



## Meeting Agenda

**Policy & Service Review Scrutiny  
Committee  
Town Hall, Lytham St. Annes  
13 July 2006, 7:00pm**

# **POLICY & SERVICE REVIEW SCRUTINY COMMITTEE MEMBERSHIP**

CHAIRMAN

Raymond Norsworthy

VICE-CHAIRMAN

Martin Taylor

## **Councillors**

Stephen Carpenter

Elizabeth Oades

Maxine Chew

Dawn Prestwich

Elizabeth Clarkson

Fabian Wilson

John Longstaff

Contact: Lyndsey Lacey, St. Annes (01253) 658504  
Email: [lyndseyl@fylde.gov.uk](mailto:lyndseyl@fylde.gov.uk)



## **CORPORATE OBJECTIVES**

The Council's investment and activities are focused on achieving our five key objectives which aim to :

- Conserve, protect and enhance the quality of the Fylde natural and built environment
- Work with partners to help maintain safe communities in which individuals and businesses can thrive
- Stimulate strong economic prosperity and regeneration within a diverse and vibrant economic environment
- Improve access to good quality local housing and promote the health and wellbeing and equality of opportunity of all people in the Borough
- Ensure we are an efficient and effective council.

## **CORE VALUES**

In striving to achieve these objectives we have adopted a number of key values which underpin everything we do :

- Provide equal access to services whether you live in town, village or countryside,
- Provide effective leadership for the community,
- Value our staff and create a 'can do' culture,
- Work effectively through partnerships,
- Strive to achieve 'more with less'.



## AGENDA

ITEM	PAGE
<b>1. DECLARATIONS OF INTEREST:</b> <i>In accordance with the Council's Code of Conduct, members are reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.</i>	4
<b>2. CONFIRMATION OF MINUTES:</b> <i>To confirm as a correct record the Minutes of the Policy &amp; Service Review Forum held on 18 May 2006.</i>	4
<b>3. SUBSTITUTE MEMBERS:</b> <i>Details of any substitute members notified in accordance with council procedure rule 26.3</i>	4
<b>4. GAMBLING ACT 2005</b>	5
<b>5. HOUSES IN MULTIPLE OCCUPATION (HMO) LICENSING POLICY</b>	45
<b>6. ELECTRONIC SERVICE DELIVERY AND CUSTOMER TRANSACTION POLICY</b>	66
<b>7. MEMBER CHAMPION PRESENTATION – OVERVIEW OF COUNCIL ASSETS</b>	69

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING AND PROTECTION	POLICY AND SERVICE REVIEW SCRUTINY COMMITTEE	13 <sup>TH</sup> JULY 2006	4

## GAMBLING ACT 2005

### Public/Exempt item

This item is for consideration in the public part of the meeting.

### Summary

The new Gambling Act 2005 is now partly in force. Current expectations are that the Act will be brought fully into effect on 1st September 2007 and that licensing authorities will begin to accept applications for gambling licenses from 31st January 2007. The Act imposes new duties on local authorities to licence premises used for gambling and seeks to control all forms of gambling. During 2006 the Council must consult on and adopt a licensing policy for gambling, in accordance with the Act.

### Recommendation/s

1. That the committee consider and approve the draft licensing policy.

### Executive brief

The item falls within the following Cabinet Portfolio holders brief: Community & Social Wellbeing Councillor Miss P Fieldhouse.

## **Report**

1. The Gambling Act 2005 (The Act) gave effect to the Government's proposals for the reform of the law on gambling. The Act, which received royal assent on the 7<sup>th</sup> April 2005, replaces most of the existing law about gambling and puts in place an improved, more comprehensive structure of gambling regulation covering practically all forms of gambling.
2. One of the primary reasons for overhauling the gambling regulations in the UK was the fact that so much of the existing legislation was out of date, particularly in light of advances in technology in recent years. The aim of the new legislation is, therefore, to create a new framework of controls, which are, as far as possible, flexible and can easily be applied to new technologies and future ways of providing services. Enclosed is a guide to the Act (see attached Appendix A).
3. The Act requires the licensing authority to determine a statement of principles that they propose to apply when exercising their functions under the Act. Those who may be affected by it must be consulted as part of the process. In accordance with the Act the Authority is required to publish the policy statement by the 31<sup>st</sup> January 2007.
4. Following a report presented to the Licensing Committee meeting held on the 31<sup>st</sup> May 2006, the members approved the attached draft Licensing Policy (see attached Appendix B), which is titled 'Draft Statement of Principles'. The Policy has been drafted in accordance with the Act and guidance issued by the Gambling Commission.
5. Prior to formal adoption the Authority is required to go through a formal consultation process.
6. In order to achieve this the following timetable has been set:
  - Formal consultation process commenced the beginning of June 2006. This is to allow for a 12-week consultation period in accordance with Cabinet Office guidance. The consultation period will end the beginning of September 2006.
  - The individuals and organisations to be consulted on the details of this policy are highlighted in Section 3.6 of the Policy. This is not an exhaustive list as there may be other individuals and organisations who may be identified during the consultation process. The draft Policy is also placed on the Council's web site
  - All feedback from the consultation process will be tabulated, together with officer comments. Where appropriate revisions to the Policy will be made.
  - The revised version of the Policy Statement to be ready by mid October 2006, in order to allow members to consider the revised policy at this Committee's October meeting and the Licensing Committee meeting, to be arranged.
  - The policy will require adoption by Full Council at their last meeting for 2006, which is scheduled for 27<sup>th</sup> November 2006.
  - The policy statement has to then be published 4 weeks before the first appointed day. The first appointed day as stated in the Act is 31<sup>st</sup> January 2007, when the Authority will begin to accept licence applications. The Policy must therefore be published by 31<sup>st</sup> December 2006.

IMPLICATIONS	
Finance	None arising from this report
Legal	None arising from this report
Community Safety	None arising from this report
Human Rights and Equalities	None arising from this report
Sustainability	None arising from this report
Health & Safety and Risk Management	None arising from this report

Report Author	Tel	Date	Doc ID
<b>STUART HANDLEY</b>	<b>(01253) 658603</b>	<b>2<sup>ND</sup> JUNE 2006</b>	<b>GAMBLING ACT PSRSC 130706</b>

List of Background Papers		
Name of document	Date	Where available for inspection
Guidance to Licensing Authorities Consultation Document,	December 2005	Gambling Commission Berkshire House, 168-173 High Holborn, London WC1V 7AA

### Attached Documents

Appendix A: Rough Guide to the Gambling Act

Appendix B: Fylde Gambling Policy



FYLDE BOROUGH COUNCIL



# GAMBLING ACT 2005

## DRAFT STATEMENT OF PRINCIPLES

Revision 01 May 2006





	<b><u>CONTENTS</u></b>	<b>Page</b>
1	BACKGROUND	1
2	THE LICENSING OBJECTIVES	2
3	INTRODUCTION	2
	3.1 General	2
	3.2 Types of Licence	3
	3.3 Licensable Premises and Permits	3
	3.4 Licensing Authority Functions	3
	3.5 Profile of the Authority	4
	3.6 Consultation	5
4	DUPLICATION WITH OTHER REGULATORY REGIMES ETC	6
	4.1 Legislation	6
	4.2 Human Rights	6
	4.3 Discrimination	6
5	EXCHANGE OF INFORMATION	7
6	PREMISES LICENCES	7
	6.2 Demand for Premises	7
	6.3 Definition of Premises	7
	6.4 Location of Premises	8
	6.5 Achieving the Licensing Objectives	8
	(i) Preventing Crime and Disorder	8
	(ii) Ensuring that Gambling is Conducted in a Fair and Open Way	9
	(iii) Protecting children and other vulnerable persons	10
	6.6 Conditions	11
	(i) Door Supervisors	12
	6.7 Adult Gaming Centres	12
	6.8 (Licensed) Family Entertainment Centres	13
	6.9 Casinos	13
	6.10 Bingo Premises	14
	6.11 Betting Premises	14
	6.12 Tracks	15
	6.13 Travelling Fairs	16
7	REPRESENTATIONS	16
	7.2 Admissible and Relevant	16
	7.3 Frivolous or Vexatious or Likely to have no Influence on a Decision	17
	7.4 Responsible Authorities	17
	7.5 Interested Parties	17
8	REVIEW OF PREMISES LICENCES	19
9	PROVISIONAL STATEMENTS	19
10	PERMITS, NOTICES & LOTTERIES	20
	10.3 Unlicensed Family Entertainment Centres - Gaming Machine Permits	20
	10.4 Alcohol Licensed Premises - Gaming Machine Permits	21
	10.5 Prize Gaming Permits	22
	10.6 Club Gaming and Club Machines Permits	22
	10.7 Temporary Use Notices	23
	10.8 Occasional Use Notices	24
	10.9 Small Society Lotteries	24
11	ENFORCEMENT	24
12	COMPLAINTS	26
13	APPEALS	26
14	POLICY REVIEW	26
	APPENDIX A CONTACT DETAILS RESPONSIBLE AUTHORITIES	27
	APPENDIX B TABLE OF DELEGATIONS OF LICENSING FUNCTIONS	29

This Statement of Principles has been drafted at a time when a number of regulations, Operating / Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these impact upon the content of this document it will need to be borne in mind and amended at a later stage, bearing in mind resource implications for the authority. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006.

## 1. BACKGROUND

- 1.1 The Gambling Act 2005 (The Act) gave effect to the Government's proposals for the reform of the law on gambling. The Act, which received royal assent on the 7 April 2005, replaces most of the existing law about gambling in Great Britain and puts in place an improved, more comprehensive structure of gambling regulation covering practically all forms of gambling other than the national Lottery and spread betting.
- 1.2 One of the primary reasons for overhauling gambling regulation in the UK was the fact that so much of the existing legislation was out of date, particularly in light of advances in technology in recent years. The aim of this the new legislation is, therefore, to create a new framework of controls which are, as far as possible, flexible and can easily be applied to new technologies and future ways of providing services.
- 1.3 The Act introduces two comprehensive offences which are:-
  - providing facilities for gambling or
  - using premises for gambling without the appropriate licence, permit, or registration granted under the Act.
- 1.4 The Act introduces a new independent unified regulator for commercial gambling in Great Britain, the Gambling Commission (which takes over from the existing Gaming Board), and a new licensing regime to be operated by the commission or by licensing authorities depending on the matter to be licensed.
- 1.5 The Act also puts in place a strong role for local authorities in licensing gambling premises in their area, as well undertaking functions in relation to lower stake gaming machines.
- 1.6 Local authorities, as Licensing Authorities, will grant premises licenses for: casinos, betting offices and race tracks, bingo clubs, adult gaming centres and family entertainment centres. They will also issue permits for: gaming machines in members' clubs and licensed premises, gaming in members' clubs, prize gaming and unlicensed family entertainment centres. The issuing of temporary use notices and provisional statements (permission issued before a building is built or altered for the purpose of gambling) will also be the responsibility of Licensing Authorities. The Authority will also be responsible for the issue of occasional use notices at tracks.
- 1.7 A new system has also been introduced that will authorise premises that are not generally licensed for gambling purposes to be used for gambling for limited periods.
- 1.8 The Gambling Act 2005 requires the Council to prepare and publish a "Statement of Licensing Policy" that sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

## 2 THE LICENSING OBJECTIVES

2.1 In exercising most of 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 namely:-

- 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

*(It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling")*

## 3 INTRODUCTION

### 3.1 General

3.1.1 The Gambling Act 2005 requires the licensing authority to determine a statement of the principles that they proposed to apply when exercising their functions under the Act. Those who may be affected by it must be consulted as part of the process. This statement must be published at least every three years and must also be reviewed from "time to time". Any amended parts must be re-consulted upon. The statement must then be re-published.

3.1.2 This draft "Statement of Principles" in respect of the Gambling Act 2005 has been prepared having regard to the licensing objectives of the Gambling Act 2005 listed in paragraph 2.1, and the Guidance issued by the Gambling Commission. It is intended to be a discussion document leading to adoption by Fylde Borough Council of a formal Statement of Principles.

3.1.3 The Council recognises that gambling is a legitimate pastime of many of the residents of Fylde but also understands the problems that can be caused by debt as a result of gambling. It is therefore necessary to ensure that the necessary safeguards are in place to protect the young and vulnerable. It will, accordingly, regulate gambling in the public interest but is aware that, as per Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it considers that it is:-

- in accordance with any 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 this statement of principles

3.1.4 This statement of principles will not override the right of any person to make an application, make representations about an application, or to apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005. Nothing in this statement of principles will detract from the principle that every application will be determined on the merits of the particular case.

3.1.5 It is intended that this policy will be adopted by the Full Council at its meeting on the 27th November 2006

## **3.2 Types of Licence**

**3.2.1** This document sets out the policies that this licensing authority will apply when making decisions upon applications or notifications made for:-

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act;
4. Registrations as required under the Act.

## **3.3 Licensable Premises and Permits**

**3.3.1** This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, including:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming and Prize Gaming Permits;
9. Temporary Use Notices;
10. Registration of small society lotteries.

**3.3.2** This policy does not address remote gambling as this is entirely controlled by the Gambling Commission. Remote gambling means gambling not associated with a premises such as internet gambling.

