

Council Assembly Ordinary Meeting

Wednesday 20 October 2010
7.00 pm
Town Hall, Peckham Road, London SE5 8UB

Councillors are summoned to attend a meeting of the Council to consider the business contained herein



Annie Shepperd
Chief Executive

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

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Access

The council is committed to making its meetings accessible. Further details on building access, translation, provision of signers etc for this meeting are on the council's web site: www.southwark.gov.uk or please contact the person below.

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Date: 8 October 2010



Council Assembly

Wednesday October 20 2010
7.00 pm
Town Hall, Peckham Road, London SE5 8UB

Order of Business

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	EXCLUSION MOTION (IF NECESSARY)	

Item No.

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The following motion should be moved, seconded and approved if the council wishes to exclude the press and public to deal with reports revealing exempt information:

“That under the access to information procedure rules of the Southwark constitution, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in section(s) 1 – 7 of paragraph 10.4 of the procedure rules.”

PART B - CLOSED BUSINESS

ANY CLOSED ITEMS IDENTIFIED AS URGENT AT THE START OF THE MEETING

Date: 8 October 2010

Item No. 4.	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Public Question Time	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

1. QUESTION FROM SHEILA FAIRFIELD TO THE DEPUTY LEADER AND CABINET MEMBER FOR HOUSING

Would the cabinet member for housing confirm that the promised security works on the Four Squares Estate will be completed across the whole estate as planned?

Agenda Item 5

Item No. 5.	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Members' Question Time	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

BACKGROUND INFORMATION

In accordance with council assembly procedure rule 2.8 members' question time shall not exceed 30 minutes. During this time, members may not question any one cabinet member or committee chair for longer than fifteen minutes.

Members are limited to one question at each meeting.

Questions to the leader will be taken first, followed by questions to other cabinet members. The order in which the different political groups ask questions of the leader will be rotated. Questions to cabinet members will be taken in the order of receipt and portfolio. The order of portfolios will be rotated at each meeting such that the cabinet member answering questions immediately after the leader will be the last cabinet member to answer any questions at the next meeting of council assembly.

Cabinet members and committee chairs have discretion to refer a question to another cabinet member if this is appropriate.

Responses to member's questions will be circulated on yellow paper around the council chamber on the evening of the meeting.

The Mayor will ask the member asking the question if they wish to ask one supplemental question to the member to whom the question was asked. The supplemental question must arise directly out of the original question or the reply. Therefore, supplemental questions to the leader or other cabinet members are not free ranging.

No question shall be asked on a matter concerning a planning or licensing application.

Note: In accordance with council assembly procedure rule 2.8 (12) & (13) (prioritisation and rotation by the political groups) the order in which questions to the leader appear in this report may not necessarily be the order in which they are considered at the meeting.

1. QUESTION TO THE LEADER FROM COUNCILLOR ANOOD AL-SAMERAI

Given the new leader of the opposition Ed Milliband has said that the previous Labour government was wrong on Iraq, wrong on civil liberties and wrong on immigration, does he have any regrets about the pledges in the manifesto of the current council administration and how can he reassure council assembly that his successor in four years time won't be apologising on his behalf?

2. QUESTION TO THE LEADER FROM COUNCILLOR VIKKI MILLS

What work has been done in preparation for the comprehensive spending review?

3. QUESTION TO THE LEADER FROM COUNCILLOR ROSIE SHIMELL

How many children are educated at Southwark primary schools whose home address is in:

- a) Lambeth?
- b) Lewisham?

4. QUESTION TO THE LEADER FROM COUNCILLOR MARK GLOVER

Has the leader yet received a response from Eric Pickles to his offer to visit him and make Southwark's case?

5. QUESTION TO THE LEADER FROM COUNCILLOR TIM MCNALLY

On 1 September he wrote on his blog about Ed Miliband that "his time has not yet arrived". What does it say about his judgement as leader of the council?

6. QUESTION TO THE LEADER FROM COUNCILLOR HELEN HAYES

In the Labour local election manifesto the leader committed to opening up the budget making process. What has he done to meet this pledge?

7. QUESTION TO THE LEADER FROM COUNCILLOR GRAHAM NEALE

Will he commit to ring-fencing the money repatriated from the London Council's grant committee for the voluntary sector in Southwark?

8. QUESTION TO THE LEADER FROM COUNCILLOR SUNIL CHOPRA

What representations has the Leader made over the proposals to construct long term worksites at the Druid Street playground and King's Stairs gardens?

9. QUESTION TO THE LEADER FROM COUNCILLOR WILMA NELSON

Does the leader think it is appropriate for members of the cabinet to have other responsibilities either within or outside the council?

10. QUESTION TO THE LEADER FROM COUNCILLOR STEPHEN GOVIER

What innovative proposals is the leader making in order to plug the housing funding gap which was allowed to open up under the last administration?

11. QUESTION TO THE LEADER FROM COUNCILLOR RENATA HAMVAS

What are the plans in terms of implementing free primary school meals for all, particularly in light of this week's announcement at the which will mean some Southwark families will lose their child benefit which may be 7 percent of their household income or more?

12. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR HELEN MORRISSEY

What impact does the cabinet member believe the government's decision to abolish the NHS Direct will have on local people?

13. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR NEIL COYLE

What effect does the cabinet member anticipate the government's emergency budget will have on adult social services in Southwark and how will the council be assessing the impact of any changes?

14. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR MARTIN SEATON

Please provide an update on progress against the cabinet members' manifesto commitments to introduce a social care telephone helpline and a new charter of rights for those in need of social care.

15. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR DAN GARFIELD

What feedback has the cabinet member received on the recent visit by the Care Quality Commission (CQC)?

16. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR PATRICK DIAMOND

What impact does the cabinet member believe the abolition of primary care trusts will have on the provision of health services in Southwark? How does she believe the council's role will change following their abolition? Is she optimistic about that change?

17. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR DAVID NOAKES

How long does it take to review meals on wheels charges? And when will local people see the review's recommendations on how she proposes to meet Labour's commitment to halve charges for both fresh and frozen meals on wheels and what is the cost to the authority?

18. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR PODDY CLARK

Who did you work with to develop the charter of rights for people with social care needs?

19. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR DENISE CAPSTICK

When will the dedicated care line for older and vulnerable people be set up, how much will it cost and who will run it?

20. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR LINDA MANCHESTER

Does she plan to review the eligibility criteria for adult social care?

