintained in a clean serviceable condition. Suitable storage shall be provided for protective eyewear, to prevent damage and unauthorised access to the equipment. Eyewear shall be cleaned as per the manufacturer's instructions.

10. INSPECTION OF RECORDS

- 10.1. All records, training attendance certificates, and documents to which these conditions refer shall be kept on the Premises and shall be available for inspection by an Officer authorised by the Local Authority upon request.

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Report of the Chief Executive

Adoption of a Permanent Pavement Licence Scheme under the Levelling Up and Regeneration Act 2023

1. Purpose of Report

To advise Members of the new Permanent Pavement Licence Scheme which supersedes the Temporary Licence Scheme. To approve the adoption of the permanent pavement licence scheme and to seek approval for the licence fee.

2. Recommendation

The Committee is asked to RESOLVE that the Permanent Pavement Licence Scheme to replace the Temporary Pavement Licence Scheme is approved and the proposed fees for pavement licences be approved.

3. Detail

The Licensing Authority has very successfully run the Temporary Pavement Licence Scheme since its introduction providing assistance to local businesses and helping to improve and modernise the Town Centres, creating vibrancy for streets that were previously vacant. Amendments to the Business & Planning Act 2020, made by the Levelling Up & Regeneration Act 2023, have introduced a permanent pavement licensing scheme to replace the temporary scheme.

Under the legislation if the Council does not determine a permanent application in the specified time, the application will be deemed to be granted by the authority to the applicant. It is therefore necessary to introduce a permanent scheme to ensure that the Council is able to continue to provide this service and properly regulate pavement licences within the Borough.

The Business & Planning Act 2020 delegated the issue, administration and enforcement of Temporary Pavement Licences to Broxtowe Borough Council.

A Temporary Pavement Licence permits a pub, bar, restaurant, café, snack bar, coffee shop, or ice cream parlour to place street furniture in an approved location on the highway (defined as generally being footpaths restricted to pedestrians or roads and places to which vehicular access is restricted or prohibited).

Such a designated area is solely to provide for the serving and consumption of food and drink outdoors at such establishments, in order to continue to promote public safety in a post-COVID-19 world, and to give a boost to the hospitality sector as indoor capacities will be likely have been reduced during the pandemic. It also hopes to boost the vibrancy of localities by creating a “vibrant alfresco experience for all”.

The maximum fee permitted for a Temporary Pavement Licence was £100.00. However, the Council opted to charge a fee of £75.00, in order to assist businesses and remove financial burdens from them during a period of significant economic uncertainty.

With effect from 31 March 2024, the Levelling Up & Regeneration Act 2023 made amendments to the provisions of the Business & Planning Act 2020, to make the Temporary Scheme become a Permanent Scheme.

There are only a few changes between what was in place under the Temporary Scheme and what is required under the Permanent Scheme, namely:

- The 7 day consultation period for applications increases to 14 days.
- The 7 day period to hold a Hearing following the close of consultation for contentious applications increases to 14 days.
- The Council can set fees for such licences (subject to new maximum permitted levels).
- Licences can be issued for a maximum period of 2 years, or less.
- The Council is provided with the powers to enforce designated Pavement Licence areas.

Government Guidance on the provisions of the Permanent Pavement Licence Scheme is attached at **Appendix 1**.

The standard conditions, application form, and site notice devised by the Licensing Managers of Broxtowe and Ashfield, and used by all of the Nottinghamshire Councils have been amended to be taken forward under the Permanent Scheme, simply by removing the word “Temporary”, and offering licences for the duration of 12 months or 24 months. Licences to be issued for a shorter period than 12 months would be at the discretion of the Chair to any Hearing for a contentious application. A copy of the standard conditions is attached at **Appendix 2** the application form at **Appendix 3**, and the site notice at **Appendix 4**.

The Licensing Manager has calculated the fees for new licences and renewal applications for 1 year and 2 year periods, and the proposed fees are:

- New Licence (1 Year): £250.00
- New Licence (2 Years): £300.00
- Renewal Licence (1 Year): £250.00
- Renewal Licence (2 Years): £300.00

The authority to determine Temporary Pavement Licence applications is delegated to the Chief Executive /Head of Environmental Health, Licensing and Private Sector Housing.

4. Financial Implications

The comments from the Head of Finance Services were as follows:

The Council can anticipate a nominal uplift in fees and charges income from this licensing stream which will be reflected in the budget setting for 2025/26.

5. Legal Implications

Any comments from the Monitoring Officer / Head of Legal Services will be presented at the meeting.

6. Human Resources Implications

The comments from the Human Resources Manager were as follows:

Not applicable.

7. Union Comments

The Union comments were as follows:

Not applicable.

8. Climate Change Implications

The climate change implications are contained within the report.

9. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no Data Protection issues in relation to this report.

10. Equality Impact Assessment

Not applicable.

11. Background Papers

Nil.

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Guidance

Pavement licences: guidance

Published 2 April 2024

Applies to England

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This publication is available at <https://www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance>

1. Pavement licences

1.1 What is a pavement licence?

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes. The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the Business and Planning Act (BPA) 2020 that streamlined the process to allow businesses to secure these licences quickly. Licences that are deemed to have been granted, should remain in place for such period as the local authority may specify in the licence, with a maximum limit of two years. Existing licences with no end date are extended to 2 years from the commencement date. Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.