## **3.4 Licensing Authority Functions**

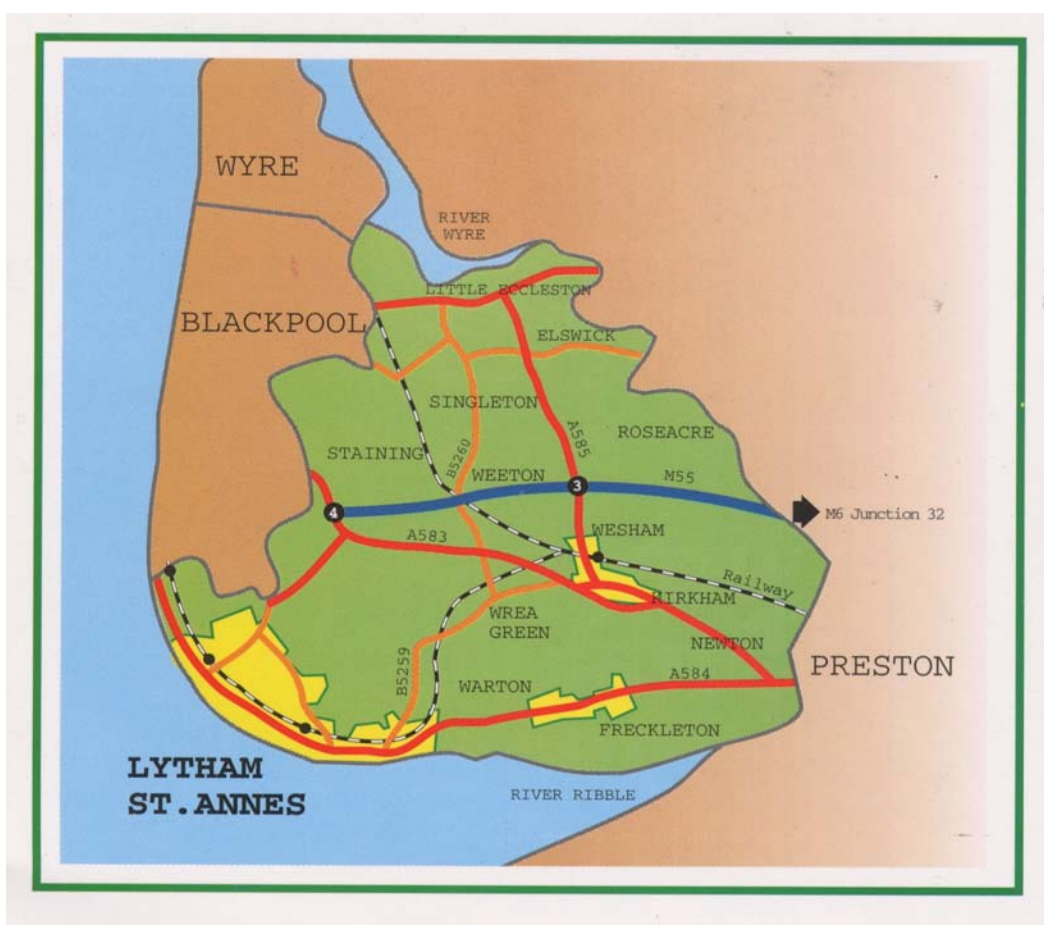
**3.4.1** This policy covers all the functions of the licensing authority which include:-

- Responsibility for the licensing of premises where gambling activities take place by issuing premises licences
- Issue of Provisional Statements
- Regulation of members clubs and miners welfare institutions who may wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue of Club Machine Permits to Commercial Clubs
- Granting of permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of not more than two gaming machines
- Granting of Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the premises where two or more machines are required
- Registering small society lotteries
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use notices
- Receiving Occasional Use notices
- Providing information to the Gambling Commission regarding details of licences issued
- Maintaining registers of the permits and licences that are issued under these functions

### 3.5 Profile of the Authority

- 3.5.1 Fylde Borough Council is a coastal borough situated in the County of Lancashire, which contains 12 District Councils in total. The Council area has a population of 73,217 (2001 Census). This is expected to rise to 77,300 by 2010 with fewer children and more people over the age of 65. A large proportion of the area is rural in nature. The main towns within the borough are the resorts of Lytham and St Annes. Further inland the borough contains smaller urban areas at Wesham, Kirkham, Freckleton and Warton. It has a geographical area of 166 square km. Fylde is a reasonably affluent area, ranking 235<sup>th</sup> out of 354 English authorities, based on the government's indices of multiple deprivation.

#### 3.5.2



- 3.5.3 The main concentrations of premises in the district providing any form of gambling and indeed the sale of alcohol, can be found in the town centres of St Annes, Lytham and the market town of Kirkham. There is one casino in the Borough which is located within St Annes and 2 Bingo Halls both of which are located within a large holiday centre on the Blackpool boundary. Seven betting shops are located in the area with 3 each in St Annes and Kirkham and one in Lytham. There are 8 amusement arcades associated with the holiday trade mostly located on holiday centres or complexes, caravan sites or on the pier at St. Annes. At present around 60 pubs and 20 clubs have permits for gaming machines as do up to a dozen premises that do not sell alcohol. These are primarily hotels along with a few taxi offices and a takeaway that will not be permitted any machines under the new legislation.

### **3.6 Consultation**

**3.6.1** There are a number of groups that have a stake in the gambling industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration. In finally determining this policy the following will have been consulted:

- The Chief Officer of Police
- Representatives of persons who represent the interests of people carrying on gambling businesses in the Authorities area.
- Representatives of persons who appear to the authority to represent the interests of people likely to be affected by the exercise of the authorities functions under the Gambling Act

**3.6.2** The individuals and organisations being consulted on the details of this draft policy include:-

- The Chief Officer of Police
- The Fire Authority
- Representatives of businesses and residents in the borough
- Representatives of local late night take-away food businesses
- Fylde Community Safety Partnership
- Local licensing solicitors
- Representatives of child welfare groups
- Town and Parish Councils

**3.6.3** Consultation on this draft document will take place between 1<sup>st</sup> June 2006 until 31<sup>st</sup> August 2006 and will follow the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector. These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>  
<http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>

Unfortunately, only responses which concern matters which are within the scope of the Guidance, Act and Codes of Practice can be considered. Even if there is a large response regarding a certain issue, the authority may be unable to deal with the issue under the Gambling Act. It may, however, be a matter for other legislation, for example planning.

Any comments should be made in writing to:

Stuart Handley  
Commercial and Licensing Manager  
Consumer Wellbeing and Protection Unit  
Fylde Borough Council  
Town Hall  
Lytham St Annes  
FY8 1LW  
Tel: 01253 658658  
E-mail: [stuartH@fylde.gov.uk](mailto:stuartH@fylde.gov.uk)

Closing date for comments: 31<sup>st</sup> August 2006

Proper weight will be given to the views of all those consulted prior to this statement of principles taking effect.

The full list of comments made and the consideration by the Council of those comments will be made available by request to the above and will be published on the Council's website: [fylde.gov.uk](http://fylde.gov.uk).



## **4 DUPLICATION WITH OTHER REGULATORY REGIMES ETC.**

### **4.1 Legislation**

**4.1.1** In undertaking its licensing function under the Gambling Act 2005, this authority is also bound by other legislation, including:-

1. Section 17 of the Crime and Disorder Act 1988;
2. Human Rights Act 1998;
3. Health and Safety at Work Act 1974;
4. Environmental Protection Act 1990;
5. The Anti-Social Behaviour Act 2003;
6. The Race Relations Act 1976 (as amended);

**4.1.2** The intention of this policy is not to duplicate other legislation or regulatory regimes. Every effort will be made to avoid any duplication with other statutory / regulatory systems that already place obligations on employers and operators, including planning. Whilst it will not consider whether a licence application is likely to be awarded planning or building consent, it will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

**4.1.3** No account will be taken as to whether buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and will not form part of considerations for the premises licence.

### **4.2 Human Rights**

**4.2.1** The Human Rights Act 1998 incorporated the European Convention on Human rights and makes it unlawful for a local authority to act in a way, which is incompatible with a Convention right. This Authority will have particular regard to the following relevant provisions in determining licence applications:

*Article 1* - of the First Protocol that every person is entitled to a peaceful enjoyment of his or her possessions

*Article 6* - In the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law

*Article 8* - That everyone has the right to respect for his home and family life

*Article 10* - Right to freedom of expression.

### **4.3 Discrimination**

**4.3.1** In undertaking its licensing function, the Council will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups

## 5 EXCHANGE OF INFORMATION

- 5.1 In fulfilling its functions and obligations under the Gambling Act 2005 this licensing authority will exchange information which it holds with other regulatory bodies including the Gambling Commission. In doing so it will have regard to any Guidance issued by the Gambling Commission on this matter as well as to any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. Should any protocols be established relating to information exchange with other bodies then they will be made available.
- 5.2 The Gambling Commission will, similarly, provide to the licensing authority any information it holds for use in the exercise of the Authority's functions under the Act.
- 5.3 The licensing authority is required to maintain a register of the premises licences that it has issued. This register will be made available at any reasonable time to members of the public. Details of the availability of the register will be advertised on the Council's website. Copies of entries in the register may be taken subject to a reasonable charge being made.
- 5.4 The exchange of information will be in full compliance with the requirements of the Data Protection Act and freedom of information legislation in accordance with the Council's existing policies.
- 5.5 Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

## 6 PREMISES LICENCES

- 6.1 Premises Licences will be subject to the permissions/restrictions set-out in the Gambling Act 2005 and regulations made thereunder, as well as to specific mandatory and default conditions detailed in the regulations. This Authority may exclude default conditions and also attach others, where it believes it to be appropriate.
- 6.2 **Demand for Premises**
  - 6.2.1 This licensing authority will not take into account whether or not there is an unmet demand for gambling premises when considering applications for premises licences. It also recognises that moral objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution').
- 6.3 **Definition of Premises**
  - 6.3.1 The term premises is defined in the Act as "any place". In determining whether different parts of a building can be properly regarded as being separate premises, for the purpose of an application, this Authority will always consider the particular circumstances of the case. In general, however, it will not consider areas of a building that are artificially or temporarily separate as different premises.
  - 6.3.2 The proper application of section 152 of the Act also means that, with the single exemption of tracks (i.e. a horse-race course, dog track or other premises where races or sporting events take place), different premises licences cannot apply in respect of a single premises at different times. There is no temporal element to a premises licence. Therefore, premises will not, for example, be licensed as a bingo hall on week days and a betting shop at weekends.

- 6.3.3** This Authority is very mindful of the need to protect children from being harmed by gambling. It sees this as, not only preventing them from taking part in gambling, but also ensuring that they are not permitted to be in close proximity to gambling. It considers it important that premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling. The Authority will, accordingly, pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). It will consider, for example, such issues as whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. In addition an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.
- 6.3.4** In considering applications for multiple licences for a building or for a specific part of a building to be licensed, entrances and exits from parts of a building covered by one or more licences will be expected to be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area.
- 6.3.5** Applicants will need to be aware that they cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. A licence to use premises for gambling will, accordingly, only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. By requiring the building to be complete, the authority can, ensure that it and other responsible authorities with inspection rights may, if necessary, inspect it fully.

#### **6.4 Location of Premises**

- 6.4.1** This licensing authority is aware that demand issues cannot be considered with regard to the location of premises and will only consider the location of premises in the context of the licensing objectives. It will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 6.4.2** Likewise when an application for premises close to a school or other building holding vulnerable people or to a centre for gambling addicts is received the licensing authority will have to be satisfied that protecting children and vulnerable persons can be met.
- 6.4.3** Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement of principles will be updated. It should be noted that any such policy would not preclude any application being made and each application will always be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

#### **6.5 Achieving the Licensing Objectives**

- 6.5.1** Decisions taken by this licensing authority and premises licences granted will, as far as possible, be consistent with the three licensing objectives detailed below and in accordance with any guidance issued to local authorities by the Gambling Commission. Specific policy issues in respect of each of the licensing objectives are set out below.

##### **(i) Preventing Crime and Disorder**

- 6.5.2** Where an application is received for a premises licence in an area which has high levels of organised crime or a history of crime and disorder the licensing authority will pay particular attention to the proposed location of the gambling premises in terms of this licensing objective and may decide to attach additional conditions such as the

- employment of door staff.
- 6.5.3** This licensing authority is aware of the distinction between disorder and nuisance will only seek to address issues of disorder under the Act if the disorder amounts to activity that is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance was 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, whether those people live sufficiently close to be affected or have business interests that might be affected.
- 6.5.4** The Gambling Commission has powers to make enquiries and investigate those who are involved in the control of a company or the provision of gambling. In considering applications for operating and personal licences the commission has stated it will take a serious view of any offences involving dishonesty committed by applicants or persons relevant to the application.
- 6.5.5** As it is a requirement for any applicant for a premises licence to also hold an operators licence, this Authority will not investigate the suitability of an applicant. However, if any information becomes apparent during the course of the processing of application which causes concern, the details will be forwarded to the Gambling Commission.
- 6.5.6** This licensing authority places a considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough. A high standard of control is, therefore, expected to be exercised over licensed premises. Applicants will be encouraged to discuss any necessary crime prevention procedures in their premises with the Authority's Licensing Officers and Lancashire Constabulary before making a formal application.
- 6.5.7** This Authority will take into account any representations made by responsible authorities, especially the police, when deciding if a particular application would be detrimental to this licensing objective and potentially result in an increase in crime and disorder.