21. QUESTION TO THE CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE FROM COUNCILLOR JONATHAN MITCHELL

Will she explain to council assembly what she is doing as part of Lambeth/Southwark joint working to ensure local people in Dulwich have services left at their local hospital for them to use given the last Labour government allowed Dulwich Hospital to fall into decay and ruin, with main services such as intermediate care taken away altogether and other outpatient services seriously reduced, blood testing withdrawn and in addition the main lift is still out of use despite a promise in November 2009 that this was only temporary?

22. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR LORRAINE LAUDER

Can the cabinet member please provide an update on progress to regenerate the Aylesbury estate?

23. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR CLAIRE HICKSON

How many affordable homes does the cabinet member believe would have been delivered as part of the Elephant and Castle regeneration agreement if she had not secured a minimum guarantee for affordable homes?

24. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR NICK DOLEZAL

Does the cabinet member think the decision to 'call-in' the implementation of the Tory/Liberal Democrat government's in-year spending cuts to the working neighbourhoods fund was in the public interest?

25. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR GEOFFREY THORNTON

How much did it cost to carry out the consultation on the leisure options for the Elephant and Castle?

26. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR CATHERINE BOWMAN

How will the Newington Reference Library be retained and improved if Walworth Town Hall is sold off?

27. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR MICHAEL BUKOLA

Where will Bermondsey one stop shop be located if Bermondsey Town Hall is sold off?

28. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR ADELE MORRIS

Could the cabinet member reassure council assembly that the adopted Bankside, Borough and London Bridge supplementary planning document (SPD) – which is out for re-consultation with the public at the moment – will clearly reflect the views and aspirations of

the local communities, what confidence does she have in the consultation process and how will associated policies will be strengthened to reflect those views?

29. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR JEFF HOOK

Does she think it appropriate to make jokes on Twitter about Thames Water's plans to concrete over King's Stairs gardens and the Alfred Slater playground?

30. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR PAUL NOBLET

Can she tell me how much money has currently been set aside through section 106 agreements, the local implementation plan (LIP) and other funding streams to tackle traffic congestion on Lower Road and Jamaica Road, and to increase road capacity ahead of future regeneration schemes in both Southwark and North Lewisham?

31. QUESTION TO THE CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY FROM COUNCILLOR DARREN MERRILL

How committed is the cabinet member to providing a pool at the Elephant and Castle? What is her opinion of the Leader of the Liberal Democrat Group's suggestion that the leisure centre ought to be paid for by guaranteeing profits instead of affordable housing?

32. QUESTION TO THE CABINET MEMBER FOR CHILDREN'S SERVICES FROM COUNCILLOR CLEO SOANES

Does the cabinet member believe that the coalition government's emergency budget will have a disproportionate impact on children and young people in Southwark? What steps is she taking to mitigate this impact?

33. QUESTION TO THE CABINET MEMBER FOR CHILDREN'S SERVICES FROM COUNCILLOR ANDY SIMMONS

Is the cabinet member concerned that changes to child benefit might have a harmful impact on parents in Southwark?

34. QUESTION TO THE CABINET MEMBER FOR CHILDREN'S SERVICES FROM COUNCILLOR LISA RAJAN

In June's Southwark Life, Councillor Peter John said, 'We've made a commitment to introduce free, healthy school meals for primary children over the next four years. I hope we can roll it out for year one from September'. – what happened?

35. QUESTION TO THE CABINET MEMBER FOR CHILDREN'S SERVICES FROM COUNCILLOR DAVID HUBBER

How is help being targeted at disadvantaged groups to increase take up of childcare and early years services?

36. QUESTION TO THE CABINET MEMBER FOR CHILDREN'S SERVICES FROM COUNCILLOR NICK STANTON

How many spare places are there in reception classes?

37. QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT, TRANSPORT AND RECYCLING FROM COUNCILLOR ROBIN CROOKSHANK HILTON

Could the cabinet member please update the council assembly on the current status of the Dulwich Village 20mph zone signal junction redesign (Scheme B) at Dulwich Village and Turney Roads and, given 61% of local people backed the junction improvements when consulted, what steps is he taking to progress the remaining improvement works?

38. QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT, TRANSPORT AND RECYCLING FROM COUNCILLOR JAMES BARBER

What lessons have been learnt, so far, from the kitchen leftover recycling pilot?

39. QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT, TRANSPORT AND RECYCLING FROM COUNCILLOR ELIZA MANN

How much will Southwark Council earn from selling renewable energy back to the grid following the lifting of restrictions by Rt Hon Chris Huhne MP, Secretary of State for Climate Change?

40. QUESTION TO THE CABINET MEMBER FOR EQUALITIES AND COMMUNITY ENGAGEMENT FROM COUNCILLOR ALTHEA SMITH

How will the council ensure that changes to services and funding are assessed to ensure minimal impact on locally disadvantaged people in light of the new government's lack of attention to the area in the budget and current attempts to water down duties to equality assess proposals?

41. QUESTION TO THE CABINET MEMBER FOR EQUALITIES AND COMMUNITY ENGAGEMENT FROM COUNCILLOR COLUMBA BLANGO

How much has been spent on the Democracy Commission, including the conference and staff time in supporting its deliberations?

42. QUESTION TO THE CABINET MEMBER FOR EQUALITIES AND COMMUNITY ENGAGEMENT FROM COUNCILLOR MARK GETTLESON

Why did he cancel the meeting of the Democracy Commission on 1 October and did it have anything to do with Labour representatives not being able to attend and therefore unable to force through his personal proposals and does he feel this is a democratic way to run the commission?

43. QUESTION TO THE CABINET MEMBER FOR CULTURE, LEISURE & SPORT AND THE OLYMPICS FROM COUNCILLOR GAVIN EDWARDS

What progress has been made on delivering Southwark Labour's manifesto commitment to turn the plans for a new One O'Clock Club and changing rooms and pitches for local sports teams into reality?

44. QUESTION TO THE CABINET MEMBER FOR CULTURE, LEISURE & SPORT AND THE OLYMPICS FROM COUNCILLOR NORMA GIBBES

Could you outline what further work will be carried out with the extra funding raised for the refurbishment of Camberwell Leisure Centre? When will the centre re-open for residents to enjoy the new facilities? What plans are in place to secure the final phases of refurbishment?

45. QUESTION TO THE CABINET MEMBER FOR FINANCE AND RESOURCES FROM COUNCILLOR MICHAEL SITU

How will the cabinet member implement the decision taken at the last council assembly meeting to publish all council expenditure over £500?