1.2 What is the purpose of the Business and Planning Act 2020 process for pavement licences?

The Business and Planning Act process provides a streamlined and cheaper route for businesses such as cafes, restaurants, and bars to secure a licence to place furniture on the highway. This will provide much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.

1.3 What does the Levelling Up and Regeneration Act do to the pavement licensing regime?

The Levelling Up and Regeneration Act makes permanent the pavement licensing regime under the Business and Planning Act 2020, with a number of changes. The Levelling Up and Regeneration Act introduces a standard fee cap for both new and renewals of licences as well as increased consultation and determination periods, lengthens the maximum duration of licences and provides local authorities with new powers to remove unlicensed furniture.

1.4 How does the process for pavement licences work?

Permission to place objects or structures on the highway are otherwise granted primarily under Part 7A of the Highways Act 1980. The fee for the Highways Act process varies between local authorities, and there is a minimum 28 calendar day consultation period. The Business and Planning Act process provides a cheaper, easier, and quicker way for businesses to obtain a licence. The fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals and the public consultation period is 14 days (excluding public holidays), starting the day after the application is sent electronically to the authority.

If the local authority does not determine the application before the end of the determination period (which is 14 days beginning with the first day after the end of the public consultation period, excluding public holidays), the licence is deemed to have been granted for two years and the business can place the proposed furniture such as tables and chairs within the area set out in the application for the purpose or purposes proposed.

1.5 What businesses are eligible?

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

1.6 What furniture can be permitted by a licence?

The furniture which may be placed on the pavement include:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;

- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable and related to the serving, sale and consumption of food or drink. Local authorities should be pragmatic when determining what is 'removable' but in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away at night.

1.7 What furniture is not permitted by a licence?

Furniture that is not removable and used in connection with the outdoor selling or consumption of food or drink are not permitted by a pavement licence.

Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

Applicants that wish to place non-removable furniture onto the highway must apply for permission under the Highways Act 1980.

1.8 How much do applications cost?

Fees will be set locally, and it is for the licensing authority to determine the appropriate charge. Fees are capped at a maximum of £500 for first time applications and £350 for renewals.

1.9 Are there any exclusions from this provision?

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footways restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order made under section 249(2) or 249(2A) of the Town and Country Planning Act 1990, extinguishing the right to use vehicles on the highway, is required.

1.10 Where does this new process apply?

This process applies to England only, including London and other areas where statutory regimes other than the regime in the Highways Act 1980 may be relevant to the grant of licences for street furniture.

1.11 Which authority can exercise pavement licence functions?

Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of their functions by a committee, a sub-committee, or an officer of the authority, or by any other local authority. This means that the executive of a local authority can delegate decisions to a committee, or officer of the authority. They may also wish to delegate the functions to another authority, for example to a County Council in a two-tier area.

1.12 How does this interact with other regulatory process, such as alcohol licensing?

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses.

Temporary amendments to the Licensing Act 2003, under the Business and Planning Act 2020, allow the sale of alcohol by eligible holders of an on-sale licence for consumption off the premises without needing to apply for a variation of their licence. These temporary amendments apply if the premises had a licence that permitted sales of alcohol only for consumption on the premises on 22 July 2020, and the premises still retain that licence. More details can be found in the [guidance accompanying the Business and Planning Act 2020](https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill) (<https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>). This is currently in place until 31 March 2025. It will remain legally independent and separate from the pavement licences process.

Local authorities must have regard to the Public Sector Equality Duty, under the Equality Act 2010 when devising and implementing the new licensing regime, which includes the need to have due regard to eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act. Any businesses which apply for a pavement licence will also need to

have regard to their own duties under the Equality Act 2010, such as their duty under section 29 of the Act not to discriminate in providing their service and the duty to make reasonable adjustments.

1.13 Does the applicant need planning permission as well as the licence?

No. Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

2. Duration

2.1 How long are pavement licences valid for?

If a local authority determines an application before the end of the determination period (which is 14 calendar days, beginning with the first day after the end of the public consultation period, excluding public holidays), the authority can specify the duration of the licence. To help support local businesses and give them more certainty, the expectation is that local authorities are pragmatic and will grant licences the maximum 2 years, unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for two years starting with the first day after the determination period. However, if, when implemented, a licence that has been deemed granted does not meet the conditions set out in the legislation or any local conditions, it can be revoked at any time on the grounds that it has breached the conditions.

2.2 When will the permanent pavement licensing come into force?

The permanent pavement licensing regime and changes provided for in Levelling Up and Regeneration Act will come into effect on 31 March 2024 (the commencement date). This means that local authorities are able to grant pavement licences to new applicants under this regime effectively immediately from this date.

2.3 How long will the pavement licensing process set out in the Business and Planning Act be in place?

The process set out in the Business and Planning Act is made permanent as amended by the Levelling Up and Regeneration Act.

3. Applications

3.1 What information does an applicant need to provide?

An application to the local authority must:

- specify the premises and, the part of the relevant highway to which the application relates;
- specify the purpose (or purposes) for which the furniture will be used which must be for use by the licence-holder to sell or serve food or drink, and/or for use by other people for the consumption of food or drink. In both cases the food or drink must be supplied from, or in connection with relevant use of the premises;
- specify the days of the week on which and the hours between which it is proposed to have furniture on the highway;
- describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;
- specify the date on which the application is made;
- contain or be accompanied by such evidence of public liability insurance in respect of anything to be done pursuant to the licence as the authority may require; and
- contain or be accompanied by such other information or material as the local authority may require, for example how national and local conditions have been satisfied.