**(ii) Ensuring that Gambling is Conducted in a Fair and Open Way**

- 6.5.8** It is noted that the Gambling Commission do not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way. They point out that this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. It is recognised, however, that there is more of a role with regard to tracks which is explained in more detail in the 'tracks' section below .
- 6.5.9** The Gambling Commission is concerned to ensure that, not only is gambling fair in the way it is played, but that the rules are transparent to players and they know what to expect.  
It will achieve this by:-
- 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 public; and
  - machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.

**(iii) Protecting children and other vulnerable persons**

- 6.5.10** This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). It accepts that, whilst the licensing objective refers to protecting children from being harmed or exploited by gambling, in practice, that often means preventing them from taking part in or being in close proximity to gambling. It will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.
- 6.5.11** This Authority will consult with the Lancashire Safeguarding Children Board on any application that indicates there may be concerns over access for children or vulnerable persons.
- 6.5.12** Each separate application will be judged on its merits before a decision is taken as to whether conditions to protect children are imposed on particular categories of premises. These may include such requirements as:-
- the supervision of entrances,
  - the segregation of gambling from other areas where children are admitted
  - the supervision of gaming machines in non adult gambling specific premises
  - the introduction of 'proof of age' schemes'
- 6.5.13** The authority will make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos. Particular attention will be paid to any such Codes of Practice regarding this licensing objective in relation to specific premises such as casinos. It will be a condition of a casino licence that adherence to any code of practice produced on access of children will be mandatory. The requirements of the code may include controls for the protection of children which:-
- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter the casino premises.
  - ensure that each entrance to the casino or gambling area is supervised by at least one person who is responsible for compliance with the code of practice; and
  - require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino.
  -
- 6.5.14** It is not an aim of this policy to exclude any particular groups of adults from gambling, however, where vulnerable persons may come into contact with gambling appropriate measures will be taken to protect them. Whilst the neither the Gambling Commission nor the legislation offer no definition of "vulnerable persons" it will be assumed, for the purposes of this policy, that this group includes
- people who gamble more than they want to
  - people who gamble beyond their means
  - people who may not be able to make informed or balanced judgements about gambling because of mental impairment, alcohol or drugs.

This Authority will balance the need to introduce measures to protect vulnerable persons against the overall aim to permit the use of premises for gambling.

## **6.6 Conditions**

### **6.6.1** The Act allows for conditions to be attached to premises licences by the following methods:-

- automatically, having been prescribed in the Act
- being attached by virtue of a Regulation made by the Secretary of State
- at the discretion of the licensing authority

### **6.6.2** Licensing Authorities are specifically precluded from conditions on licences which:-

- make it impossible to comply with an operating licence condition;
- relate to gaming machine categories, numbers, or methods of operation;
- provide that membership of a club or body is necessary to participate in the gambling facilities;
- relate to stakes, prizes, winnings or prizes.

### **6.6.3** Decisions will be taken on the imposition of individual conditions on a case by case basis, however this will be against the background contained in the Gambling Commission guidance and this statement of principles.

### **6.6.4** The starting point in determining applications will be to grant the application without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, They will generally be considered unnecessary if they are already adequately covered by other legislation. Any conditions imposed by this Authority will, so far as possible, reflect local crime prevention strategies. For example, closed circuit television cameras may be appropriate in certain premises. They will not be overly onerous and will be proportionate to the scale of the application and the risks involved. In particular any conditions imposed on licences will be: -

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

### **6.6.5** When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Control measures this licensing authority will consider utilising should there be a perceived need, include:-

- the use of door supervisors,
- supervision of adult gaming machines,
- appropriate signage for adult only areas

These are specifically dealt with under each of the licence types below. This licensing authority will, however, also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

### **6.6.6** In the case of buildings which are subject to multiple premises licences, consideration will be given to specific measures which may be required. These may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

**6.6.7** Where category C or above machines are on offer in premises to which children are admitted, this authority will ensure that:

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

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

**6.6.8** This Authority will attempt to deal with the concerns raised in relevant representations by way of the imposition of conditions before considering refusing any application.

**(i) Door Supervisors**

**6.6.9** Where a condition is attached to a premises licence which requires someone to be responsible for guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage, section 178 of the 2005 Act requires that such persons hold a relevant licence issued by the Security Industry Authority (SIA), where they are able to obtain one. It is, however, noted that the Gambling Act 2005 has amended the Private Security Industry Act 2001 so that door supervisors at casinos or bingo premises are exempt from the requirement to be licensed by the Security Industry Authority. This Authority, however, considers that it may, in some circumstances, be appropriate to impose specific requirements for suitably trained, door supervisors at casinos or bingo halls in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

**6.6.10** For premises other than casinos and bingo premises, this authority may decide that supervision of entrances / machines is appropriate for particular cases and may decide, in the light of the particular circumstances, that these need to be SIA licensed. It will, however, not be automatically assumed that they need to be so licensed.

**6.7 Adult Gaming Centres**

**6.7.1** The term adult entertainment centre was introduced by the Gambling Act 2003. Such premises are entitled to provide gaming machines which payout higher jackpots. The numbers and categories of higher jackpot machines that can be placed in adult gaming centres are specified in Regulations made by the Secretary of State.

**6.7.3** This Authority's main concern in these premises is to protect children and vulnerable persons. In considering applications for a premises licence for an adult entertainment centre the licensing authority will, in particular, consider the measures put in place to prevent under 18s from gaining access to the premises. Such matters as the position of entrances, supervision and the use that other parts of the premises are put will be relevant.

**6.7.4** Conditions may be attached to such licences to cover, amongst other matters, issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- 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.*

## **6.8 Family Entertainment Centres (Licensed)**

**6.8.1** The Act created two classes of family entertainment centres, only one of which requires a premises licence.

**6.8.2** Licensed family entertainment centres are permitted to provide category C gaming machines that have a maximum payout of £25. Unlicensed family entertainment centres can only provide category D machines that have a maximum payout of £5 cash or £8 in tokens. No limits are set on the numbers of machines in these categories.

**6.8.3** Children are permitted in family entertainment centres but are not allowed to use any category C machines. In determining applications the licensing authority will consider any guidance issued by the Gambling Commission regarding the marking and segregation of such machines and the level of supervision required to protect children.

**6.8.4** This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover the issues detailed in paragraph 6.7.4 above as well as measures / training for staff on how to deal with suspected truant school children on the premises This licensing authority will, in particular, have regard to any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated and will make itself aware of any mandatory or default conditions on these licences.

## **6.9 Casinos**

**6.9.1** This licensing authority currently has one licensed casino within its area. It has not passed a 'no casino' resolution under section 166 of the Gambling Act 2005 but is aware of its power to do so. Should at any time the Authority decide to pass such a resolution, this decision will be taken by way of a resolution of the Full Council following considered debate, the reasons for making the resolution will be given and this policy will be updated accordingly.

**6.9.2** If the Secretary of State, by Regulation, enables the Authority to issue a new style casino licence they are aware that there may be a number of operators wishing to run such a casino. In such a situation this licensing authority will determine the successful bidder by following the procedure laid out in Schedule 9 of the Act. and in line with any



- regulations / codes of practice issued under the Gambling Act 2005
- 6.9.3** The Gambling Commission has stated that further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises. Such guidance will be considered by this licensing authority when it is made available.
- 6.9.4** This licensing authority is aware that powers are provided, in the act, to allow them to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching conditions to a casino premises licence (where betting is permitted in the casino). It will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 6.10 Bingo Premises**
- 6.10.1** This licensing authority acknowledges that children and young people can be allowed entry into bingo premises. It is, however, important that if children are allowed to enter such premises that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, this Authority will wish to ensure that sufficient measures are in place to ensure that:
- all such gaming 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 are admitted to the area where the machines are located;
  - access to the area where the machines are located is supervised;
  - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
  - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 6.10.2** This licensing authority is also aware that the Gambling Commission is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by this authority once it is made available.
- 6.11 Betting Premises**
- 6.11.1** Children are not permitted to enter premises licensed for betting and therefore this licensing authority will consider the measures which an applicant for a premises licence will be taking to prevent this.
- 6.11.2** This licensing authority will consider whether to impose a condition to any premises licence for a betting premises restricting the number, nature of betting machines (not to be confused with gaming machines) and the circumstances in which those machines are available for use. When considering such conditions, amongst other things, the size of the premises and the number of counter positions available for person-to-person transactions will be taken into account.
- 6.11.3** As with casinos (see 6.9.5 above) powers are provided which allow restrictions to be imposed on betting machines in betting premises. The authority will take into account those issues set out in 6.9.5 above when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **6.12 Tracks**

- 6.12.1** There are currently no tracks within the Borough. It is recognised, however, that tracks are different from other premises in that there may be more than one premises licence in effect (provided each licence relates to a specified area of the track.) and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences. Should an application be made for a track premises licence, it will be determined in accordance with the guidance of the gambling commission. This licensing authority will, however, especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 6.12.2** There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling at tracks. This Authority would expect the premises licence applicants 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided. As well as the introduction of a proof of age scheme, appropriate licence conditions may cover the issues detailed in paragraph 6.7.4 above.
- 6.12.3** Further guidance from the Gambling Commission is awaited as regards where Gaming Machines (as distinct from betting 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. This licensing authority notes the Commission's Guidance that it will 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.
- 6.12.4** In respect of betting machines at tracks, this authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator 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.
- 6.12.5** In accordance with Gambling Commission advice, this Authority will attach a condition to any track premises licences issued 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.)
- 6.12.6** This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences. It, however, accepts the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to licence they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area 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." and that "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."

- 6.12.7** This licensing authority also accepts the Commission's view that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would then ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

### **6.13 Travelling Fairs**

- 6.13.1** Whilst the Act defines a travelling fair as wholly or principally providing amusements, this licensing authority will decide, in each case, whether this the statutory definition is met on the evidence available.

- 6.13.2** Any number of category D gaming machines may be made available for use at travelling fairs subject to a requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair. This licensing authority will, decide, in each case, whether this requirement is met on the evidence available.

- 6.13.3** It is recognised that land may only be used for a travelling fair up to a maximum of 27 days in any calendar year and that such use applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will monitor whether land is used in excess of the statutory limit and will work with its neighbouring authorities to ensure that land that crosses its boundaries is similarly monitored so that the statutory limits are not exceeded.

## **7 REPRESENTATIONS**

- 7.1** Only *Interested Parties* and *Responsible Authorities* (see below for definition) can make representations about licence applications, or apply for a review of an existing licence.

### **7.2 Admissible and Relevant**

- 7.2.1** A representation will only be admissible if it is from a responsible authority or interested party.

- 7.2.2** The only representations that are likely to be considered as relevant are those that relate to the licensing objectives (set out in 2.1 above), or that raise issues under the licensing statement of principles, or the Commission's guidance or codes of practice. For example a representation which concerns public nuisance or public safety at the premises would not be considered to be relevant, as these are not licensing objectives but concerns over crime and disorder or the protection of children would be.

### **7.3 Frivolous or Vexatious or Likely to have no Influence on a Decision**

- 7.3.1** This licensing authority will determine an application without a hearing if the representations are considered to be either frivolous or vexatious.

- 7.3.2** Decisions as to whether representations are frivolous, vexatious or likely to have no Influence on a Decision will be made by Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or a Panel of the Licensing Committee. These words will be judged to have their normal dictionary definitions. Frivolous will be interpreted as having little substance, as not serious or flippant whilst vexatious will be interpreted as having an ulterior motive or as vindictive.
- 7.3.3** A hearing will also be dispensed with if in the opinion of this Authority the substance of the representation will certainly not influence the Authorities determination of the application.
- 7.3.4** In the event of this Authority considering a representation to be frivolous or vexatious or as likely to have no influence on the decision, then the person who made the representation will be informed and the reasons for coming to such a conclusion will be clearly stated. There is no right of appeal against a determination that representations are not admissible

## **7.4 Responsible Authorities**

### **7.4.1** A Responsible Authority is defined in the Act as:-

- A licensing authority in England and Wales in whose area the premises are wholly or partly situated
- The Gambling Commission
- The Chief Officer of Police for the police area in which the premises are wholly or partly situated
- The Fire and Rescue Authority for an area in which the premises are wholly or partly situated
- The local planning authority
- An Authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area where the premises is wholly or partly situated
- A body which is designated in writing for by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm
- Her Majesty's Commissioners of Custom and Excise.

*Although current contact details for all responsible authorities listed above are included in Appendix A to this policy, it should be noted that the Secretary of State may from time to time amend this list by Regulation.*

- 7.4.2** The Authority accepts that the protection of children and vulnerable persons is key responsibility under the Act. It considers that the most appropriate body to advise them about the protection of children is likely to be the Lancashire Safeguarding Children Board.