Item No. 7.1	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Report back on motions referred to cabinet from council assembly	
Ward(s) or groups affected:		All	
From:		Cabinet	

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 2.9 (6) – SOUTHWARK’S RESPONSE TO THE EMERGENCY BUDGET

Cabinet on 21 September 2010 considered the following motion referred from council assembly on 14 July 2010 which had been moved by Councillor Peter John, seconded by Councillor Victoria Mills and subsequently amended.

1. That council assembly notes the unprecedented, game-changing cuts that government is making to public sector spending. It notes that local government will not be protected from those cuts and that, while we will know more after the comprehensive spending review in October, the council will face upwards of a 25% reduction in funding over the next five years.
2. That council assembly notes that the poorest Southwark residents and families will be hit hardest personally by the budget, with significant changes to:
 - Housing benefits
 - Tax credits
 - Child benefits
 - Disability Living Allowance
3. That it further notes the 2.5% increase in VAT, which as a deeply regressive tax will hit the poorest hardest, and will more than swallow up any savings Southwark residents make through changes to the income tax personal allowance and council tax freeze.
4. That council assembly notes the increase in VAT will lead to higher prices for goods and services; will have a disproportionate impact on pensioners and other low income groups; and will have a severe impact on businesses, charities and community groups in Southwark. It further notes the disproportionate effect of the budget on women and the disabled.
5. That council assembly notes the effect of the increase in VAT, when taken with other measures in the budget, will be unfair to pensioners, who have not had a compensatory increase in other benefits and allowances.
6. That council assembly notes that the way the VAT increase will affect pensioners and other low income groups runs counter to the Government's Coalition Agreement statement on 20 May 2010 that it would "ensure that fairness is at the heart of those decisions so that all those most in need are protected."

7. That council assembly notes the Institute of Fiscal Studies has stated the VAT increase was not "unavoidable," as the Chancellor of the Exchequer said in his budget speech."
8. That council assembly notes that these changes will take place at a time of rising unemployment and that the Office of Budget Responsibility's figures show that the actions in the budget itself will lead to weaker employment growth and more serious unemployment levels.
9. That council assembly notes that the cabinet has already committed to cutting waste and making efficiency savings, but that they will not be enough to prevent loss of services. It believes that the council will have to change the way it works by being innovative if we are to both continue delivering for Southwark residents and also try to meet the greater needs that the welfare reforms, VAT changes and persistent unemployment will cause in the community.
10. That council assembly further believes that meeting this challenge will require greater cooperation between the council, its neighbours, residents, businesses, local trade unions and stakeholders. It believes that the council's response will be stronger if local consensus can be achieved between the local parties wherever possible and resolves to go forward on that basis.
11. That council assembly therefore resolves to call on cabinet to open up the council's budget making process by finding innovative ways of involving residents in the tough choices that lie ahead and being honest with them about the scale of the challenge.
12. That council assembly resolves to call on the leader to write directly to the Chancellor of the Exchequer raising concerns about the impact of the proposed VAT increase on pensioners, other vulnerable groups and businesses in Southwark.
13. That council assembly resolves to call on the cabinet to write to members of parliament representing Southwark, asking that they stand up for Southwark's pensioners, businesses and wider community, to voice their opposition to this unfair increase in VAT.

Cabinet agreed the motion. The leader reported at the meeting that he had written to Eric Pickles MP, Secretary of State for Communities and Local Government inviting him to Southwark. He had received a response advising him that Mr Pickles would not be able to attend due to diary pressures and the leader had subsequently offered to go to Mr Pickles' office in White Hall.

At the meeting on 21 September 2010 cabinet agreed budget principles to direct decision making through the coming budget making process.

**MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL PROCEDURE
RULE 2.9 (6) – PUBLICATION OF SPENDING ON GOODS AND SERVICES OVER
£500**

Cabinet on 21 September 2010 considered the following motion referred from council assembly on 14 July 2010 which had been moved by Councillor Lewis Robinson and seconded by Councillor Toby Eckersley.

1. That council assembly notes the cabinet resolution of 15 June 2010 in which it states it will "Open up the budget making process for public scrutiny so we make better decisions."
2. That in light of this commitment to the residents of Southwark, council assembly requests the cabinet to bring forward proposals, as requested by the secretary of state for communities and local government to make details of spending on all goods and services over £500 for the public to see and scrutinise.
3. That council assembly believes that local people should be able to hold politicians and public bodies to account over how their hard earned cash is being spent, and welcomes these proposals, following the coalition government's own commitment demonstrated by the online publication of the COINS database, and urges the cabinet to follow this example.
4. That council assembly notes that by September, councils will be expected to make these details available and should be doing this as a matter of course by the start of next year and request the cabinet to take the appropriate steps to meet this deadline.

Cabinet agreed the motion. It was reported at the meeting that the details of spending on all goods and services over £500.00 (with the exception of information on salaries, transfer payments e.g housing benefit payments and other payments which are not related to supplies and services) would be available on the council website by the end of September.

**MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL PROCEDURE
RULE 2.9 (6) – SOUTHWARK PARK AND THE OLYMPICS**

Cabinet on 21 September 2010 considered the following motion referred from council assembly on 14 July 2010 which had been moved by Councillor Columba Blango and seconded by Councillor Wilma Nelson.

1. That council assembly notes the quashing of the council's planning permission for the refurbishment of the sports and athletics facilities at Southwark Park.
2. That council assembly notes the public statement of 'disappointment' by the leader at this setback, and that securing an Olympic legacy for Southwark remains a priority for the council.
3. That council assembly calls on the cabinet member for culture, leisure, sport and the Olympics to make all efforts to make a decision on the submission of a new application to allow the possibility of the project being delivered in time for the Olympics.

Cabinet agreed the motion and noted the comments of the strategic director of environment and housing.

**MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL PROCEDURE
RULE 2.9 (6) – SOUTHWARK CAPITAL PROGRAMME**

Cabinet on 21 September 2010 considered the following motion referred from council assembly on 14 July 2010 which had been moved by Councillor Anood Al-Samerai, seconded by Councillor Paul Noblet and subsequently amended.