Local authorities may require applications to be made on a standard application form.

3.2 What other information may the local authority require?

Local authorities may require the applicant to provide other information or material to help them make a swift determination. This could be included in their standard application form. Publicising information requirements, and applicants ensuring that they have provided all relevant information to meet these requirements, is beneficial to all parties involved in the process and can speed up decision making. Any requirements imposed should be reasonable and should be kept as minimal as possible. Examples of the information a local authority might require include:

- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified (some authorities may require this on an OS Base Map);
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown;
- the proposed duration of the licence (for e.g. 3 months, 6 months, a year etc.);
- evidence of the right to occupy the premises e.g. the lease;
- contact details of the applicant;
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- evidence that the applicant has met the requirement to give notice of the application (for example photograph);
- (if applicable) reference of existing pavement licence currently under consideration by the local authority
- any other evidence that shows how the furniture to be introduced is in accordance with national guidance regarding accessibility (such as use of good colour contrast, suitable physical barriers around chairs and tables and or other appropriate measures); and
- any other evidence needed to demonstrate how any local and national conditions will be satisfied, including the 'no-obstruction' national condition.

3.3 What are the transitional arrangements?

Existing pavement licences granted under the Business and Planning Act 2020, prior to the commencement date, will remain valid until the expiration date on the licence, given to them by the licensing authority. Once this has expired, businesses will need to apply for a new licence. Licensing authorities should treat this as a renewal application if it is made by the licence-holder, it is in respect of the same premises and it is on the same terms as the expired licence.

Licences determined before the 31 March 2024 will be subject to the enforcement powers set out in the permanent regime.

Any pavement licence that was granted under the Business and Planning Act 2020 before the commencement date with no limit on its duration, or that was deemed to be granted will expire 2 years from the commencement date. Any permission that was granted by a council under the Highways Act 1980 before the commencement date will continue under that legislation.

Applications made (and submitted to the local authority) on or before 30 March 2024 but determined on or after 31 March 2024 will be subject to a 7-day consultation, 7-day determination period. The maximum fee that can be charged for applications during this timeframe is £100. However, these licences can be granted for up to 2 years.

3.4 How should applications for renewals of licences granted under the temporary provisions be submitted?

To obtain a licence for any period after 31 March 2024, a new application will need to be made even if the premises already had a licence until 31 March 2024.

An application will need to have been made after the commencement date for it to be treated as a renewal. Local authorities are encouraged to take a proportionate approach to information requirements for businesses seeking a new pavement licence where a licence has existed, so that this is as convenient as possible for businesses and members of the public. An example of a proportionate approach could be allowing applicants to re-use application material from their original application, updating where relevant to ensure they still comply with local and national conditions.

Businesses who have had a licence under the previous regime and are seeking a new licence should be treated as a renewal application if it is made by the licence-holder, it is in respect of the same premises and it is on the same terms as the expired licence.

3.5 Can licensable activities still be granted under the Highways Act?

Any licence applications for activities in England licensable under pavement licensing legislation in the Business and Planning Act 2020 must be granted under the Business and Planning Act 2020 (as amended by section 229 of and schedule 22 to the Levelling Up and Regeneration Act). They should not be granted under the Highways Act 1980.

Applicants will still need to apply for permission to carry out activities not licensable under the Pavement Licensing regime, under the Highways Act 1980. Example of such activities include the placement of furniture that is not removeable, such as bolted to the ground or cannot be reasonably removed, or placement of furniture other than tables, chairs or stools on the highway.

3.6 What happens if an applicant has already made an application under the Highways Act 1980 regime?

It remains open for an applicant to apply for permission to place furniture on the highway under the Highways Act 1980. If the applicant has applied for permission under the Highways Act before the commencement date, but the Highways Authority has not determined the application, the applicant can instead apply for a pavement licence under the Business and Planning Act 2020. In those circumstances the pending application will be deemed to have been withdrawn. If the fee for the pending application was paid the authority will not be permitted to charge a fee for the new application for a pavement licence.

From the commencement date, a council may not grant an applicant permission to do anything which is capable of being authorised by a pavement licence under the Business and Planning Act 2020.

3.7 What happens if an applicant has already made an application under the Business and Planning Act 2020 regime?

Licences applied for prior to the commencement date, but not yet determined by the local authority until after the commencement date, will be subject to the 7-day consultation and 7-day determination period. Though the maximum duration a local authority can grant the licence can be up to 2 years.

4. National conditions

The 2020 Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted; these are: a no-obstruction condition and a smoke-free seating condition. These apply only to licences granted under the Business and Planning Act 2020, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation.

4.1 How can the local authority and applicant consider the needs of disabled people when considering whether the requirements of the no-obstruction condition are met?

The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act. When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

- Section 3.2 of [Inclusive Mobility](https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians) (<https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>) - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway. Advertising boards are not included in the definition of

furniture within the pavement licensing regime, therefore, should not be used as a barrier;

- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs;
- the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

Section 149 of the Equality Act 2010 places duties on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not and foster or encourage good relations between people who share a protected characteristic and those who don't.