## **7.5 Interested Parties**

- 7.5.1** Although each case will be determined on its individual merits, a person will generally be considered to be an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority, the person :
- lives sufficiently close to the premises to be likely to be affected by the authorised activities
  - has business interests that might be affected by the authorised activities or
  - represents either of the above

- 7.5.2** In determining whether or not a person “lives sufficiently close to the premises to be likely to be affected by the authorised activities”, account will be taken of the following factors:-
- The size of the premises
  - The nature of the premises
  - The distance of the premises from the location of the person making the representation
  - The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment) and
  - The nature of the complainant. (In terms of the nature of their interest rather than their personal. For example ‘sufficiently close to be likely to be affected’ could be interpreted differently for a private resident as distinct from a residential school with truancy problems or a hostel housing vulnerable persons.)
- 7.5.3** In determining whether a person’s business interest might be affected by the authorised activities, consideration will be given to the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices. It will not, however, be considered sufficient to argue that a rival business will be a competitor in the same gambling sector. The Authority will have to be satisfied that the business would be likely to be directly affected. The question of demand will likewise not be considered. Factors which will be taken into account include:-
- The size of the premises
  - The catchment area of the premises (i.e. how far people travel to visit) and;
  - Whether the person making the representation has business interests in that catchment area that might be affected.
- 7.5.4** The Gambling Commission has recommended that licensing authorities include trade associations and trade unions, and residents’ and tenants’ associations as interested parties. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an Interested party under the terms of the Gambling Act 2005. (e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.)
- 7.5.5** Interested parties may be represented by advocates which include legal representatives and others, provided that they can produce written evidence that they have been authorised to act on behalf of the interested party.
- 7.5.6** Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required in these cases as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these, however, written evidence will generally be required that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation will be considered sufficient..
- 7.5.7** If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee or Panel dealing with the licence application. If there are any doubts then the Council’s Licensing Section should be contacted.

## **8 REVIEW OF PREMISES LICENCES**

- 8.1** The review of a premises licence may be instigated by this licensing authority or at the request of a responsible authority or interested party. It is, however, for the licensing authority to decide whether the review is to be carried-out.
- 8.2** A request for review will not be granted by this Authority unless it is: is “relevant” i.e.
- In accordance with any relevant code of practice issued by the Gambling Commission
  - In accordance with any relevant guidance issued by the Gambling Commission
  - Is consistent with the licensing objectives (see 2.1 above) and
  - In accordance with the Authority’s Statement of Principles.
- 8.3** The licensing authority will similarly not hold a review if, in the opinion of the authority, the grounds :-
1. are frivolous (see paragraph 9.3 above)
  2. are vexatious (see paragraph 9.3 above)
  3. ‘will certainly not’ cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence. (see paragraph 9.3 above)
  4. are substantially the same grounds cited in a previous application for a review relating to the same premises
  5. are substantially the same as representations made at the time of an application for a premises licence.
- In the case of reasons 4 and 5 above, the Authority will take into account the time, which has passed since the earlier application.
- 8.4** A review can be held in relation to a class of premises or in relation to a particular premises.
- 8.5** This licensing authority will consider initiating a review themselves against a premises or class of premises if complaints are made against the use made of those premises or the measures put in place by licensees to comply with licence conditions. It may, however, decide to initiate a review of a licence on the basis of any reason relevant to its duties and functions under the Act, which it thinks is appropriate. The outcome of such a review may be the introduction of default conditions attached to all premises licences within that class.

## **9 PROVISIONAL STATEMENTS**

- 9.1** An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed. It is recognised, therefore, that developers may wish to have some assurance that a premises licence would be granted before entering into a contract to develop land or renovate a property. In these circumstances an application can be made for a provisional statement.
- 9.2** This licensing authority recognises that it is a question of fact and degree as to whether premises are finished to such a degree that they can be fully inspected and considered for a premises licence.
- 9.3** Unlike an application for a premises licence applicants for provisional statements do not have to hold an operating licence from the commission. This licensing authority, when determining any such application will not speculate or take any account the likelihood or not of an operating licence being granted. Should the commission subsequently refuse an operating licence the provisional statement will not be able to be converted into a premises licence.

- 9.4 Any application for a provisional statement shall be treated in exactly the same way as would have been the case if the application had been for a premises licence and no regard will be taken of the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.
- 9.5 When an application is made for a premises licence for a premises which has the benefit of a provisional statement, this licensing authority will disregard any representations from responsible authorities or interested parties unless:
- They address matters that could not have been addressed in representations relating to the application for the provisional statement. or
  - They reflect a change in the applicants circumstances.

## 10 PERMITS, NOTICES & LOTTERIES

- 10.1 The Act allows for a number of gambling activities to take place outside of the licensing regime. These are authorised by permits which are issued by the Authority. These are :-
- Unlicensed family entertainment centres
  - Club gaming permits and club machine permits
  - Alcohol licensed premises gaming machine permits
  - Prize gaming permits.
- 10.2 The issue of all such permits will be undertaken by the licensing authority in accordance with the statutory procedures with regard to any guidance issued by the Gambling Commission.
- 10.3 **Unlicensed Family Entertainment Centres-Gaming Machine Permits**
- 10.3.1 Where a premises does not hold a Premises Licence and wishes to provide gaming machines but does not wish to apply for a Family Entertainment Centre (FEC) premises licence as they only wish to offer category D gaming machines, it may apply to the licensing authority for a permit to do so. An application for a permit will only be considered if this Authority is satisfied that the premises will be used as an unlicensed FEC, and that the chief officer of police has been consulted on the application.
- 10.3.2 In considering applications for such permits this Authority will give weight to child protection issues. It will take into account the applicant's suitability including any convictions that they may have that would make them unsuitable to operate a family entertainment centre, the suitability of the premises in relation to their location as well as issues about disorder.
- 10.3.3 Although this licensing authority recognises that it cannot attach conditions to this type of permit, it will expect initial applicants for permits to show that there are policies and procedures in place to protect children from harm. Harm in this context will not be construed as limited to harm from gambling but to include wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include CRB checks for staff, appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

**10.3.4** Applicants will also be expected to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that staff are trained to have a full understanding of the maximum stakes and prizes.

**10.3.5** This licensing authority has not currently formally adopted a Statement of Principles that they propose to apply when exercising their functions in considering applications for permits. Should it decide to do so it will be available from the licensing section (*see below*). Potential applicants / other interested persons are advised to check with the licensing department as to whether such a policy has been adopted.

**10.3.6** Applications for renewal of a permit may only be refused on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

**10.4 Alcohol Licensed Premises - Gaming Machine Permits**

**10.4.1** Premises licensed to sell alcohol for consumption on the premises may automatically have 2 gaming machines on the premises, of categories C and/or D, provided that they notify the licensing authority. The licensing authority can only remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

**10.4.2** If a premises wishes to have more than 2 machines, then it must apply for a permit. This Authority will consider such applications based upon the licensing objectives, as well as any guidance issued by the Gambling Commission and such matters as it considers to be relevant.

**10.4.3** This licensing authority considers that such applications will be decided on a case by case basis. It will, however, have particular regard to the need to protect children and vulnerable persons from harm or from being exploited by gambling. It will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to any adult only gaming machines.

**10.4.4** Measures which will satisfy the authority that there will be no access may include the adult machines being in site of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.



**10.4.5** This licensing authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot, however, be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

**10.4.6** It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for and be dealt with as an Adult Entertainment Centre premises licence.

## **10.5 Prize Gaming Permits**

**10.5.1** The Act provides for Licensing Authorities to prepare a statement of principles that they propose to apply in exercising their functions in respect of prize gaming permits which may, in particular, specify matters that it proposes to consider in determining the suitability of the applicant for a permit. This licensing authority has not prepared such a formal statement of principles. Should it decide to do so it will include details in a revised version of the statement of principles.

**10.5.2** In making its decision on an application for prize gaming permits licensing authorities do not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

**10.5.3** In considering applications for such permits this Authority will give particular weight to child protection issues. It will take into account the applicant's suitability including any convictions that they may have that would make them unsuitable to hold a prize gaming permit.

**10.5.4** It should be noted that there are conditions in the Gambling Act 2005 by which a permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## **10.6 Club Gaming and Club Machines Permits**

**10.6.1** Members Clubs and Miners' welfare institutes (but not Commercial Clubs) can provide equal chance gaming and may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

- 10.6.2** This licensing authority is aware that: it may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which 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.
- 10.6.3** A 'fast-track' procedure is available for premises which hold a Club Premises Certificate under the Licensing Act 2003 whereby there is no opportunity for objections to be made by the Commission or the police. The grounds upon which an authority can refuse an application for such a permit are therefore reduced to the following:-"
- (a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 10.6.4** Gambling Commission guidance indicates that members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. (This may cover bridge and whist clubs). A members' club must be permanent in nature, not established to make commercial profit, and be controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.
- 10.6.5** There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.
- 10.7 Temporary Use Notices**
- 10.7.1** The notices allow for the temporary use of premises for gambling by the holder of a gambling operator licence without the building having the benefit of a premises licence. Such premises could include such places as hotels, conference centres and sporting venues.
- 10.7.2** Temporary Use Notices will only be granted to operators holding the relevant operators licence. For instance a betting operator will not be permitted a licence-for betting facilities at a snooker tournament.
- 10.7.3** The Act makes reference, in the context of temporary event notices, to a "set of premises" and provides that a set of premises is the subject of a temporary event notice if "any part" of the premise is the subject of the notice. This licensing authority considers that the determination of what constitutes "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a "set of premises", it will look at, amongst other things, the ownership/occupation and control of the premises. A large exhibition centre, for example, would be likely to come within the definition as it is properly one premises, and should not be granted a temporary use notice for 21 days in respect of each of its exhibition halls. But in relation to other covered areas, such as shopping centres, this

Authority will need to consider whether different units are in fact different “sets of premises”, given that they may be occupied and controlled by different people. This Authority is likely to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

**10.7.4** This licensing authority will hold a hearing if an objection notice is served unless all parties agree that a hearing is unnecessary.

**10.7.5** In determining at a hearing whether to allow a temporary use notice to have effect the licensing authority will aim to permit the provision of gambling facilities in so far as it considers that it is :-

- in accordance with any code of practice or guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this statement of principles.

## **10.8 Occasional Use Notices**

**10.8.1** This licensing authority has very little discretion with regard these notices. It will, however, ensure that the statutory limit of 8 days in a calendar year is not exceeded. It will also give careful consideration to the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

## **10.9 Small Society Lotteries**

**10.9.1** This licensing authority will take account of any guidance issued by the Gambling Commission in registering and controlling non commercial societies which are established and conducted:-

- for charitable purposes;
- for the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
- for any other non-commercial purpose other than private gain

# **11 ENFORCEMENT**

**11.1** This authority considers that, in general, the authority which issues the licence or permit should take the lead in ensuring compliance with the licence and any conditions attached to it, including compliance with the relevant codes of practice. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is, therefore, to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for Operator and Personal Licences

**11.2** The authority intends that the regulatory burden imposed by it will be the minimum consistent with the carrying out of its statutory duties. Accordingly its approach to ensuring compliance with licence conditions and codes of practice will be to apply a lighter touch to operators perceived by it as low risk and a heavier more intrusive touch to higher risk operators. There may be occasions in which particular circumstances give rise to breaches of both a premises and an operating licence. In such circumstances, it may be appropriate for the licensing authority and the Gambling Commission to each review the licences for which they are responsible, and the Gambling Commission will be a responsible authority in the premises licence review.

- 11.3 This Authority recognises that, in general, the Gambling Commission will also take the lead on the investigation and, where appropriate, the prosecution of illegal gambling and that it will deal with unlicensed premises and concerns about manufacture, supply or repair of gaming machines. It accepts, however that 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 that is confined to its area.
- 11.4 This Authority will have regard to relevant guidance issued by the Gambling Commission, the Regulatory Compliance Code (formally the Enforcement Concordat) and the Authority's own Enforcement Policy in all its enforcement actions. It will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 11.5 In general any enforcement actions which the Authority takes or proposes will be-
- **Proportionate** - It will intervene when necessary to promote the licensing objectives. Remedies will be appropriate having regard to the risks posed and the costs of such remedies will be minimised.
  - **Accountable** - All decisions will be justified and will be subject to public scrutiny.
  - **Consistent** - All rules, conditions or standards will be imposed or implemented fairly across all.
  - **Transparent** - It will be open at all times and will endeavour to present regulations in a simple and user friendly way.
  - **Targeted** - Enforcement focus will be on those areas which are causing the most problems and will be aimed at minimising those problems and side effects.
- 11.6 As recommended by the Gambling Commission's Guidance, this licensing authority will adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. Once a risk model for premises licences has been produced, this authority will consider its adoption.
- 11.7 A graduated response will always be taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Licensing-Committee or Panel, the issue of a Formal Caution or a referral for prosecution.
- 11.8 This licensing authority intends to use appropriate enforcement to promote the licensing objectives under the Act. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.
- 11.9 The Authority will seek to work actively with the Police in enforcing gambling licensing legislation and intends to establish protocols with Lancashire Constabulary, Lancashire Trading Standards Department and Lancashire Fire and Rescue Service on enforcement issues to ensure an efficient deployment of police and council officers.

- 11.10 In accordance with the principle of transparency, the authority's enforcement/compliance protocols/written agreements as well as its risk methodology will be made available upon request.

## **12 COMPLAINTS AGAINST LICENSED PREMISES**

- 12.1 This Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.
- 12.2 Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.
- 12.3 This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

## **13 APPEALS**

- 13.1 A right of appeal exists to the applicant or any person making a relevant representation against a decision of the licensing authority.
- 13.2 An application for an appeal has to be made to the Magistrates Court within 21 days of being notified in writing of the decision.
- 13.3 This licensing authority will ensure that attention is drawn to this right of appeal when decision notices are served.