1. That council assembly notes that in the budget on Tuesday 22 June, the Chancellor of the Exchequer specifically excluded capital spending from budget reductions and said he wished to focus on capital “projects with a significant economic return to the country”.
2. That council assembly believes that this announcement allows Southwark to make progress on delivering a variety of capital projects that will bring significant economic benefits to the borough and more widely across London. By continuing to invest in major capital schemes the council will ensure the borough's residents have access to affordable housing, libraries, leisure centres, schools and sporting and youth facilities fit for the 21st century.
3. That council assembly supports the new administration's view that the capital programme is of such strategic importance that it should be discussed and approved by the full council assembly.
4. That council assembly therefore also supports the proposal set out in item 5.2 (the report on constitutional changes) of this meeting's agenda that the cabinet submit the capital programme to council assembly for their approval once every four years and requests that cabinet submit a revised programme to council assembly for approval during 2010.
5. That council assembly notes that the current capital programme, agreed on 9 February by the previous administration, made no commitment to fund refurbishment work of Seven Islands leisure centre. Instead it asked that the finance director provide more detailed options analysis and financial appraisals on the remaining bids received (including Seven Islands) for future consideration by the executive in the context of resources available and considering any additional resources which can be identified. The total costs for these bids totaled £115m, against a budget of £55.5m available.
6. That, however, council assembly also recognises the importance of Seven Islands leisure centre to a significant proportion of the borough and therefore asks the cabinet to consider carefully how its refurbishment could be funded through the capital programme.
7. That council assembly notes the report to the regeneration and leisure scrutiny sub-committee on 29 June identified that the Canada Water library will cost a further £0.5 million more than has been agreed in the capital programme as a result of the over-running of the construction phase of this project. Council assembly therefore asks cabinet to agree to this additional expenditure over and above the level of the commitment made by the previous administration so that this work can be completed.
8. That council assembly believes it is important that the capital programme demonstrates investment in all areas of the borough and not just one community council area. It therefore calls on cabinet to consider the needs of the whole borough in its revision of the capital programme before submitting it for approval to council assembly.

Cabinet agreed the motion. It was reported at the meeting that the capital programme would be discussed by council assembly at the December meeting.

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 2.9 (6) – NURSERY ROW PARK

Cabinet on 21 September 2010 considered the following motion referred from council assembly on 14 July 2010 which had been moved by Councillor Martin Seaton and seconded by Councillor Helen Morrissey.

1. That Nursery Row Park is currently protected as an open space and a site of importance for nature conservation under the category other open space in the Southwark Plan. Open spaces provide an essential amenity and recreational resource for people living and working in Southwark.
2. That council assembly notes that at council assembly on 4 November 2009 a decision on which sites to save from the Southwark Plan was taken and three sites on Nursery Row Park (including Sites 52P and 53P) were all saved for housing.
3. That council assembly also notes that sites 52P and 53P are no longer part of the development programme for the Elephant and Castle, therefore they are no longer contributing to delivery of the council's housing targets. It is also noted that the council owns the sites.
4. That council assembly therefore requests the cabinet member for regeneration and corporate strategy to write to the Secretary of State inviting him to revise the council's request to save council's housing sites by omitting sites 52P and 53P.
5. That council assembly notes that at this stage it is only possible to save or not save policies from the Southwark Plan and it is therefore not possible to amend the boundary of site 51P that also covers the Stead Street car park which is required for housing. Council assembly notes the commitment given by the cabinet member for regeneration and corporate strategy that the council will not build on any part of the park and calls on the cabinet member to take steps to provide additional planning policy protection to this remaining part of the park at the earliest possible opportunity.

Cabinet noted the motion and also noted that the cabinet member for regeneration and corporate strategy has written to the Secretary of State, who has now directed that sites 52P and 53P should not be saved as housing sites.

Cabinet welcomed the proposed open spaces development plan document and agreed that the whole of Nursery Row Park should be given planning policy protection at the earliest possible opportunity.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Cabinet agenda and minutes – 21 September 2010	Constitutional Team, 160 Tooley Street, London SE1 2TZ	Paula Thornton 020 7525 4395

AUDIT TRAIL

Lead Officer	Ian Millichap, Constitutional Manager	
Report Author	Everton Roberts, Constitutional Officer	
Version	Final	
Dated	7 October 2010	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No	No
Finance Director	No	No
Cabinet Member	No	No
Date final report sent to Constitutional / Community Council / Scrutiny Team		7 October 2010

Item No. 8.1	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Adoption of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 – Licensing of Sexual Entertainment Venues	
Ward(s) or groups affected:		All	
From:		Licensing Committee	

RECOMMENDATION

1. That council assembly agrees the recommendation of the licensing committee and resolves to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, so as to provide a local licensing regime for the licensing of 'sexual entertainment venues, with the first appointed date being 1 April 2011.

BACKGROUND INFORMATION

2. Section 27 of the Policing and Crime Act 2009, came into effect on 6 April 2010. It has had the effect of reclassifying lap dancing clubs and similar as 'sexual entertainment venues' and now offers local licensing authorities in England and Wales adoptive provisions to regulate such venues as sex establishments under schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
3. These powers are not mandatory, however, and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to consider and determine applications on potentially wider grounds than is permitted under current law and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area. Importantly, this new provision gives local authorities powers to control the numbers and location of lap dancing clubs and similar venues in their area. If these provisions are not adopted then the status quo remains, enabling lap dancing and similar clubs to operate as music and dancing venues under the 2003 Licensing Act.
4. On 28 September 2010 the Council's Licensing Committee considered the current legislative position and the new licensing provisions and decided to recommend to council assembly the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 with an effective date of 1 April 2011.
5. If the adoption of the new provisions is confirmed, officers will return to the licensing committee and council assembly in due course with full proposals for the new licensing process and a draft supporting licensing policy. If council assembly is not minded to take up the adoptive provisions at this stage, the council is required by the governing legislation to go out to public consultation on the matter within one year of it coming into force. In this case officers will

progress plans for public consultation on the matter to take place.

6. Guidance on the new 'sexual entertainment venues' licensing scheme has been produced by the Home Office. Copies may be viewed or downloaded at <http://www.lacors.gov.uk/lacors/upload/24193.pdf>

KEY ISSUES FOR CONSIDERATION

Current legislative position

7. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 provides local licensing authorities with adoptive licensing provisions for sex establishments, comprising the categories of sex shops and sex cinemas.
8. London local authorities which have additionally adopted the amendment to Schedule 3 to the 1982 Act offered by the Greater London Council (General Powers) Act 1986 are also able to regulate a third category of sex establishment known as 'sex encounter establishments' (covering any lawful entertainment, performance or service provided by persons who are without clothes or expose their breasts, genitals, urinary or excretory organs). This authority adopted all of the relevant provisions when the licensing responsibility moved across to London councils following the abolition of the Greater London Council in 1986.
9. However, an exemption contained under sub-paragraph 3A(i) of the 1982 Act, provides that premises which hold either a premises licence or a club premises certificate issued under the (now) Licensing Act 2003, which allows them to provide either regulated entertainment or late night refreshment, are not to be regarded as sex encounter establishments.
10. This exemption means that, in practice, there are very few premises in London that are licensed as sex encounter establishments. The majority of venues providing lap dancing, table dancing or other similar striptease entertainment currently need hold only premises licences with music and dancing issued under the 2003 Act to operate lawfully. Applications for premises licence under the 2003 Act are subject only to considerations relevant to the four licensing objectives being:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance and
 - The protection of children from harm.