4.2 What is reasonable provision for seating where smoking is not permitted?

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.

- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

4.3 Where an authority has set a local condition covering the same matter as a national condition, which take precedence?

Where a local authority sets a local condition that covers the same matter as set out in national conditions, then the locally set condition would take precedence over the national condition where there is reasonable justification to do so.

5. Determining the application

5.1 What happens once the information is submitted to the local authority?

Once the information is submitted to the local authority, the authority has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 calendar days for public consultation, and then 14 calendar days to consider and determine the application after the consultation.

If the local authority does not determine the application within the 14-day determination period, the application will be deemed to have been granted subject to any local conditions published by the local authority before the application was submitted.

5.2 What will a local authority consider when deciding whether to grant a pavement licence?

The local authority will need to consider a number of factors, when determining whether to approve the application. These include whether local conditions might be needed to make it possible to approve an application which would otherwise be unacceptable.

The Secretary of State may specify conditions for pavement licences, in Regulations (although to date there has not been a need to do so). This is in addition to the statutory 'no obstruction' condition referred to in sections 5(4) and 3(6) of the Business and Planning Act 2020 Act and 'smoke-free' seating condition.

Authorities are encouraged to publish local conditions subject to which they propose to grant pavement licences so that applicants and those making representations are aware of them. When considering their powers in relation to local conditions they should bear in mind the requirements of the no-obstruction condition and the smoke-free seating condition. They should also take into account any national conditions which may be specified in the future in Regulations.

When setting local conditions and determining applications, issues authorities will also want to consider include:

- public health and safety including security – for example, any reasonable crowd management measures needed as a result of a licence being granted;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, and litter;
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings, and its users, taking account of:
- considerations under the no-obstruction condition including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people
- any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
- whether there are other permanent street furniture or fixed structures in place on the footway that already reduce access; and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

5.3 How can local authorities consider security?

When considering public health and safety, local authorities should seek to ensure a balanced consideration for security implications, particularly the risk to

groups of people from interaction with hostile vehicles, and the creation of large crowds in new public spaces. The impact of several pavement licences in an area may result in larger, distributed, or dense crowds of people. Local authorities should factor this into the security planning process and ensure the [overall security arrangements for an area are adapted as appropriate](https://www.protectuk.police.uk/) (<https://www.protectuk.police.uk/>). Examples of appropriate measures could include increased CCTV surveillance, manned guarding, vehicle security barriers and ACT (Action Counters Terrorism) training for businesses. Find more information about [ACT Awareness Products](https://www.protectuk.police.uk/catalogue) (<https://www.protectuk.police.uk/catalogue>).

Local authorities should consider consulting with Police Licensing Teams, Designing Out Crime Officers and Counter Terrorism Security Advisors for relevant advice.

Additional [guidance is available for managing the most common security implications](https://www.protectuk.police.uk/user/login?destination=/advice-and-guidance/risk/pavement-licences-how-can-local-authorities-consider-security) (<https://www.protectuk.police.uk/user/login?destination=/advice-and-guidance/risk/pavement-licences-how-can-local-authorities-consider-security>) and how to protect crowds and [queues of people](https://www.cpni.gov.uk/system/files/documents/cd/70/CPNI%20and%20NaCTSO%20Advice%20Note%20-%20Protecting%20pedestrian%20queues%20from%20Vehicle%20As%20a%20Weapon%20Attack%2015%20Sept%202020%20V02.pdf) (<https://www.cpni.gov.uk/system/files/documents/cd/70/CPNI%20and%20NaCTSO%20Advice%20Note%20-%20Protecting%20pedestrian%20queues%20from%20Vehicle%20As%20a%20Weapon%20Attack%2015%20Sept%202020%20V02.pdf>). This includes information on suggested Counter Terrorism licence considerations, which local authorities are encouraged to consider when determining pavement licence applications.

5.4 Can local authorities impose conditions which are not published?

Yes. When they grant a licence, local authorities may impose reasonable conditions whether or not they are published upfront. There is an expectation these will be supported by a clear justification for the need of a condition, such as evidence raised during the consultation, which is in addition to any published local conditions. Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this. Conditions imposed by the local authority should be proportionate and tailored to the applicant's premises.

5.5 How can local authorities and applicants maintain outdoor spaces safely, following confirmation of the removal of social distancing measures?

There are no COVID-19 restrictions in the UK and since 19 July 2021, social distancing guidance no longer applies. This means that local authorities and businesses are not expected to adhere to COVID-19 regulations and do not need to implement social distancing (2m or 1m+) and the public do not need to keep apart from people they don't live with. However local authorities and businesses may wish to consider that some people may make a personal choice and limit their close contact with others. Businesses still have a legal duty to manage risks to those affected by their business. The way to do this is to carry out a health and safety risk assessment and to take reasonable steps to mitigate the risks businesses identify from the assessment.

5.6 What are the outcomes of an application?

If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

To the extent that conditions imposed on a licence by the local authority do not have the effects specified in the statutory conditions (see [paragraph 4.1](#) and [paragraph 4.2](#)) the licence is granted subject to those requirements.

5.7 Is there a route to appeal a decision?

There is no statutory appeal process for these decisions, however, councils may wish to consider the scope for an internal review process, for example permitting appeals to their Licensing committee.