## **14 POLICY REVIEW**

- 14.1 This policy takes effect on the 31<sup>st</sup> December 2006 and will remain in force for not more than 3 years. It will be subject to periodic reviews and further consultation.
- 14.2 When reviewing this policy account will be taken of any additional guidance issued by the Gambling Commission and the results of any consultations received.

## APPENDIX A CONTACT DETAILS RESPONSIBLE AUTHORITIES

### Contact details for Licensing Authority:

Licensing Team  
Fylde Borough Council  
Town Hall  
Lytham St Annes  
Lancs  
FY8 1LW  
Email: [licensing@fylde.gov.uk](mailto:licensing@fylde.gov.uk) Tel No: 01253 658658

### Contact details of responsible authorities:

<i>Responsible Authority</i>	<i>Address</i>
<b>The Gambling Commission</b>	<a href="#">Gambling Commission</a> <a href="#">Berkshire House</a> <a href="#">68/173 High Holborn</a> <a href="#">London</a> <a href="#">WC1V 7AA</a> <a href="#">Tel 020 7306 6219</a>
<b>Police Authority</b>	Lancashire Constabulary Insp B Horrocks/PS A Wood Licensing Department Western Division Bonny Street Blackpool Lancs FY1 5RL Tel No: 01253 293933
<b>Fire Authority</b>	FAO Station Officer Garrod Lancashire Fire and Rescue Service St Annes Fire Station St Andrews Road North St Annes Lancs FY8 2JQ Tel No: 01253 722268
<b>Environmental Protection</b> and <b>Planning</b>	C/O Licensing Team Fylde Borough Council Town Hall Lytham St Annes Lancashire FY8 1LW Email: <a href="mailto:licensing@fylde.gov.uk">licensing@fylde.gov.uk</a> Tel No: 01253 658658
<b>Protection of Children</b>	<a href="#">Lancashire County Council</a> <a href="#">Social Services Directorate</a> <a href="#">PO Box 162</a> <a href="#">East Cliffe County Offices</a> <a href="#">Preston</a> <a href="#">PR1 3AR</a> <a href="#">Tel No: 0845 053 0000</a>

Her Majesty's Commissioners of Custom and Excise.  
Custom and Excise.  
Boundary House  
Cheadle Point  
Cheadle  
Cheshire  
SK8 2JZ

## APPENDIX B

### TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate		X	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	



## **ROUGH GUIDE TO THE GAMBLING ACT 2005**

The Gambling Act 2005 seeks to control all forms of gambling. Responsibility for enforcement is divided between a new gambling commission and local authorities.

The Act has three licensing objectives:

1. Preventing gambling being a source or associate with or supporting crime and disorder.
2. Ensuring gambling is conducted in a fair and open manner.
3. The protection of children and the vulnerable.

The new licensing regime consists of operators and personal licences which will be issued by the Gambling Commission and premises licences which will be issued by local authorities.

### **THE GAMBLING COMMISSION**

The Gambling Commission is a new regulator for gambling in Great Britain. It takes over from the Gaming Board which currently licence bingo, bookmakers, casino operators, pools operators certain lottery operators and managers, gaming machine manufacturers and suppliers. The Gambling Commission will issue codes of practice and guidance. It will issue operating and personal licences and prosecute illegal gambling.

### **LOCAL AUTHORITY ROLES**

Local Authorities will undertake licensing functions in relation to a number of gambling activities. They would also be responsible for licensing of gaming premises, grant permission for lower category gaming machines and register society lotteries below certain prescribed prize levels.

They must uphold the licensing objectives and must publish a statement of principles (licensing policy) for their area. They must hear applications for premises licences from applicants already holding relevant operating licences (issued by the Gambling Commission) and they must regulate members clubs, club gaming and machine permits.

### **STATEMENT OF PRINCIPLES (LICENSING POLICY)**

The statement of principles must set out how the authority will administrate the new system in the exercise of their licensing function. Local authorities must consult the police, fire authority and persons representing people likely to be affected. The policy must be revised periodically and every 3 years.

### **OPERATING LICENCES**

These will be required for operation of gambling on premises and remotely (e.g. on the internet). They will also be required in relation to the manufacture, sale and maintenance of gambling equipment. An applicant can be an individual, company or association of persons. Licences will be regulated through licence conditions or regulations. Premises

licences will be required to authorise using premises for the operation of a casino, providing bingo facilities and making category B gaming machines available, making category C gaming machines available and providing facilities for betting.

## **PERSONAL LICENCES**

Personal Licences are issued by the Gambling Commission & not the local authority. The holder of a personal licence is authorised to perform certain specialised functions in relation to gambling, that is directly provide the facilities for gambling (e.g. croupiers and bingo callers) or performing certain functions in a gambling operation but not actually providing facilities e.g. compliance officers and accountants.

## **PREMISES LICENCES**

Local authorities will issue premises licences. The Gambling Act 2005 means that local authorities will be able to consider applications for gambling premises along-side Licensing Act 2003 licences. The types of premises which require a premises licence are:

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;

## **Applications for Premises Licences**

The applicant must have a relevant operating licence and a right to occupy the premises.

The local authority must hold a hearing if an interested party or responsible authority has made a representation or if the authority proposes to impose conditions to the licence or the authority proposes to exclude a condition that would otherwise be attached.

The responsible authorities include environmental health, planning, fire authority, customs and excise, the local Protection of Children Board and the gambling commission. The difference between the Gambling Act 2005 and the Licensing Act 2003 is that the representations do not necessarily have to be relevant to the licensing objectives. Like the Licensing Act 2003, the authority does not have to hold a hearing if it believes representations are frivolous, vexatious or of no influence.

Three types of conditions can be attached to a premises licence.

1. Mandatory which are set by the Secretary of State
2. Default which are set by the Secretary of State and must be imposed on the premises licence unless the local authority decides not to in a particular circumstances and
3. Specific conditions which can be set by the local authority

Local authorities will have powers to limit new facilities opening in their area. They will be able to review premises and licences and will have the power of inspection.

## **GAMING MACHINES**

The Secretary of State must make regulations defining the full classes of gaming machines to be known as categories A, B, C and D. The regulations may make provision in respect of the amount paid to use the machines, the value of prizes, the nature of prizes and the premises where a machine can be used.

### **Note**

D machines – maximum stake 10p and maximum payout £5 cash (£8 prize)

C machines – maximum stake 50p and maximum payout £25

B machines – maximum stake £1-£2 and maximum payout £250 – £500

A machines – no limitations

## **Licensed Premises Gaming Machine Permits**

### **Public Houses**

Under the existing legislation, these premises can continue to have 3 gaming machines as a “grandfather right” until the full coming into force of the Gaming Act 2005. When the Gaming Act 2005 comes into force, these premises will only be permitted 2 gaming machines.

The holder of a premises licence under the Licensing Act 2003 (authorising the sale of alcohol for the consumption on the premises) will have an automatic entitlement for 2 gaming machines (C or D). They will be able to simply notify the local authority and pay the appropriate fee. If they require more than 2 machines they must apply for a Licensed Premises Gaming Machine Permit under the Gaming Act 2005. If granted the permit must specify the number and category of gaming machines which it authorises.

### **Club Gaming Permits and Club Machine Permits**

A members club may apply for a Club Gaming Permit, which can authorise up to 3 gaming machines (category B, C or D), but there must be a condition on the permit that children and young persons are excluded from the area of the club where the gaming (category B or C gaming machines) is taking place. The holder must also comply with any relevant provisions of a Code of Practice about the location and operation of gaming machines.

### **Other (non liquor licensed) premises**

The new legislation does not allow for single use premises such as chip shops, take-aways or taxi offices to be granted permits for any gaming machines. Once the permits granted under the old legislation expire, such machines will have to be removed.

### **Adult Gaming Centres**

This is a new category of premises. They are premises in respect of which an adult gaming centre premises licence is in force. Effectively these are arcades and the like which, as well as category D machines, have C (any number) or B (max of 4) machines. Under 18s are prohibited from the whole premises. The regulations made by the

Secretary of State will cover the type and number of machines that can be on these premises.

### **Family Entertainment Centres (licensed)**

A family entertainment centre is premises other than an adult gaming centre wholly or mainly used for making gaming machines available for use. Any number of C and/or D machines may be provided. Under 18s are permitted access but the C category machines must be properly segregated and managed so they are not used by under 18s..

### **Family Entertainment Centres (un-licensed)**

Seaside arcade type premises which only provide category D machines. They do not require operator licences or premises licences and are controlled through a much simpler permit system.

### **Fairs**

A fair is wholly or principally provided by persons who travel from place to place for the purpose of providing fairs and at a place part of which has been used for the provision of a fair on no more than 27 days in that calendar year.

A person does not commit an offence under the Gaming Act 2005 if:-

- (a) he makes one or more category D gaming machines available for use at a travelling fair and
- (b) facilities for gambling (whether by way of gaming machine or otherwise) amounts to no more than ancillary amusement at the fair.

### **Temporary Use Notice**

An occupier may carry on licensable activities without a premises licence by serving "temporary use notice" on the local authority. Such a person must have an operators licence. The temporary use must be no more than 21 days in a period of 12 months. Local authority must serve a Council notice if the 21 day limit will be contravened. The temporary use notice must be given at least 3 months in advance. The Gambling Commission, Police, Customs and Excise can object to a temporary event notice.

### **Offences under the Act**

These include provisional facilities for gambling without an operators licence, the use of premises for gambling without a premises licence, offences relating to employment of minors gambling access etc, other offences for example – cheating, certain advertising.

### **Lotteries**

Councils will continue to be responsible for licensing small society lotteries. Certain lotteries will continue to be exempt and these will include: private, private society, work, residents and custom lotteries.

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING & PROTECTION UNIT	POLICY AND SERVICE REVIEW OVERVIEW & SCRUTINY	13 JULY 2006	5

## HOUSES IN MULTIPLE OCCUPATION (HMO) LICENSING POLICY

### Public/Exempt item

This item is for consideration in the public part of the meeting.

### Summary

Under the Housing Act 2004 local authorities are required to licence certain houses in multiple occupation. The policy attached at Appendix 1 has been developed as a common approach for Fylde and Wyre Borough Councils. It is also possible to charge fees for this licensing in order to recoup the associated costs. Hence a common fee structure has also been developed.

Due to timetable constraints the policy has been tabled at the Cabinet meeting on 12 July 2006, prior to coming to this meeting of overview & scrutiny for discussion. Any resulting amendments have been delegated to the Executive Manager of Consumer Wellbeing and Protection, in consultation with the Community and Social Wellbeing Portfolio Holder.

### Recommendation/s

1. That the HMO licensing policy and associated fees be approved.
2. That any amendments be delegated to the Executive Manager of Consumer Wellbeing and Protection, in consultation with the Community and Social Wellbeing Portfolio Holder.

### Executive Portfolio

The item falls within the following executive portfolio[s]:

Community and Social Wellbeing

Councillor Patricia Fieldhouse

## **Report**

1. The Housing Act 2004 introduces mandatory licensing for certain Houses in Multiple Occupation. Licensing has been introduced to ensure that HMOs are safe, healthy and properly managed and that issues of anti-social behaviour can be better addressed.
2. The private rented sector is a valuable housing resource. Approximately 10% of accommodation in England is provided in the private rented sector. This sector is especially useful for a range of groups who are generally ineligible for social housing, such as those requiring employment-related mobility, single people and childless couples. It is recognised that the private rented sector provides a key element in fulfilling the overall housing needs of the Borough. This is equally true of the HMOs that will be subject to licensing provisions.
3. Whilst much of the private sector provides a good standard of accommodation, there is a significant part of the sector where improved property conditions and management standards are needed. Of particular concern in terms of standards are some HMOs. The most common problems associated with multiple occupancy relate to poor fire safety standards, overcrowding, inadequate facilities and poor management.
4. Research indicates that many HMOs present significantly greater health and safety risks to tenants than comparable single occupancy dwellings. They can be difficult to manage and the way a property is occupied can contribute towards increased risks for tenants even when an HMO is in an acceptable state of repair.
5. The Housing Act 2004 has placed a duty on local authorities to licence HMOs. The aim of licensing is to raise standards in the private sector. Licensing will also ensure that those HMOs which present the most significant health and safety risks (whether those risks are related to property conditions or not) come to the attention of the local authority and will place a more direct obligation on poor landlords to provide adequate standards.
6. The requirement for a HMO to be licensed arises when:
  - it is three or more storeys high.
  - it has five or more people in more than one household.
  - the occupants share amenities such as bathrooms, toilets or cooking facilities.

Certain properties are exempt from the licensing scheme, these are detailed in paragraph 3.1 of the attached policy. There are approximately 500 HMOs in Fylde, of which it is anticipated that a maximum of 30 of these will fall within the remit of mandatory licensing

7. Legislation does not require the development of a formal HMO Policy. However, the attached policy, developed in conjunction with neighbouring authorities, sets out our approach to implementing a HMO Licensing system and delivering against the following objectives:
  - ensuring that all landlords of HMOs, or their agents, are fit and proper persons.
  - implementing minimum standards of management of HMOs.