Meaning of sexual entertainment venues

11. Paragraph 2A of Schedule 3 as inserted by Section 27 of the Policing and Crime Act 2009 defines the newly created category of 'sexual entertainment venue' as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer". The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)".
12. Guidance produced by the Home Office provides that while local authorities

should judge each case on its merits, the definition of relevant entertainment would be expected to apply to the following forms of entertainment as they are commonly understood:

- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows and
 - Live sex shows.
13. The guidance emphasises that although reference is made to “live display of nudity” the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided ‘solely or principally for the purpose of sexually stimulating any member of the audience’.
14. Paragraph 2A(14) of Schedule 3 sets out the definition of a ‘display of nudity’. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man, it means exposure of his pubic area, genitals or anus.
15. References made to the ‘organiser’ under the definition means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided.
16. The new provisions do include some clarifications and exemptions. Spontaneous displays of nudity or a lap dance by a customer or guest will not result in the premises being classified as a sexual entertainment venue. Furthermore, paragraph 2A(3) of Schedule 3 sets out those premises that are not sexual entertainment venues. These are:
- Sex shops and sex cinemas (which fall into other categories under the 1982 Act);
 - Premises which provide relevant entertainment on an infrequent basis. These are defined as where:
 - a) No relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - b) No such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - c) No such occasion has lasted longer than 24 hours.
17. Premises which provide relevant entertainment on an occasional basis will continue to be regulated by the 2003 Act. Premises which provide relevant entertainment on a regular basis will require a licence under the 1982 Act and, in all probability, a further licence under the 2003 Act should alcohol or late night refreshment sales be intended, but they will no longer be able to operate only under a 2003 Act licence alone.

Applications process

18. The provisions contained within Schedule 3 of the 1982 Act provide for:

- Written applications to be made for a sex entertainment licence providing details as set out in the Act and as the local authority may reasonably require
 - Payment of a reasonable fee
 - Public advertisement of applications by way of a notice exhibited at the premises for a period of 21 days and a notice published in a local newspaper
 - Written objections to be lodged relevant to the ground for refusal of a licence (see paragraphs 19 and 20 of this report) and
 - Public hearing of the application and any objection.
19. Paragraph 12 of Schedule 3 sets out the grounds for refusing an application. A licence must not be granted:
- To a person under the age of 18
 - To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months
 - To a person, other than a body corporate, who is not resident in an EEA State or was not resident throughout the period of six months immediately preceding the date when the application was made or
 - To a body corporate which is not incorporated in an EEA state or
 - To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
20. Additionally, a licence may be refused where:
- The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason
 - If the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself
 - The number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality
 - That the grant of the licence would be inappropriate, having regard:
 - To the character of the area or the relevant locality or
 - To the use to which any premises in the vicinity are put or
 - To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Locality

21. As stated above, a local licensing authority may refuse applications on grounds related to an assessment of the 'relevant locality'. The Home Office guidance establishes that it is reasonable and potentially useful to future applicants for a local authority to decide in advance of receiving applications that certain areas are, or are not, appropriate locations for sex establishments or a particular number of sex establishments. Case law has defined that a 'relevant locality'

cannot be an entire local authority area or entire city or town. All applications must be considered upon their own merits.

Conditions

22. Once a local authority has decided to grant a licence the authority is able to impose terms, conditions and restrictions on that licence. Subject to the provision in section 23 of this report below, these can be in the form of either standard conditions applicable to all sex establishments or specific categories of sex establishment or conditions specific to the particular operation under consideration at the time.
23. Conditions may address, but are not restricted to:
 - The hours of opening and closing
 - Displays and advertisements on or in the premises
 - The visibility of the interior of the premises to passers-by and
 - Any change of use from one kind of sex establishment to another.

Policy implications

24. While local authorities are not required to publish a licensing policy relating to sex establishments they can do so if they wish so long as it does not prevent any individual application from being considered on the merits at the time the application is made.
25. Presently, this authority has statements of licensing policy under both the 2003 Licensing Act (covering alcohol, regulated entertainment and late night refreshment) and also the 2005 Gambling Act. In accordance with the legislation, the statement of policy under the 2003 Licensing Act is currently subject of review required to be carried out every three years. It presently contains policies concerning the grant of premises licences which provide for the provision of 'adult' regulated entertainments, including reference to location. If these new adoptive provisions are taken up then it is proposed that a new specific sex establishments licensing policy be developed through public consultation, using the content in the 2003 Act policy, as a basis.
26. It is proposed that, among its various references, a sex establishments licensing policy would concern itself with:
 - The licensing process including consultation provisions
 - Definition of circumstances where the grant of a licence would be inappropriate and
 - Standard conditions applicable to the grant of licences.
27. If the new provisions are adopted a draft policy compiled for the purposes of public consultation will be returned to the licensing committee and, following consultation, the final policy document will be put once more to the committee and then council assembly for adoption.

Timetable for implementation

28. In the event that the adoptive provisions are to be taken up, council assembly must pass a resolution stating this decision and which specifies the day (the first

appointed day) that the provisions will come into effect in the area. The specified date must be more than one month after the day on which the resolution was passed. A first appointed date of 1 April 2011 has been recommended by the licensing committee so as to provide time for policy and process development.

29. The resolution and the date of the first appointed day must then be published in notices appearing for two consecutive weeks in a local newspaper circulated in its area. The first publication of the notices must give at least 28 days notice of the specified date.
30. A 'transitional period' then commences lasting twelve months beginning with the first appointed day. The process that follows is set out below.
 - To allow time to comply with the new regime, existing operators, who immediately before the first appointed day, hold a premises licence issued under the 2003 Licensing Act, which allows the licensee to lawfully use premises as a sex entertainments venue will be allowed to continue to provide relevant entertainment until either the third appointed day (which falls twelve months after the first appointed day) or until such time as any application they have submitted is determined.
 - New operators (who do not hold relevant 2003 Act premises licences) who wish to use premises as sexual entertainment venues after the first appointed day will not be able to use those premises until they have been granted a sexual entertainment venue licence.
 - After the second appointed day (which falls six months after the first appointed day) the local authority must consider all applications received since the first appointed day, together. New applications granted will then take immediate effect. Licences granted to existing operators come into effect on the third appointed day.
 - Applications made after the second appointed day shall be considered when they are made but only once all applications made before the second appointed day have been determined.