6. Consultation

6.1 What steps should an applicant take to engage with their community?

The applicant is required to affix a notice to the premises, so it is easily visible and legible to the public on the day they submit the application to the local authority. They must ensure the notice remains in place for the duration of the public consultation period which is the period of 14 days beginning with the day after the day the application is submitted to the authority. When counting 'days' public holidays are not included. Applicants are encouraged to keep evidence of this. Applicants are encouraged to engage with any services operated in the vicinity for vulnerable customers, for example, care home or disability organisations nearby where individuals may be at particular risk.

6.2 What must a notice contain?

The notice must:

- be in the form which the local authority prescribes, if it prescribes one;
- state that the application has been made and the date on which it was made;
- indicate that representations relating to the application may be made to that local authority during the public consultation period and when that period comes to an end; and
- contain such other information or material as that local authority may require, for example a description of how the applicant will adhere to the national conditions.

The applicant is encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

6.3 What information may local authorities require to be displayed on the site notice?

The local authority may require that other information is included in the notice such as:

- the statutory provisions under which the application is made;
- description of the proposed use of the furniture;
- address of the premises and name of the business;
- website for the council where the application and any accompanying material can be viewed during the consultation period;
- address (which might be an email address) to which representations should be sent during the consultation period.

A template site notice local authorities may wish to adapt is contained in [Annex A \(https://www.gov.uk/government/publications/pavement-licences-draft-guidance\)](https://www.gov.uk/government/publications/pavement-licences-draft-guidance).

6.4 Who must local authorities consult?

The local authority must consult the highways authority to which the application relates, if they are not the highways authority; this is usually the County Council in a two-tier area. Transport for London is the highway authority for some roads in London. For security advice, local authorities should consult Police Licensing Teams, Designing Out Crime Officers or Counter Terrorism Security Advisors. The authority must also consult such other persons as the local authority considers appropriate.

6.5 How can members of the public make representations about the application?

Members of the public can contact the council to make representations. Local authorities must take into account representations received from members of the public during the public consultation period, which is the period of 14 days starting the day after the application is submitted. In order to promote accessibility to those unable to access printed notices, Local authorities are encouraged to consider using digital methods of publicity. They should also consider the needs of those who may find it more difficult to access online publications and should consider ensuring that all formats of consultation are available at the same time, so that all representations can be considered equally.

6.6 How must local authorities publicise the application and seek representations from local communities and other stakeholders?

The local authority is required to publish the application and any information or material which the applicant has submitted with it to meet the requirements of the authority, in such a manner as it considers appropriate, for example, on their website or via an online portal.

The local authority is also required to publicise the fact that representations may be made during the public consultation period and when that period comes to an end. Local authorities might consider using digital methods of publicity,

such as automatic notices, which members of the public can opt in to receive. In deciding what steps to take local authorities should consider the needs of those who may find it more difficult to access online publications.

When publishing applications and publicising the fact that representations can be made, authorities will need to have regard to their duties under the Equality Act 2010 and will need to meet the requirements in the Public Sector Bodies (Websites and Mobile Applications) (No 2) Accessibility Regulations 2018, and therefore ensure that these are made accessible.

7. Enforcement

7.1 In what circumstances can the local authority enforce or revoke a licence?

If a condition imposed on a licence (either by the local authority or nationally) is breached, the local authority will be able to issue a notice requiring the breach to be remedied. If the licence-holder fails to do so, the local authority may amend the licence, with the consent of the licence-holder, revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing. Local authorities are encouraged to regularly review licences and enforce any breaches.

The authority may revoke a licence, or amend it with the consent of the licence holder, in the following circumstances:

1. If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.
2. Or if there is evidence that:
 - there are risks to public health or safety – for example where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
 - this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or

- the use is causing, or risks causing, anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up.

The local authority may revoke a licence in the following circumstances:

1. For a breach of condition, (whether a remediation notice has been issued or not) or
2. It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
3. The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period.

It is good practice for local authorities to give reasons where these powers are used.