- identifying high risk HMOs and their landlords and to deal with the health and safety issues involved.
8. Although some of the standards and requirements are prescribed in the Housing Act and its secondary legislation, the legislation makes provision for additional conditions to be attached to a licence to secure improved property standards and management arrangements. Our proposals with respect to such discretionary areas are set out in Sections 6 and 7 of the attached Licensing Policy at Appendix 1.
  9. This policy has been prepared to strike a balance between the needs of landlords (on whom the provision of this accommodation depends) and the necessity to ensure that the lettings they provide are properly managed for the safety and welfare of the tenants and neighbouring occupiers.
  10. The Act also gives local authorities discretion to designate areas or other property types for selective licensing. Such schemes can be used to focus on localised problems and could extend the licensing requirements to cover other types of HMOs. However, any decision to designate an area for selective licensing must be consistent with housing strategy objectives and the Council's overall approach to homelessness, empty properties and anti-social behaviour. Selective licensing cannot be implemented unless the authority:
    - has considered whether there are other courses of action available, and
    - can clearly show that making the decision will have positive benefits, will make a significant contribution towards achieving strategic objectives and that it will continue to be necessary once other options have been taken into account.

At this time it is not considered appropriate to introduce a selective licensing scheme.

11. The Government has not prescribed licensing fees and has determined that Local Authorities must set their own fee structures. Government has clearly indicated that it expects Councils to cover the administrative costs of running such schemes through licensing charges. Any fee charged must be reasonable and only cover the cost of the licensing scheme.
12. Government advises that fees should not place an unnecessary burden on landlords which could jeopardise the supply of affordable private rented accommodation. The National Residential Landlords Association have clearly indicated that they will be closely scrutinising fee levels being charged by local authorities across the country to ensure that they are fair and reasonable. However, the processes involved in determining licence applications are complex and this must be reflected in the fee if the Council Tax payer is not to bear these costs.
13. Government has promoted a sub-regional approach to developing fee structures and accordingly we have worked with neighbouring authorities (Wyre and Blackpool) to encourage consistency. The attached HMO Licensing Policy and fee structure are proposed for adoption by both Fylde and Wyre Borough Councils – although it is quite likely that Blackpool will adopt the policy and fee structure.
14. It is estimated that currently up to 30 HMOs in Fylde fall within the remit of mandatory licensing. If all 30 of these premises were licensed this would generate income in the region of £24,000 over a five year period. The additional income will be used to provide additional capacity to deliver the licensing scheme.

Implications			
Finance	The charging of fees for the issue of licences will enable the Council to recoup its costs. It is estimated that a maximum of £24,000 income will be generated, based upon 30 licensable HMOs, over the 5 year licence period. Additional income will be used to provide additional capacity to deliver the licensing scheme.		
Legal	Enforcement of the provisions of the Act will be in accordance with the Enforcement Concordat and the Council's Enforcement Policy. A person may make an appeal to the Residential Property Tribunal in respect to the refusal, variation, revocation or conditions of a licence.		
Community Safety	Both mandatory and selective licensing are, in part, designed to assist in controlling anti-social behaviour. Better control of HMOs and the persons who manage them can prevent some of the negative environmental impacts such accommodation can have on local neighbourhoods.		
Human Rights and Equalities	The powers under the Housing Act should increase the health and safety of housing for the most poorly housed residents, particularly those vulnerable groups most often housed in HMOs.		
Sustainability	Improved housing standards contribute to creating sustainable balanced communities.		
Health & Safety and Risk Management	If the Council does not charge an appropriate level of fees for the issue of HMO licences then it will not cover the additional revenue costs associated with the operation of this mandatory scheme. However, if these fees are excessive then this could seriously threaten the supply of affordable housing.		
Report Author	Tel	Date	Doc ID
Clare Platt	(01253) 658602	12 July 2006	Cabinet 12.7.06 HMO Licensing Report
List of Background Papers			
Document	Date	Where available for inspection	
Policy and Service Review Overview & Scrutiny	10 May 2006 Agenda	<a href="http://www.fylde.gov.uk/ccm/content/websi te/domestic-and-legal-services/agendas-and-minutes/policy-and-service-review-cf/2006-03-30.en">http://www.fylde.gov.uk/ccm/content/websi te/domestic-and-legal-services/agendas-and-minutes/policy-and-service-review-cf/2006-03-30.en</a>	

#### Attached documents:

Appendix 1: Houses in Multiple Occupation – Licensing Policy



**Wyre Borough Council**



# Houses in Multiple Occupation Licensing Policy

June 2006

(Rev 3 Joint)

## Contents

1.0	Introduction	1
2.0	Definition of an HMO	1
3.0	HMO Licensing	1
4.0	The Licensing Objectives	2
5.0	The Licensing Function	4
6.0	Conditions	4
7.0	Property Standards	5
8.0	Discretionary Additional Licensing	6
9.0	The Licensing Process	6
10.0	Fees	6
11.0	Delegation	7
12.0	Appeals	7
13.0	Enforcement	7
14.0	Temporary Exemption Notices	8
15.0	Register of Licences	8
16.0	Monitoring and Review	8

## Appendices

Appendix A	Principles of Rehabilitation of Offenders Act 1974	9
Appendix B	A Summary of Management Regulations, Codes of Practice and Requirements	10
Appendix C	Licensing Fees for HMOs	13
Appendix D	Glossary of Terms	15

# Houses in Multiple Occupation Licensing Policy

## 1.0 Introduction

- 1.1 This policy is written jointly by both Fylde and Wyre Borough Councils and consequently the reference to “ the Council” in the document refers to either or both as appropriate.
- 1.2 The Housing Act 2004 radically overhauls the way the Council regulates standards in private rented housing. It also introduces compulsory licensing of certain houses in multiple occupation (HMO) see 2.1 below for definition. These changes came into force in April 2006.
- 1.3 This statement of licensing policy is written pursuant to the provisions of the Housing Act 2004, which introduces a new mandatory licensing system in relation to certain categories of houses in multiple occupation. This policy relates to all houses in multiple occupation (hereafter referred to as HMO) in the area which must be licensed under the 2004 Act, and takes effect from 1<sup>st</sup> April 2006.
- 1.4 The Council aims to maximise the availability of private rented accommodation and ensure that it is of a decent standard to protect the health and safety of tenants. The availability of HMO lettings is also important in order to sustain affordable housing. The Council considers the new legislation as an opportunity to improve the services provided by landlords and ensure decent homes for residents in the Borough.

## 2.0 Definition of an HMO

- 2.1 The Housing Act 2004 changed the definition of HMOs, which are now defined as properties that are lived in by people who are not from the same family. The people living there have to pay rent (or there has to be some other consideration), occupy the property as their main home and share a kitchen, bathroom or toilet. It includes bedsits, hostels and shared houses. A member of the same family means people who are married or living together as husband and wife or equivalent relationship, or related to one another.
- 2.2 The number of tenancy agreements is not relevant and the Act confirms that shared houses, including those occupied by students, are HMOs.
- 2.3 Self-contained flats in converted buildings may also be HMOs if they were converted before 1991 and did not meet the requirements of the Building Regulations 1991, with at least one third of the flats are occupied under short tenancies.
- 2.4 A self-contained flat that is occupied by people who are not from the same family, pay rent and share a kitchen, bathroom or toilet is an HMO (this is known as a flat in multiple occupation).
- 2.5 Bed and breakfast hotels will be treated as HMOs if they are housing any people who use the hotel as their main residence for more than 42 days. When this accommodation is used as a main residence, the same standards as for other HMOs should be met. People who use a hotel as a main residence are likely to be homeless and placed there by a local authority.

## 3.0 HMO Licensing

The aim of HMO licensing is to ensure that high risk properties in the private rental market meet the legal standards and are properly managed.

- 3.1 The requirement for a HMO to be licensed arises when:

- It is three or more storeys high.
- It has five or more people.
- It is occupied by persons living in two or more single households.
- The occupants share amenities such as bathrooms, toilets or cooking facilities.

Certain properties are exempt from the licensing regime:

- Where the whole property consists of self-contained flats.
- Where the basement is in commercial use and there are only two residential storeys above.
- Where the property is owned or managed by a housing association, a local authority, an education, police, fire or health authority.
- Where the building is occupied only by an owner or owners, and members of their family.
- Where the building is occupied by only two persons.

3.2 In setting out its policy, and administering the licensing regime, the licensing authority intends to promote the following objectives.

- To ensure that all landlords of HMOs, or their agents, are fit and proper persons.
- To implement minimum standards of management of HMOs.
- To identify high risk HMOs and their landlords and to deal with the health and safety issues involved.

3.3 In exercising its discretion in carrying out its regulatory functions, the licensing authority has regard to this policy document and the objectives set out above.

3.4 Despite the existence of this policy, each application or enforcement measure must be considered on its own merits. Where it is necessary for the licensing authority to depart substantially from its policy clear reasons must be given for so doing.

3.5 The aim of the licensing process in this context is to regulate the management of HMOs in order to promote the above objectives. It is the licensing authority's wish to acknowledge the valuable role which the private rented sector has to play in meeting demand and offering choice and flexibility in the housing market. Accordingly, the authority wishes to encourage well-run establishments where the landlord or agent displays a sensitivity to the wishes and needs of the tenants.

3.6 This policy takes effect from 1 April 2006 and remains in existence for a period of five years, during which time it will be kept under review and revised as appropriate.

3.7 Licences will be granted where the HMO is reasonably suitable for occupation by the number of people allowed under the licence, the management arrangements are satisfactory and the licence holder and manager are fit and proper persons.

3.8 Many HMOs will not be licensable under the mandatory scheme. These include houses containing self-contained flats and smaller HMOs. The only additional regulation of these HMOs will be under the proposed HMO Management Regulations. They will need to be free of all Category 1 hazards under the Housing Health and Safety Rating System (HHSRS), which applies to all dwellings irrespective of whether they are a HMO.

## **4.0 The Licensing Objectives**

**(a) To ensure that all landlords of HMOs, or their agents, are fit and proper persons.**

4.1 Under the terms of the Housing Act 2004, the Authority must, in deciding whether the proposed licence-holder or manager of the property is a fit and proper person, have

regard to evidence that they have committed certain categories of offences. Such offences include those involving fraud, dishonesty, violence, drugs and sexual matters. Also relevant is any unlawful type of discrimination, and contravention of any housing or landlord and tenant provision. Similarly consideration will be given to instances where an applicant has been previously refused an HMO licence or where the applicant has been in control of a property subject to a control order or where there is outstanding work on a property in default of a statutory notice.

- 4.2 Also significant are any of those matters outlined above which are relevant in relation to an associate of the proposed licence-holder, or a manager of the property.
- 4.3 The authority is only able to consider an application for a licence under the Housing Act, 2004 if the applicant has provided a Basic Criminal Records Bureau Disclosure of criminal convictions from Disclosure Scotland. Such disclosures can be applied for on-line at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk). Alternatively Disclosure Scotland can be contacted by post at PO Box 250, Glasgow G51 1YU, or by telephone 0870 6096006.
- 4.4 The Council is bound by rules of confidentiality and cannot divulge information obtained through the disclosure process to any third parties.
- 4.5 The process of obtaining a CRB disclosure takes a varying amount of time provided the application forms are completed fully and accurately.
- 4.6 In assessing whether the applicant is a fit and proper person to hold a licence, the licensing authority takes account of cautions and convictions but only in so far as they are relevant to an application for a licence. Upon receipt of the disclosure, an officer of the licensing authority assesses whether any or all of the spent convictions are capable of having a real relevance to the issue as to whether the applicant is a fit and proper person to hold a licence.
- 4.7 In relation to cautions, the licensing authority has regard to the class and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application. Cautions given more than 3 years before the date of the application are treated as irrelevant.
- 4.8 In relation to previous convictions, the licensing authority has regard to the following
  - the class of the offences.
  - the age of the offences.
  - the apparent seriousness, as gauged by the penalty.
  - whether a term of imprisonment has been served.
- 4.9 Guidance in relation to specific offences, along with a summary of the principles of the Rehabilitation of Offenders Act 1974, is given in Appendix A. In general terms, the more recent, serious and relevant to public safety the offence is, the less likely it is that an application will be granted.

**(b) To implement minimum standards of management of an HMO**

- 4.8 The authority is committed to driving up the standards of HMO management by applying benchmarks which are proportionate, flexible and relevant. Our approach to achieving standards is by way of risk assessment and risk management.
- 4.9 Our aim is to engage with landlords to provide good quality accommodation. We wish to encourage landlords to develop their business and management skills. To the same end, we wish to encourage landlords to form professional landlord organisations and gain qualifications wherever this is possible.
- 4.10 The component elements of satisfactory management arrangements are as follows:

- A system for tenants to report defects and arrangements for responding.
- A system of periodic inspections to identify repair or maintenance matters.
- A declaration from the owner (where he is not the manager) that adequate funding will be available to the manager to deal with repairs.

4.11 The appropriate Management Regulations, Codes of Practice and management requirements are summarised in Appendix B. In essence, the Regulations require a HMO to be kept in a reasonable state of repair, all installations and appliances to be in good working order and the common parts to be kept clean and in a reasonable state of decoration.

**(c) To identify high risk HMOs and their landlords and to deal with the health and safety issues involved**

4.12 Officers will not always visit HMOs when an application is received, but they must inspect the property within five years of the application. Each application will be risk assessed on receipt and high risk HMOs and properties not previously known to the Council will be visited as priority.