Community impact statement

31. There are no premises currently operating within Southwark under a sex establishments licence issued under the Local Government (Miscellaneous Provisions Act 1982 (as amended)).
32. There are a very small number of premises licensed under the 2003 Licensing Act that have identified within their initial applications, an intention to provide 'adult' regulated (music and dancing) entertainment. It is believed that few among those that have indicated such intention to use 2003 Act premises licences in this way are doing so.
33. However, this authority has previous experience of applications for licences within the Southwark area for premises, which had the provisions being introduced under section 27 of the Policing and Crime Act 2009 been in force at the time, would have required sex entertainment venue licences:
 - The first application involved the related operation of a 'swingers club' in

- the SE1 area
 - The second concerned an application to establish a lap dancing venue in the SE15 area
 - The third concerned an application to establish a lap dancing club in the SE1 area.
34. In each case, the response to public consultation exercises held on the applications was considerable. The local media reported on each circumstance. The associated public hearings were lengthy and resource consuming. In each case members sitting in determination of the applications voiced concerns that their deliberations were constricted by the boundaries of the legislation the applications were made under.
35. On the back of these experiences this authority, along with many others, made representations to the Home Office seeking law change that would bring about a position where applications for adult entertainment licences could be considered on their merits but with all relevant matters (including location in particular) properly taken into account.
36. These new legislative provisions are seen to be the direct result of representations made from many quarters for such a law change.
37. One of the stated intentions of this authority as licensing authority within its licensing policies is to seek to enable responsible well managed businesses that benefit the local community to succeed but also to ensure that proper protections are afforded to the community against irresponsible operators.
38. The adoption of these new provisions is anticipated to enable better decision making around the adult entertainment market sector with the local community enabled to raise its concerns around all relevant matters and for decisions to be taken upon proper consideration of those factors.

Resource implications

39. Schedule 3 to the 1982 Act states that the application for grant, renewal, variation or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authority, but does not expand upon what would be considered to be reasonable.
40. Currently the fee for a new sex establishment licence is £7,604.
41. In the event that the new provisions are adopted a costings exercise will be carried out aimed at establishing appropriate application fees on a cost recovery basis. Regard will be had to existing guidance issued by the former local authorities' coordinator for regulatory services (LACORs), now local government regulation (LGR).

Consultation

42. No consultation has take place in the preparation of this report. As is noted in the report, if the council does not adopt these provisions then formal public consultation must be carried out within one year of the date of them coming into force.
43. The cabinet member for community safety made the following comments:

“This report seeks the adoption of new legislative powers enabling a licensing regime for lap dancing and similar establishments. For this authority in particular, having previously called for legislative change in the licensing position, it represents a progressive step in enabling full and proper debate of relevant issues around future licence applications for the establishment of such venues. This positive move forward is welcomed by the cabinet.”

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

44. The adoption of the provisions of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 as amended is intended to address a lacuna in the existing legislation in such a way as to enable local authorities to exercise greater control over the establishment and management of sexual entertainment venues in their area. The relevant procedures are clearly set out in the body of this report. The assembly will note that the council is not required to adopt the amended legislation but that if it determines not to do so the council must undertake a public consultation by 6 April 2011.

Finance Director (Env/ET/160810)

45. There are no financial implications as a result of adopting the proposed legislation to provide a licensing regime for the licensing of sexual entertainment venues. If these new adoptive provisions are approved, then a further report will be presented to the committee with a proposed licensing policy, licensing process and fees. In line with the guidance, the fees will be set an appropriate level to recover the full cost including a reasonable proportion of overheads.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Local Government (Miscellaneous Provisions) Act 1982 and related subsequent legislation	Health Safety Licensing & Environmental Protection Unit, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Mrs Kirty Read Phone number: 020 7525 5748
Policing & Crime Act 2009		
Licensing Act 2003		
LACORS Guidance on fee setting		
Various 2003 Act case files		
Home Office Guidance on Sex Entertainment Venues		

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment & Housing	
Report Author	Richard Parkins, Health Safety Licensing and Environmental Protection Unit Manager	
Version	Final	
Dated	6 October 2010	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional/Community Council/Scrutiny Team	6 October 2010	

Item No. 8.2	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Gambling Act 2005 – Three Year Revision of Southwark Statement of Gambling Licensing Policy	
Ward(s) or groups affected:		All	
From:		Licensing Committee	

RECOMMENDATION

1. That the assembly agrees the recommendation of the licensing committee and resolves to adopt the revised Southwark statement of gambling licensing policy for 2010 – 2013 with effect from 1 December 2010.

BACKGROUND INFORMATION

2. The Gambling Act 2005 came into effect on 1 September 2007. The Act established a new licensing regime for all gaming and betting in Great Britain, other than spread betting and the national lottery.
3. The Act established the gambling commission as the unified regulator for gambling. The commission has responsibility for granting operating and personal licences for commercial gambling operators and key personnel working in the industry.
4. Licensing authorities support the work of the commission and have separate responsibility for licensing gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines. Categories of gambling premises covered by the licensing regime include:
 - casinos;
 - bingo halls;
 - adult gaming centres;
 - family entertainment centres;
 - betting premises.
5. The Act contains three licensing objectives, which underpin the functions that the commission and licensing authorities perform. These objectives are central to the Act. They are:
 - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
6. Section 349 of the Act requires each licensing authority to prepare and publish, every three years, a statement of the principles they propose to apply in

exercising their functions under the Act. The statement, which may also be referred to as a “policy”, can be reviewed and re-published during the three year period in which it has effect. In preparing the statement, licensing authorities must follow the procedure set out in the Act, including who should be consulted.

7. The Southwark statement of gambling licensing policy 2007 – 2010 forms the authority’s current statement of principles. The original statement was formally approved by council assembly on 6 December 2006. The policy document was formally published on 3 January 2007.
8. A revised policy statement for 2010 – 2013 has been compiled taking into account responses from a public consultation exercise conducted during the autumn of 2009. A copy is provided at appendix 1 to this report. This revision was considered by the council’s licensing committee at its meeting on 28 September 2010 and is now recommended to the assembly for adoption accordingly.