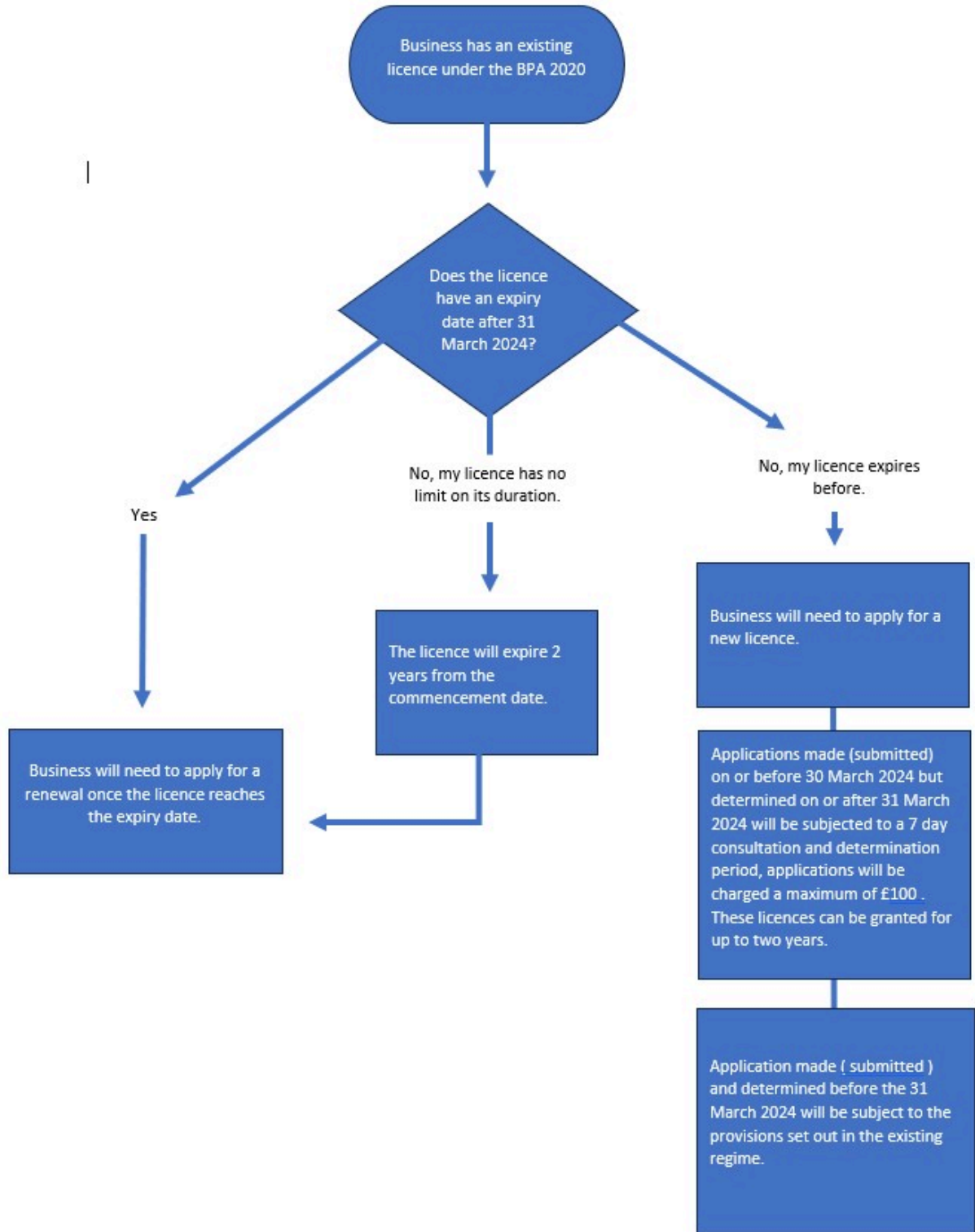
7.2 When can furniture be removed?

In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, local authorities can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

8. Annex

8.1 Transitional arrangements flowchart



Accessible version

Business has an existing licence under the BPA 2020

Does the licence have an expiry date after 31 March 2024?

If yes:

Business will need to apply for a renewal once the licence reaches the expiry date.

If no, my licence has no limit on its duration

The licence will expire 2 years from the commencement date.

Business will need to apply for a renewal once the licence reaches the expiry date.

If no, my licence expires before:

Business will need to apply for a new licence

Applications made (submitted) on or before 30 March 2024 but determined on or after 31 March 2024 will be subjected to a 7 day consultation and determination period, applications will be charged a maximum of £100 . These licences can be granted for up to 2 years.

Application made (submitted) and determined before the 31 March 2024 will be subject to the provisions set out in the existing regime.

OGI

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Broxtowe
Borough
COUNCIL

Broxtowe Borough Council
Licensing Section
Public Protection Division
Council Offices, Foster Avenue,
Beeston, Nottingham, NG9 1AB
Phone: 0115 917 7777
Email: licensing@broxtowe.gov.uk

Appendix 2

BUSINESS AND PLANNING ACT 2020 **PAVEMENT LICENCE STANDARD CONDITIONS**

Each application will be treated on its own merits. Broxtowe Borough Council (the Council) reserves the right to refuse applications or to apply such conditions as it thinks fit. Applicants should be aware that it will be necessary to display a notice of application for 14 days starting on the day after the application is served on the Council.

1. **Sole Purpose of the Licence:** A Pavement Licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food and drink supplied from, or in connection with the use of the premises.
2. **Production of the Licence on Demand:** The Pavement Licence shall be displayed in the window of the premises to which it relates. Any failure to do so may result in an Authorised Officer requiring the removal of the items from the highway.
3. **Site Constraints:** Any street furniture placed within the permitted area of the Pavement Licence shall not obscure sight lines for any highway user, interfere with drainage, or, conflict with dropped crossings, etc.
4. **Defining the Pavement Licence Area:** The Council (or its Agent) may, if necessary, discreetly mark on the highway the extent of the Pavement Licence area to ensure its accurate location.
5. **Street Furniture:** The Pavement Licence permits the following items to be placed on the permitted area of the highway:
 - Counters or stalls for selling or serving food or drink
 - Tables, counters, or shelves on which food and drink can be place.
 - Chairs, benches or other forms of seating, and:
 - Umbrellas, barriers, heaters, and other articles used in connection with the outdoor consumption of food or drink
 - The furniture must be removableThe specification of all furniture must be approved by the Council or its Agent.
6. **Barriers:** A barrier approximately 1.0m high and incorporating a tapping rail not more than 150mm above the ground must be provided to guide persons safely around the Pavement Licence area. Barriers must not be permanently fixed to the ground within the public highway. Barriers must be designed to resist collapse or movement (e.g. by being blown over or accidentally stumbled into). The

specification of barriers must be approved by the Council or its Agent. The barriers & seating should be arranged so as to prevent chairs or personal affects (e.g. shopping) escaping the area of the café and encroaching into the walked highway.