4.13 Inspections will be carried out with regard to licensing requirements. If additional licence conditions are required after an inspection of an HMO, the licence will be varied to include such conditions.

4.14 An inspection of each HMO will also be carried out under the Housing Health and Safety Rating System (HHSRS), which is set out in the Housing Act 2004 and replaces the current housing fitness standard. This will include a risk assessment of the effect of housing conditions on the health and safety of occupiers. The HHSRS involves the assessment of 29 potential hazards and scoring their severity to decide whether improvements are needed. If more serious "Category 1" hazards are found the Council has a duty to require the owner to remedy the defect. If less serious "Category 2" hazards are found, the Council has discretionary power to require action.

4.15 Where Category 1 and 2 hazards are found, informal action will be used to encourage owners to carry out works, but if this fails enforcement action will be taken in accordance with the Act and our enforcement policy.

## **5.0 The Licensing Function**

5.1 The Licensing Authority recognises that the licensing function is not the only means of securing the delivery of the above objectives, but nonetheless it makes an important contribution to reaching the goal of providing everyone with access to a decent home.

5.2 The licensing function is not a tool for the Authority to control the availability of HMO accommodation. No application for a licence can be rejected because the Authority believes that there are already enough of these types of premises in the area.

## **6.0 Conditions**

### **(a) Mandatory Conditions**

6.1 The Housing Act 2004 sets out a number of mandatory conditions which must be applied to all licences. These are:

- A licence must specify the maximum number of occupants who may occupy the property. The number will depend upon the location, number and size of rooms available for sleeping and living purposes and the adequacy of kitchen and bathroom facilities.
- That gas safety certificates are produced annually.
- That smoke alarms are installed in the house and kept in proper working order. A declaration relating to the condition and position of such alarms must be provided to

the Council.

- That electrical appliances and furniture are kept in a safe condition. A declaration confirming this must be supplied to the Council.
- That occupiers are supplied with a written statement of the terms on which they occupy the property.

**(b) Discretionary Conditions**

6.2 In addition, the authority has a discretion to impose other conditions in licences, where such conditions are appropriate in the promotion of the licensing objectives as set out above.

6.3 In addition to the mandatory licensing conditions (see 6.1 above), the Council will, in respect of each licence, consider the appropriateness of imposing any or all of the following discretionary conditions:

- That measures or works to bring any individual HMO into compliance with the statutory Management Regulations are conducted within three months, or sooner if a serious breach is identified, of the grant of a licence.
- That measures or works to bring any individual HMO into compliance with the Council's adopted HMO standards are conducted within specified timescales.
- To provide copies of reports of fire detection, alarm system and emergency lighting to the Council annually.
- The name, address and telephone number for licensee or manager is to be displayed in the common parts of the HMO.
- A copy of the licence to be displayed in the common parts.
- That the property and facilities shall be properly maintained.
- That tenancy agreements must set out how owners or managers intend to deal with anti-social behaviour from tenants or visitors.
- That the licence holder requests that each new prospective tenant completes a Tenancy Application Form as supplied by the licensing authority to enable the licence holder to make an informed judgement as to whether or not to let accommodation. Completed forms to be retained by the licence holder for inspection by licensing authority on demand.
- That any anti-social behaviour arising in the HMO is dealt with under the terms of any tenancy agreement.
- That licensees or managers attend suitable training courses where circumstances suggest this is achievable and appropriate.

6.4 The Council may apply other conditions to individual licences with respect to the use, management and occupation of the HMO, where appropriate and may seek evidence of compliance with conditions at any time.

6.5 These conditions will require HMOs to be kept in a reasonable state of repair, all installations and appliances (including those for fire safety) to be in good working order and the common parts to be kept clean and in a reasonable state of decoration.

**7.0 Property Standards**

7.1 The Housing Act 2004 provides that a HMO must be "reasonably suitable for occupation" by the number of persons permitted to reside there before a licence can be granted.

7.2 In approving a licence, we must determine whether the HMO is suitable for occupation by the number of persons stated in the application form. If the arrangements are unsatisfactory, then a licence can be approved for a lesser number, or conditions imposed requiring that specified works be carried out.

- 7.3 The standards to be considered include those for bathrooms, showers, toilets, wash hand basins, cooking facilities and living space. National minimum standards for amenities are contained in Schedule 3 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 – these are summarised in Appendix B. To comply with the regulations, each unit of living accommodation and all bathrooms must have adequate heating. One separate WC and at least one bathroom is required for every five sharing occupiers. Where there are five or more occupiers of an HMO, every unit of living accommodation must have a wash hand basin and splash back. Kitchen facilities are also required for each unit of accommodation or with adequate facilities for the number of occupiers sharing. Our policy requires a set of kitchen facilities for every five sharing occupiers.
- 7.4 The Council will determine the number of people an HMO is licensed for in accordance with our adopted HMO space standards for room sizes. These standards relate to all HMOs, not just licensable properties.
- 7.5 Licence applications will need to include dimensions of rooms and details of the kitchen and bathroom facilities to enable assessment of the number of occupiers permitted under the licence.

## **8.0 Discretionary Additional Licensing**

- 8.1 The authority has not applied for additional discretionary powers to extend the licensing scheme to other categories of HMO which do not fall within the mandatory criteria.
- 8.2 Such licensing would enable the authority to licence properties in an area where there is low housing demand or there is significant and persistent anti-social behaviour.
- 8.3 Despite the above, however, the authority is committed to reviewing the stance set out in 8.1 and 8.2 should the implementation of such powers be considered necessary.

## **9.0 The Licensing Process**

- 9.1 In carrying out its licensing function, the authority is reliant on the securing of relevant information about the applicant, the property and those who occupy it. With this in mind, the Authority seeks, through the application form, the applicant's consent to its approaching other statutory bodies and other departments within the Borough Council, as necessary, for information.
- 9.2 All the information presented on the application form will be subject to verification processes as required. This may take the form of site inspection, liaison with other Council Service Units, e.g. Housing Benefits, liaison with other agencies, e.g. Criminal Records Bureau, sample verification and (where there are indications of a misleading application) detailed examination of all information given.
- 9.3 The Housing Act 2004 places no obligation on licensing authorities to process applications within a specific period of time. This authority, however, is committed to processing applications within 56 days of receipt of application forms which are properly and fully completed and accompanied by the requisite documentation and the relevant fee.
- 9.4 Where applications meet the criteria to be granted, licences will normally be granted for a maximum of five years and will specify the maximum number of people who may live in the HMO. The occupancy number will depend on the number and size of rooms and the kitchen and bathroom facilities. The authority maintains a discretion to grant a licence for a shorter period, where it considers it appropriate to do so. Such a discretion is utilised where the authority identifies shortcomings in the management or fabric of the premises, which justify a licence being granted for a shorter period. In such instances, reasons will be given for such decisions.



## **10.0 Fees**

- 10.1 The Housing Act 2004 and other subordinate legislation does not specify a structure of fees for applicants seeking a HMO licence.
- 10.2 In the absence of standard fees, therefore, the authority has adopted its own fee structure, which is set in Appendix C.

## **11.0 Delegation**

- 11.1 Licence applications are dealt with in accordance with the Council's scheme of delegation to officers under which the Service Head may grant such applications.

## **12.0 Appeals**

- 12.1 Where applicants or licence-holders are aggrieved with a decision to refuse, revoke or vary a licence, or to impose particular conditions, or to grant a licence for a shorter period than 5 years, they are able to appeal to a Residential Property Tribunal.

## **13.0 Enforcement**

- 13.1 As a general principle, action is taken in accordance with the enforcement policy, the key principles of which are consistency, transparency and proportionality. A graduated approach, embracing risk assessment and risk management, is considered to be the most appropriate. Such a graduated approach is aimed at encouraging owners, landlords and managers to acquire licences and to improve the standards of their premises and provide "decent homes", rather than to solely punish poor management.

- 13.2 It is a criminal offence to operate without a licence or to breach licence conditions.

- 13.3 Where a landlord is convicted for failure to licence an HMO, the Council can apply to the Residential Property Tribunal (RPT)\*. The RPT has the power to require that up to 12 months' rent is repaid to the Council where a tenant is on housing benefits. Tenants can also apply to the RPT for repayment of any rents they have paid.

\*The RPT will replace the courts for certain housing related matters and will judge cases relating to offences and appeals under the Act.

- 13.4 Where there is no prospect of an HMO being licensed, because of its unsuitability or the owner's refusal to carry out improvements, the Act provides a power for a Council to use Management Orders. Interim Management Orders enable a Council to take over the management of an HMO, and collect the rent for up to a year. In extreme cases a Final Management Order can be applied to the premises for the full term of the licence.

- 13.5 If the Council finds that there has been a change of circumstances in an HMO since it was licensed, it has the power to vary the licence. If there is a serious breach or there are repeated breaches of the licence conditions or the licensee or managers are no longer fit and proper persons, the licence can be revoked. The licence can also be revoked if the property is no longer a licensable HMO or if the condition of the property means it would not be licensable were an application to be made at the later time.

- 13.6 There is a duty upon landlords to come forward to be licensed. However the Council will encourage landlords to apply for licences using a variety of methods:

We will:

- take reasonable steps to proactively identify licensable HMOs where no applications have been made;
- publicise the need to licence HMOs;
- send letters and reminders to landlords;

- offer a service assisting landlords with the completion of forms and measuring rooms, where resources permit (an additional fee of £200 will be charged);
- send letters warning of prosecution and application for a rent repayment order.

#### **14.0 Temporary Exemption Notices**

- 14.1 The local authority may serve a Temporary Exemption Notice (TEN) where a person who must be licensed under the Housing Act 2004 in respect of an HMO notifies the Authority that he/she proposes to take steps to secure that the property is no longer required to be licensed. The issue of a TEN exempts the property from being licensed for a period of three months.
- 14.2 The authority may issue a second TEN for a further three months, but only in exceptional circumstances.
- 14.3 This authority does not wish these notices to be used routinely and, therefore, will only issue second notices in exceptional and unforeseen circumstances.

#### **15.0 Register of Licences**

- 15.1 The authority has a duty to establish and maintain a register of any licences granted. The particulars for each entry are prescribed and, amongst other details, include:
- the name and address of the licence holder;
  - a summary of the conditions of the licence;
  - the commencement date and duration of the licence;
  - the number of rooms in the licensed HMO providing sleeping accommodation and living accommodation.
- 15.2 Further registers will be kept of temporary exemption notices and management orders.

#### **16.0 Monitoring and Review**

- 16.1 The impact of this policy on the number, management and condition of HMOs will be monitored. This policy is linked to our Housing Strategy, Private Sector Housing Renewal Policy and Enforcement Policy.
- 16.2 Any minor changes to this policy that are necessary because of regulations or other secondary legislation published after the approval of the policy by Cabinet, will be approved by the portfolio holder in consultation with the Service Head

## Appendix A

### Principles of the Rehabilitation of Offenders Act 1974

- (1) Under the 1974 Act, criminal convictions can become spent after a certain period of time and once spent, for many purposes, can be disregarded completely.
- (2) The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- (3) Where a person is sentenced to imprisonment for a period exceeding 30 months, the conviction can never become spent.
- (4) The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
- (5) The rehabilitation periods to which reference is most commonly made are set out below. For a detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act.

<b>Sentence</b>	<b>Rehabilitation Period</b>
(a) Sentence of imprisonment or detention exceeding 6 months but not exceeding 30 months.	10 years
(b) Sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service.	10 years
(c) Sentence of imprisonment not exceeding 6 months.	7 years
(d) Sentence of dismissal from Her Majesty's Service.	7 years
(e) Sentence of detention in service disciplinary proceedings.	5 years
(f) A fine.	5 years
(g) Absolute discharge.	6 months
(h) Conditional discharge.	1 year or date of expiry of order
(i) Probation Order.	5 years

## Appendix B

### A Summary of Management Regulations, Codes of Practice and Requirements

#### **You are required to SUPPLY the following information:**

A copy of your Landlord Gas Safety Certificate issued by an authorised competent person (CP-12).

Proof of Electrical Inspection for the fixed installation undertaken within the last 5 years by an authorised competent person as per Building Regulations

A declaration from an authorised competent person that all electrical appliances over 12 months old supplied by the landlord are in safe working order.

A declaration from an authorised competent person that all smoke detectors have been tested and are in safe working order.

A declaration from the owner or manager that all upholstered furnishings supplied by the owner display permanent fire resistance labels or evidence that they have been checked to that effect.

A copy of the written terms of agreement under which each tenant occupies the premises.

#### **You are required to DISPLAY the following information in a communal area:**

A copy of the granted licence.

The owner/landlords name, address and telephone number.

The name, address and telephone number of any authorised managing agent of the property.

NB. Landlord and Tenant Act 1987, Section 48.

(1) A landlord of premises to which this Part applies shall by notice furnish the tenant and the Council with an address in England and Wales at which notices (including notices in proceedings) may be served on him by the tenant or the Council.

#### **You must COMPLY with the following requirements:**

Schedule 3 of Statutory Instrument 2006 No. 373.

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

Schedule 3 prescribes standards for deciding the suitability for occupation of an HMO by a particular maximum number of households or persons. These are as follows:

#### **1.0 Heating**

Each unit of living accommodation in an HMO must be equipped with adequate means of space heating.