KEY ISSUES FOR CONSIDERATION

Compilation of the policy statement

9. Section 153 of the 2005 Act sets out that “In exercising their functions under (the Act) a licensing authority shall aim to permit the use of premises for gambling in so far as the authority thinks that it is:
 - in accordance with any relevant code of practice (issued by the commission);
 - in accordance with any relevant guidance issued by the commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the statement published by the authority.”
10. The gambling commission first published its Guidance to Licensing Authorities in May 2007. The latest edition (the third) was published in May 2009.
11. The commission has also published a range of codes of practice covering the breadth of gaming and betting activity.
12. This draft revision of the policy statement has been compiled having had regard to the Act and regulations, the guidance issued by the commission; and the various codes of practice also issued by the commission. Regard has also been had to the format and content of the model statement of principles produced by the former local authorities’ coordinator for regulatory services (LACORs), now local government regulation (LGR).

Main revisions

13. As many of the regulations to the 2005 Act were only available in draft form at the time that this authority’s original statement of policy was approved and as the commission’s guidance is now on it’s third revision, the statement of policy is subject to minor amendment throughout. Accordingly, the main revisions to the original policy comprise technical updates arising from amendments to the gambling commission’s guidance for local authorities. Some of the most important updates are summarized below:

- Revised advice (based on commission guidance) is provided through sections 100 to 103 of the draft policy, on the definition of ‘premises’. This information examines, in particular, considerations this authority will take into account when determining whether an application to ‘split’ a licensed premises amounts to either ‘artificial’ or ‘temporary separation’ of premises for the purposes of enabling higher quotas of high payout ‘jackpot’ gaming machines than are provided for by the governing legislation;
 - Sections 104 to 108 provide new advice on when a premises may be considered to be “ready for gambling” helping to clarify the circumstances under which applications for either ‘provisional’ or ‘full’ premises licences may be made and considered;
 - Section 154 to 163 of the draft policy now contains full information on the commission’s relevant access provisions for each gambling premises type;
 - Section 156 returns to the issue of ‘split’ premises with particular regard to bingo premises and applications for multiple licences; and
 - Sections 194 to 197 provide new information, following the publication of new regulations, concerning the use of temporary event notices for poker tournaments.
14. This council’s primary responsibility as licensing authority is for the licensing of Southwark premises used for gaming and betting and the authority’s primary concern rests with the third licensing objective, that of “protecting children and other vulnerable persons from being harmed or exploited by gambling”. As such this council recognises within it’s licensing policy, the contribution made toward achieving this objective by the commission’s social responsibility code of practice and the conditions of the commission’s related personal and operator’s licensing regimes. The policy also recognises direct requirements made by the commission on operators to have policies and procedures in place for promoting socially responsible gambling; providing clear information about responsible gambling and help available to problem gamblers; and providing training for staff about possible problem gambling and how to identify it. The policy further notes restrictions on access by children and young people to gambling premises. The policy complements the legislative position and steps taken by the commission by providing local advice and guidance on age identification and management of age restricted gaming machines in premises where children and young people may be admitted. The policy also continues to acknowledge the Southwark safeguarding children board as the competent body to advise on child safety matters and contributions made to the original policy by the board remain relevant.
15. The revised policy now additionally recognises the Southwark safeguarding adults board as the competent body to advise on matters around vulnerable adults and, in future, reference will be made to this body where relevant issues arise.

Response from public consultation

16. Public consultation was conducted on the draft revision of the policy between 1 September and 20 November 2009.

17. As part of the consultation
- Information was published in the local media and on the Southwark licensing web site;
 - Direct letter drops were made to
 - local premises licence holders;
 - responsible authorities specified under the Act; and
 - known trade representative organisations;
 - known representatives of community representative groups; and
 - ward councillors;
 - Information was made available to community council meetings.
18. Whereas public consultations undertaken in recent years on development of policy around the 2003 Licensing Act (dealing with alcohol, entertainment and late night refreshment) have received good levels of response, the response to consultation on the 2005 Act was again disappointing, perhaps reflecting the lower levels of interest in this matter.
19. In total only 6 responses were received, three from responsible authorities, two from other interested services; and one from a trade organisation. A summary of the responses, setting out the points made and responses to each point, is provided at appendix 2 to this report.
20. Responses to the consultation include confirmation on behalf of the borough commander that the revised policy is supported by the metropolitan police.

Community impact statement

21. As established by the licensing objectives set out in the Act, this legislation intends to help ensure that authorised gambling activity is not associated with crime; is conducted in a fair and open way; and with adequate protections for children and vulnerable people.
22. The licensing processes applied by this authority are consistent with those established by statute by way of the Act and related regulations and the further guidance and direction given by the gambling commission.
23. The council has a duty to consider every application for relevant licences and consents made to it. Each application is considered upon its own merits with all relevant matters taken into account. There are no artificial barriers provided by this policy or by any council process or practice to any person wishing to make a licence application nor any person who qualifies as an 'interested party' under the Act from having their views on an application taken into account.
24. This policy revision forms a technical update to the original policy published in 2007.
25. The policy maintains local policy concerning the location of gambling premises in areas where there may be particular issues relating to children and vulnerable people. Furthermore, the policy provides commitment to supporting the commission as and 'eyes and ears' enforcement agency within the Southwark area.
26. The initial statement of policy was subject of an equalities impact assessment.

The assessment has been revisited in the light of the revisions. No new issues have been raised by the revisions.

Resource implications

27. There are no specific resource implications contained within this report.

Consultation

28. Details of public consultation carried out in preparation of this report are detailed in sections 16 to 20 of this report.

29. The cabinet member for community safety made the following comments:

“This revision of the council's statement of gambling licensing policy primarily represents a technical update of the content incorporating new guidance developed since the original policy was first established in 2007.

The policy sets out how this council, as licensing authority, approaches its responsibilities for the licensing of gaming and betting establishments paying particular attention to the authority's primary concern of protecting children and vulnerable adults from being harmed or exploited by gambling. I am particularly pleased to note that this revision further strengthens the authority's ability to meet its responsibilities by introducing and recognising the safeguarding adults board as the competent authority to advise on matters regarding the safeguarding of vulnerable adults.”

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

30. Council assembly is asked to consider the recommendation contained in paragraph 1 of this report and when doing so be satisfied that the licensing authority has adhered to the provision of Section 349 of the Gambling Act 2005.

31. The assembly is advised that section 349 of the Act imposes a duty on the gambling authorities to review and revise its statement of gambling licensing policy each successive three years and, and if the authority thinks it necessary in the light of a review, revise the statements and publish any revision before giving effect to it.

32. The assembly must be satisfied that in preparing the revised statement of gambling policy that the licensing authority has:

- (a) consulted the chief officer of police for the authority's area; and
- (b) one or more persons who appear to the authority to represent the interest's of persons carrying on gambling business in the authority's area, and
- (c) one or more persons who appear to the authority to represent the interest of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act.