7. **Emergency Exits:** All emergency exits and routes from buildings must be kept clear.
8. **Hours of operation:** As stated on the Pavement Licence. However, the Council will generally only permit the licence to operate between 09.00 and 23.00.
9. **Removal of Furniture:** All street furniture and all barriers must be removed from the highway at the end of the working day and shall not be stored within the highway.
10. **Other Licences/Permissions:** None
11. **Obstruction/Danger/Nuisance on the Highway:** The Licence Holder shall not cause any obstruction or danger to people using the highway. The Licence Holder is responsible for the conduct of people within the area of the Pavement Licence, allowing rowdy or unruly behaviour may lead to the revocation of the licence.
12. **Noise/Nuisance Control:** Noise, disturbance, smells or litter which cause a nuisance to the owners or occupiers of any adjacent premises or to members of the public are not acceptable. Amplified music will not be permitted.
13. **Surface of the Highway:** The Licence Holder shall not undertake any alterations to the highway surface.
14. **Cleansing of the Area:** The Licence Holder will ensure that the area permitted by way of the Pavement Licence is maintained in a clean and tidy condition and they shall take all necessary precautions to prevent the highway from becoming littered as a result of their trading activities.
15. **Liability Insurance / Indemnity:** The Licence Holder is required to indemnify the Council and it's agents against all losses and claims for injuries (including death illness and disease) or damage to any person or property whatsoever, and, against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising directly or indirectly out of the granting of this Licence. To this end, the applicant must obtain and maintain third party public liability insurance which offers indemnity to principle. The level of cover must be to a minimum value of £5,000,000 for any one incident. Evidence of valid insurance for the pavement café area must be made available when demanded by a duly authorized officer or agent of the Council. The Licence Holder will be required to produce proof of valid insurance to the Council, or its agent, on an annual basis.
16. **Consumption of Alcohol:** The Pavement Licence does not give, or imply any permission to supply intoxicating liquor in the street, such consumption must not take place beyond the perimeter of the designated area of the Pavement Licence.
17. **Advertising:** Advertising alcoholic or smoking products, or their manufacturers, will not be permitted on barriers or furniture associated with the Pavement Licence.

Logos / legends on barriers etc. may only relate to the premises or business and will require the approval of the Council, or it's Agent. No advertising shall be displayed that may cause offence or alarm to any person.

- 18. Suspension of Permission:** If so requested in an emergency by a Police Officer, Fire Brigade Officer, Ambulance Attendant or Statutory Undertaker, or by the Highway Authority for the purpose of maintaining the highway, the Licensee shall remove the permitted street furniture from the highway.
- 19. The Pavement Licence is non-transferable:** The Licence is not a transferable asset which might be sold with a change in ownership of the premises.
- 20. Enforcement:** If a condition imposed on a licence (either by the local authority) or nationally is breached the local authority will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs. The authority may revoke a licence in the following circumstances:
 1. *For breach of condition, (whether or not a remediation notice has been issued) or*
 2. *Where:*
 - *There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;*
 - *the highway is being obstructed (other than by anything permitted by the licence);*
 - *there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;*
 - *it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or*
 - *the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.*
 3. *The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. It is good practice for local authorities to give reasons where these powers are used.*
- 21. Unpublished Conditions:** The Council may impose reasonable conditions whether or not they are published upfront. There is an expectation these will be supported by a clear justification for the need of a condition which is in addition to any published local conditions. Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this.

NATIONAL CONDITION (APPLICABLE TO ALL PAVEMENT LICENCES):

The Secretary of State publishes this condition in exercise of his powers under Clause 5(6) of the Business & Planning Act 2020:

- 22.** Clear route of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended footway widths and distances required for access by mobility impaired or visually impaired people as set out in Section 3.1 of inclusive Mobility:
<https://www.gov.uk/government/publications/inclusive-mobility> which states:

A clear width of 2000mm allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be 1000mm clear space. The maximum length of restricted width should be 6 metres (see also Section 8.3). If there are local restrictions or obstacles causing this sort of reduction in width they should be grouped in a logical and regular pattern to assist visually impaired people.)

- 23.** Where the furniture to be put on the highway consists of seating for use by persons for the purpose of consuming food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted.

**BUSINESS AND PLANNING ACT 2020
PUBLIC NOTICE: APPLICATION FOR A PAVEMENT LICENCE**

NAME OF APPLICANT:	
DOES HEREBY GIVE NOTICE THAT ON:	INSERT DATE APPLICATION SUBMITTED TO COUNCIL
HAS APPLIED TO BROXTOWE BOROUGH COUNCIL FOR A PAVEMENT LICENCE AT:	
NAME OF PREMISES:	
ADDRESS OF PREMISES (INCLUDING POST CODE):	
THE APPLICATION IS FOR THE PROVISION OF REMOVABLE FURNITURE PLACED ON THE HIGHWAY TO ENABLE THE SALE, SERVICE AND/OR CONSUMPTION OF FOOD AND DRINK SUPPLIED FROM, OR IN CONNECTION WITH THE RELEVANT USE OF THE PREMISES.	
ANY PERSON WISHING TO MAKE REPRESENTATIONS TO THIS APPLICATION MAY DO SO BY WRITING TO: Broxtowe Borough Council, Licensing Section, Foster Avenue, Beeston, Nottingham NG9 1AB or by email at: licensing@broxtowe.gov.uk	
DEADLINE FOR REPRESENTATIONS:	14 DAYS FROM DAY AFTER APPLICATION SUBMITTED TO COUNCIL
THE APPLICATION AND INFORMATION SUBMITTED WITH IT CAN BE VIEWED ON THE COUNCIL WEBSITE: www.broxtowe.gov.uk	
SIGNATURE OF APPLICANT:	
DATE NOTICE PLACED ON PREMISES:	INSERT DATE NOTICE PLACED ON FRONT WINDOW OF PREMISES