#### **2.0 Washing Facilities**

(1) Where all or some of the units of living accommodation in an HMO do not contain bathing and toilet facilities for the exclusive use of each individual household:

- (a) Where there are four or fewer occupiers sharing those facilities there must be at least one bathroom with a fixed bath or shower and a toilet (which may be situated in the bathroom).
  - (b) Where there are five or more occupiers sharing those facilities there must be:
    - One separate toilet with wash hand basin with appropriate splash back for every five sharing occupiers; and
    - At least one bathroom (which may contain a toilet) with a fixed bath or shower for every five sharing occupiers.
- (2) Where there are five or more occupiers of an HMO, every unit of living accommodation must contain a wash hand basin with appropriate splash back (except any unit in which a sink has been supplied as mentioned in paragraph 4(1)).
- (3) All baths, showers and wash hand basins in an HMO must be equipped with taps providing an adequate supply of cold and constant hot water.
- (4) All bathrooms in an HMO must be suitably and adequately heated and ventilated.
- (5) All bathrooms and toilets in an HMO must be of an adequate size and layout.
- (6) All baths, toilets and wash hand basins in an HMO must be fit for the purpose.
- (7) All bathrooms and toilets in an HMO must be suitably located in or in relation to the living accommodation in the HMO.

### **3.0 Kitchens**

Where all or some of the units of accommodation within the HMO do not contain any facilities for the cooking of food:

- (a) There must be a kitchen, suitably located in relation to the living accommodation, and of such layout and size and equipped with such facilities so as to adequately enable those sharing the facilities to store, prepare and cook food.
- (b) The kitchen must be equipped with the following equipment, which must be fit for purpose and supplied in a sufficient quantity for the number of those sharing the facilities:
  - sinks with draining boards.
  - an adequate supply of cold and constant hot water to each sink supplied.
  - installations or equipment for the cooking of food.
  - electrical sockets.
  - worktops for the preparation of food.
  - cupboards for the storage of food or kitchen and cooking utensils.
  - refrigerators with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers).
  - appropriate refuse disposal facilities.
  - appropriate extractor fans, fire blankets and fire doors.

### **4.0 Units of living accommodation without shared basic amenities**

(1) Where a unit of living accommodation contains kitchen facilities for the exclusive use of the individual household and there are no other kitchen facilities available for that household, that unit must be provided with:

- (a) adequate appliances and equipment for the cooking of food.
- (b) a sink with an adequate supply of cold and constant hot water.

- (c) a worktop for the preparation of food.
- (d) sufficient electrical sockets.
- (e) a cupboard for the storage of kitchen utensils and crockery.
- (f) a refrigerator.

(2) Where there are no adequate shared washing facilities provided for a unit of living accommodation as mentioned in paragraph 2, an enclosed and adequately laid out and ventilated room with a toilet and bath or fixed shower supplying adequate cold and constant hot water must be provided for the exclusive use of the occupiers of that unit either:

- (a) within the living accommodation; or
- (b) within reasonable proximity to the living accommodation.

## **5.0 Fire Precautionary Facilities**

Appropriate fire precautionary facilities and equipment must be provided of such type, number and location as is considered necessary.

## Appendix C

### Licensing Fees for HMOs

#### Initial Licence Determination

The fee for the initial licence determination of an HMO is £ 800.00 per property (regardless of the number of units of accommodation within the property). A number of fee adjustments may then be applied to reflect the ease with which a HMO can be licensed.

#### Fee Adjustments

It is intended that the cost of licensing a good quality HMO that is operated by a landlord who properly manages the property, would be less than a similar HMO that is badly managed and which does not meet the Council's standards.

#### Additional Costs

In order to account for those applications incorrectly filled in or having some deficiency a further fee will be levied to reflect the reasonable costs of carrying out this work. This will be invoiced latterly and incur an additional fee of £17.00 for administering the invoice. These service charges are as follows:

<b>Additional services charged on a specific case basis</b>	<b>Proposed Fee</b>
Return incomplete/defective application to applicant with letter (this will only be applied where the application is returned incomplete a second or further time)	£17.00 (+£17)
Reprocessing form after amendments received	£17.00 (+£17)
Additional cost where landlords fail to respond within 28 days to justified requests for an application, renewal <b>OR</b> information required in respect of incomplete applications	£20.00 (+£17)
Revisit where no access gained previously	£26.00 (+£17)
Assisted application – Full assistance provided in making the application, measuring rooms, drawing sketch plans, etc.	£200 (+£17)
Variation of licence	£200 (+£17)
Such sums as may be necessary to fund the identification, confirmation, inspection and enforcement of licensing requirements. These are to be assessed on a case by case basis, using the hourly rates for the officers appropriate for the tasks undertaken.	As determined
Invoicing applicant – initiating and unit cost	£17.00

## Discounts

The following discounts will be given to recognise landlord good practice.

Requirement	Discount
HMO recorded as previously improved to Borough Council standards, or those that are currently in the course of improvement. (This discount will not apply to those HMO's where statutory notices have been served, the period for their compliance expired, and the works remain incomplete at the time of application).	£50.00
The proposed licence holder is a member of (a) a recognised Landlord Association, residential property management association, or (b) a member of a landlord accreditation scheme.	£50.00
Under a joint working initiative between Wyre, Fylde and Blackpool Councils if an applicant submits applications (at the same time) for more than one HMO owned across the different Authority boundaries then only one fit and proper person check will be necessary and therefore a discount will be made to the fee for second and subsequent applications.	£50.00

## Costs not covered in fee

Costs	
Criminal Record Bureau certificate	Applicant to pay the charges as set by the Criminal Records Bureau



## Appendix D

### Glossary of Terms

- **Household**  
Persons who are all members of the same family (i.e. they are married or co-habiting, regardless of their gender or whether one of them is the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the other).
- **Housing Health and Safety Rating System**  
A points system of hazard analysis comprising a risk assessment of the effect of housing conditions on the health of occupiers. There are 29 potential hazards which are scored as to their severity.
- **Management Order**  
An order which may be made by the Residential Property Tribunal to the effect that a licensable but unlicensed property is managed by the local authority. This is applicable where there is no reasonable prospect of the property being licensed and it is necessary to protect the health, safety or welfare of the occupiers, and/or other residents in the vicinity.
- **Rent Repayment Order**  
An order which may be made by the Residential Property Tribunal for the landlord or manager to repay rent to either the local authority (where Housing Benefit has been paid) or to an occupier where the premises are unlicensed.
- **Residential Property Tribunal**  
The appeal body to whom appeals against decisions of the local authority are directed and the body which has the power to make rent repayment and management orders.
- **Temporary Exemption Notice**  
A notice issued by the local authority stating that a HMO is not licensable for 3 months. This is appropriate where an owner or manager of a licensable HMO states in writing that he/she is taking steps to make the property non-licensable.

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
POLICY AND PERFORMANCE	POLICY & SERVICE REVIEW OVERVIEW & SCRUTINY COMMITTEE	JULY 13 <sup>TH</sup> 2006	6

## ELECTRONIC SERVICE DELIVERY AND CUSTOMER TRANSACTION POLICY

### Public item

This item is for consideration in the public part of the meeting.

### Summary

The report provides details of the shift in corporate policy from the implementation of electronic means of service delivery to the uptake of electronic means of service delivery across all service areas of the council. Details of the national transformational policy are outlined in the report and the link they have to the technologies developed as part of the e-service delivery agenda.

### Recommendations

1. That the committee supports the shift in focus of corporate policy from the implementation of e-service delivery (IEG) to the take up of e-service transactions in all service areas to achieve efficiency savings and improve access to council services.
2. That the committee supports the policy to map, review and re-design all service transactions to ensure that they are focused on the requirements of the customer.
3. That the committee ensures, where appropriate, future policy review placed before the committee from any service area of the council incorporates the requirement to provide and promote electronic means of service delivery and transform customer transactions.

### Executive brief

The Cabinet Portfolio holder for Finance and Efficiency that includes e-government and the transformational service agenda is Councillor Paul Rigby.

## The Report

1. The Council has been developing electronic means of service delivery for the last five years as part of the IEG (Implementing Electronic Government) programme funded through the former ODPM (Office of the Deputy Prime Minister) now called the DCLG (Department for Communities and Local Government). The objective of the IEG programme was to make all service transactions available in electronic format that can be delivered in electronic format. The Council received £900,000 of grant funding towards the IEG work and the policy to make all services available electronically was adopted by the Council.
2. The objective of the IEG programme was to achieve electronic access to all services that could be delivered electronically in every council. This policy was developed in response to identified changes in customer expectations and needs in the 21<sup>st</sup> Century business environment. The DCLG did not want the public sector to fall behind developing technologies and therefore set a five year target to have all transactions available in electronic format and supported this with a £900,000 grant for each local authority.
3. On March 31<sup>st</sup> 2006 the IEG programme ended with the expectation that all local authorities in the country had achieved 100% electronic access of all services that can be delivered electronically. Details of the IEG spend and projects at Fylde have been reported to the Performance Improvement Overview & Scrutiny Committee on a regular basis. Local authorities are now expected to have their services electronically to customers the focus has now shifted from the implementation of electronic service delivery to the promotion and take up of e-services.
4. The Council should support the policy of promoting the availability and use of electronic means of dealing with the council in order to achieve the maximum benefit from the IEG programme, improve access to services and achieve efficiency savings. This policy will be incorporated into all appropriate corporate and service policies currently applicable within the Council e.g. E-Government Policy, Customer Care Policy, Communications Policy etc.
5. In November 2005 the Cabinet Office produced a paper called 'Transformational Government' that outlines a strategy to transform public services for the benefit of citizens, businesses, tax payers and front line staff by releasing resources for front line service delivery. The link to IEG is that the strategy advocates the use of technology in transforming service delivery to achieve maximum efficiency saving and improve customer access.
6. The direct impact for Fylde is that every existing process and system must be designed around the customer and not the service provider drawing on best practice and expertise to bring technology (IEG) and business functions together.
7. The focus is on transactions with the council to "free up" productive time by removing actions that create waste. To release the maximum productive time processes will need to apply new technologies.
8. The transformational agenda advocates shared resources, reduced waste and improved systems through the use of the technology that has been implemented through the IEG programme. The term t-government (with the 't' standing for transformational) is now being used instead of e-government to reflect the change in policy at the national level. The focus on 'transformation' rather than 'electronic'

removes the misnomer that efficiency and improvement is solely based in technological change rather than the wider business process improvement supported by the technology.

9. The Council will implement a corporate policy of mapping, reviewing and re-designing all processes and systems to ensure that they are focused on the customer and not the service provider. This policy will link to the e-service take up policy with technology being the key driver and solution in the process improvement. The council is in the process of submitting a joint bid with Wyre to the North West Improvement Network (NWIN) for a grant to support process improvement work across the authority. This will be the delivery mechanism for achieving a significant part of the transformational policy.

IMPLICATIONS	
Finance	The transfer of customer transactions from traditional methods of service delivery to e-service transactions will result in direct and indirect financial savings and as such the work is linked to the efficiency statement.
Legal	There are no direct legal implications.
Community Safety	There are no direct Community Safety implications.
Human Rights and Equalities	E-service delivery methods must not place any group in the community at a disadvantage.
Sustainability	The policy must ensure that e-service delivery methods are sustainable.
Health & Safety and Risk Management	There are no direct H&S or Risk Assessment implications.

REPORT AUTHOR	TEL	DATE	DOC ID
Allan Oldfield	(01253) 658576	June 26 <sup>th</sup> 2006	
LIST OF BACKGROUND PAPERS			
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION	
Transformational Government	November 2005	www.cabinetoffice.gov.uk	
IEG Progress Reports	2001 to 2006	Town Hall records or <a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a>	

### Attached documents

There are no attachments included with this report.

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
OVERVIEW AND SCRUTINY	POLICY & SERVICE REVIEW SCRUTINY COMMITTEE	13 JULY 2006	7

## MEMBER CHAMPION PRESENTATION – OVERVIEW OF COUNCIL ASSETS

### Public/Exempt item

This item is for consideration in the public part of the meeting.

### Summary

Member Champion Councillor William Thomson, will provide an informational presentation of Council Assets.

### Recommendation/s

1. Members to note the report/presentation.

### Executive Portfolio

The item falls within the following executive portfolio[s]:

Finance & Efficiency (Councillor Paul Rigby)

### Report

Councillor William Thompson will present to the committee a brief overview of his work so far as Member Champion for Council Assets. This presentation is made to the committee as an opening brief, in advance of a full report being prepared by officers which the Committee will consider later in the year.

Implications	
Finance	None arising from this report
Legal	None arising from this report
Community Safety	None arising from this report
Human Rights and Equalities	None arising from this report
Sustainability	None arising from this report
Health & Safety and Risk Management	None arising from this report

Report Author	Tel	Date	Doc ID
Annie Womack	(01253) 658423	21 June 2006	Council Assets – Member Champion Presentation to PSRSC

List of Background Papers		
Name of document	Date	Where available for inspection
Document name		Council office or website address

### Attached documents

**© Fylde Borough Council copyright [2006]**

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context. The material must be acknowledged as Fylde Borough Council copyright and you must give the title of the source document/publication. Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at [www.fylde.gov.uk](http://www.fylde.gov.uk)

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to [listening@fylde.gov.uk](mailto:listening@fylde.gov.uk).