A COPY OF THIS NOTICE MUST BE SUBMITTED WITH THE APPLICATION AND AFFIXED TO THE PREMISES SO THAT THE NOTICE IS READILY VISIBLE AND CAN BE READ BY MEMBERS OF THE PUBLIC WHO ARE NOT ON THE PREMISES.

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Appendix 3



Broxtowe Borough Council
 Licensing Section
 Public Protection Division
 Council Offices, Foster Avenue,
 Beeston, Nottingham, NG9 1AB
 Phone: 0115 917 7777
 Email: licensing@broxtowe.gov.uk

APPLICATION FOR A PAVEMENT LICENCE (OUTDOOR SEATING)

A Pavement Licence is an agreement to place “street furniture” on the highway solely for the purpose of the consumption of food and drink. There is a fee payable for a Pavement Licence.

Pavement Licences issued under the Business & Planning Act 2002 can be applied for a minimum period of 12 months, or a maximum period of 24 months.

The grant of a Pavement Licence is subject to “National & Standard Conditions” which can be found at <https://www.broxtowe.gov.uk/for-business/licences-permits/business-licences/pavement-licences/>

Where the applicant is not the owner of premises, written confirmation of consent to operate a Pavement Licence at the premises from the property owner(s), or, freeholder(s), or, managing agent is required.

Applicants must provide a Location Plan (to scale of 1:200) detailing the premises and the area sought to be used by the Pavement Licence highlighted in red (including dimensions), listing the name of the highway to be used, and detailing the layout of furniture. Images of the Street Furniture should also be submitted.

Duration of Pavement Licence:

Please tick below for how long you want the Pavement Licence to last:

12 Months

24 Months

Details of Applicant:

Full Name: _____

Address: _____

Postcode: _____

Telephone number: _____

Email: _____

Details of Premises:

Premises Name: _____

Address: _____

Postcode: _____

Telephone number: _____

Details of Owner of Premises:

Owners Name: _____

Address: _____

Postcode: _____

Telephone number: _____

Email: _____

Details of Highway to be used for proposed Pavement Licence:

Name of Highway: _____

Details of Street Furniture proposed:

Insert the number of items that you intend to use as your Street Furniture:

Tables: _____ **Chairs:** _____

Counters:	_____	Benches:	_____
	_____		_____
Umbrellas:	_____	Heaters:	_____
	_____		_____
Barriers:	_____	Plants:	_____
	_____		_____

Proposed timings for use of Outdoor Area:

Please complete in 24 Hour Clock format

Day of week	Start Time	Finish Time
Monday:	_____	_____
Tuesday:	_____	_____
Wednesday:	_____	_____
Thursday:	_____	_____
Friday:	_____	_____
Saturday:	_____	_____
Sunday:	_____	_____

Checklist

The following additional information must be submitted with your application form (please “tick” each box to confirm that you have enclosed the following additional information with your application):

- The completed Pavement Licence Application Form**
- The Location Plan (scale 1:200) showing the name of the highway, the proposed area applied for (including dimensions), and the positions of the street furniture to be placed within the proposed area applied for**
- Photographic images of the proposed Street Furniture**
- Proof of Premises Owners’ or Lease Holders’ Consent**
- Proof of Public Liability Insurance (to a minimum value of £5,000,000)**
- Copy of the A4 Notice placed at the proposed premises**

Please note that should you fail to provide all of the items listed below then your application will be deemed “void” and returned to you.

Completed Applications

Completed applications should be sent by email to: licensing@broxtowe.gov.uk or by post to: **Broxtowe Borough Council, Licensing Section, Foster Avenue, Beeston, Nottingham NG9 1AB**

This Authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also, and on occasions will be required to, share this information with other bodies responsible for auditing or administering public funds for these purposes.

Broxtowe Borough Council collects personal information when you contact us for any services we provide. We will use this information to provide these services. We may need to share your information with service providers and other departments within Broxtowe Borough Council to ensure that you receive the best possible service. If so, this will be made clear in our privacy notice. We will not share your information with third parties for marketing purposes or any other reason unless required to do so by law.

For more information explaining we process, store and retain your data please visit: [Legal & Privacy \(broxtowe.gov.uk\)](https://broxtowe.gov.uk/legal-privacy)

Declaration

I, the undersigned, hereby declare that the information contained in this application is true and accurate to the best of my knowledge.

I understand that if I knowingly or recklessly make a false statement or omit any material particularly in giving information as part of this application I shall be committing an offence and will be liable for prosecution.

I confirm I have read the Privacy Notice above.

Signature of Applicant: _____

Date: _____

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