33. The Secretary of State may make regulations:

- about the form of the statement;
 - the procedure to be followed in relation to the preparation, review or revision of statements
 - The publication of the statement.
34. The assembly must satisfy itself that the authority has provided in details the broad principles in which it intends to apply in discharging of its functions under the Gambling Act 2005 having regards to the licensing objectives as contained in paragraph 5 above.
35. It is also important that the licensing authority's decision making processes are in accordance with section 153 of the Act as contained in paragraph 9 above.
36. The licensing authority must have in place in the exercise of its functions, principles that are in accordance with the gambling commission guidance and are not duplication of other regulatory regime so far as possible but the processes should be:
- **Proportionate:** That the authority will only intervene in the regulation of gambling activities where it is necessary. It shall ensure that remedies applied are appropriate to the risk posed. Costs identified and minimised.
 - **Accountable:** The licensing authority must be able to justify its decision and which is subject to public scrutiny.
 - **Consistent:** the rules and standard of decision making are joined up and are implemented fairly and consistently.
 - **Transparent:** The licensing authority are open and kept its regulations simple and user friendly (documents and publication can be easily obtained and available upon reasonable request), and;
 - **Targeted:** The regulation is focused on the problem, and minimised side effects that may occur in the exercise of its functions.
37. It is important that the revised statement of gambling licensing policy has in place adequate measure to ensure there will be compliance with the licensing authority's duty under the Human Rights Act 1998 so that its processes and functions are human rights compliant. The licensing authority must bear in mind when doing so that the provisions under:
- Article 1, protocol 1 – The right to peaceful enjoyment of possession. A licence is a possession in law and people should not be deprived of it except it is in the public interest
 - Article 6 – The right to a fair hearing
 - Article 8 – The right to respect for private life and family life. (Removal of or restriction of a licence may affect a person's private life)
 - Article 10 – The right to freedom of expression
- are complied with when discharging its functions under the Act.

38. The assembly is asked to consider the recommendation contained in paragraph 1 of this report and in doing so to ensure that all matters highlighted above have been adequately addressed in the statement of gambling licensing policy.

Finance Director (Env/ET/030810)

39. The head of services has confirmed that any costs of implementing the proposed policy can be contained within the existing revenue budgets of the division.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Gambling Act 2005 plus associated regulations Gambling Commission Guidance for Licensing Authorities Gambling Commission Codes of Practice Consultation documents including responses received	Health Safety & Licensing Unit, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirty Read Phone number: 020 7525 5748

APPENDICES

No.	Title
Appendix 1	Draft Southwark Statement of Gambling Licensing Policy 2010 - 2013
Appendix 2	Summary of consultation responses

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment & Housing	
Report Author	Richard Parkins, Health Safety Licensing & Environmental Protection Unit Manager	
Version	Final	
Dated	6 October 2010	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	6 October 2010	

**THE SOUTHWARK
STATEMENT OF
GAMBLING
LICENSING POLICY
2010 - 2013 (Final)**



LEGAL BACKGROUND TO THIS DOCUMENT

The Gambling Act 2005 (the Act) received royal assent on 7 April 2005. It repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusement Act 1976 and provided a new regulatory system to govern the provision of all gambling in Great Britain other than the national lottery and spread betting.

The Act introduced a new unified regulator for gambling in Great Britain, the gambling commission. The commission replaced the gaming board of Great Britain.

The Act came into effect in 2007. Since 2007 the commission has been responsible for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters.

From 2007 licensing authorities have had responsibility for licensing gambling premises in their area, as well as undertaking functions in relation to lower stake gaming machines and clubs and miners' welfare institutes.

Licensing authorities are required by the Gambling Act 2005 to consult upon and publish a statement of the principles, which they propose to apply when exercising their functions under the act. This statement must be published at least every three years and be reviewed from "time to time". Any amendments must be subject of further consultation.

Southwark council's original statement of licensing policy was first published on 3 January 2007, following approval by council assembly on 6 December 2006. This first revision of the policy was compiled in 2009. In producing this revision to the statement of licensing policy, this authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance to the licensing authorities issued by the gambling commission, and any responses from those consulted on the policy statement.

A list of those parties with whom the council consulted directly is attached at appendix A to this document. It should be noted that unsolicited comments were received also.

The consultation followed 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>

The full list of comments made and the consideration by the council of those comments is available by request to

The health safety licensing & environmental protection unit manager
C/O Southwark community safety enforcement business unit
The Chaplin Centre
Thurlow Street
London, SE17 2DG
Tel contact – The customer service centre on 020 7525 2000 or
e-mail – licensing@southwark.gov.uk

This policy was approved by the full council assembly on (*date tbc*). It was published on the council's website on (*date tbc*) and came into effect on (*date tbc*). Hard copies are available from the licensing service. Copies will be placed in the public libraries of the area as well as being available in the town hall.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the address given above.

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SECTION ONE – EXECUTIVE SUMMARY

This policy, alongside our complementary (alcohol, entertainment and late night refreshment) licensing policy recognizes the change that is taking place within Southwark and how recent development and regeneration projects are adding to the growing value and importance of our borough. It recognises also the extent of the contribution of the leisure and entertainments industry.

Southwark enjoys a widespread and diverse selection of licensed premises and venues. Some 1,200 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late night refreshment. These range from off-licences, shops and supermarkets; restaurants, cafes and take-away establishments; to pubs, bars, members clubs, night clubs, theatres, cinemas and indoor sports facilities. There are in excess of 100 additional gaming and betting facilities, comprising of bingo halls, amusement arcades and betting offices. Together they combine to provide a wide-range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.

As long as premises are well run and premises management recognises the value of working together with the local community, they can make a significant contribution toward building community cohesion and cultural development.

Of course, negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. With gaming and betting establishments there are also risks of individual gambling addiction.

Our policy seeks to provide necessary balance between providing a platform upon which responsible business operators may contribute toward a thriving business and late night economy while ensuring that the quality of life of those who live and work in the borough is protected and enhanced through the licensing system. We believe these aims are achievable if all parties concerned work together.

The opening sections of this policy help establish how we set out to address our licensing responsibilities under the Act. Section two of our policy provides an introduction to our borough and our council, while section three sets out the purpose and scope of the policy. Section four covers our administrative arrangements for determining applications (including consultations), confirming the bodies the authority recognises as competent to advise on issues of child protection and protection of vulnerable adults, and the principles this authority will apply in determining whether someone qualifies as an interested party. Section five helps complete an overview by outlining other relevant policies, objectives and guidance.

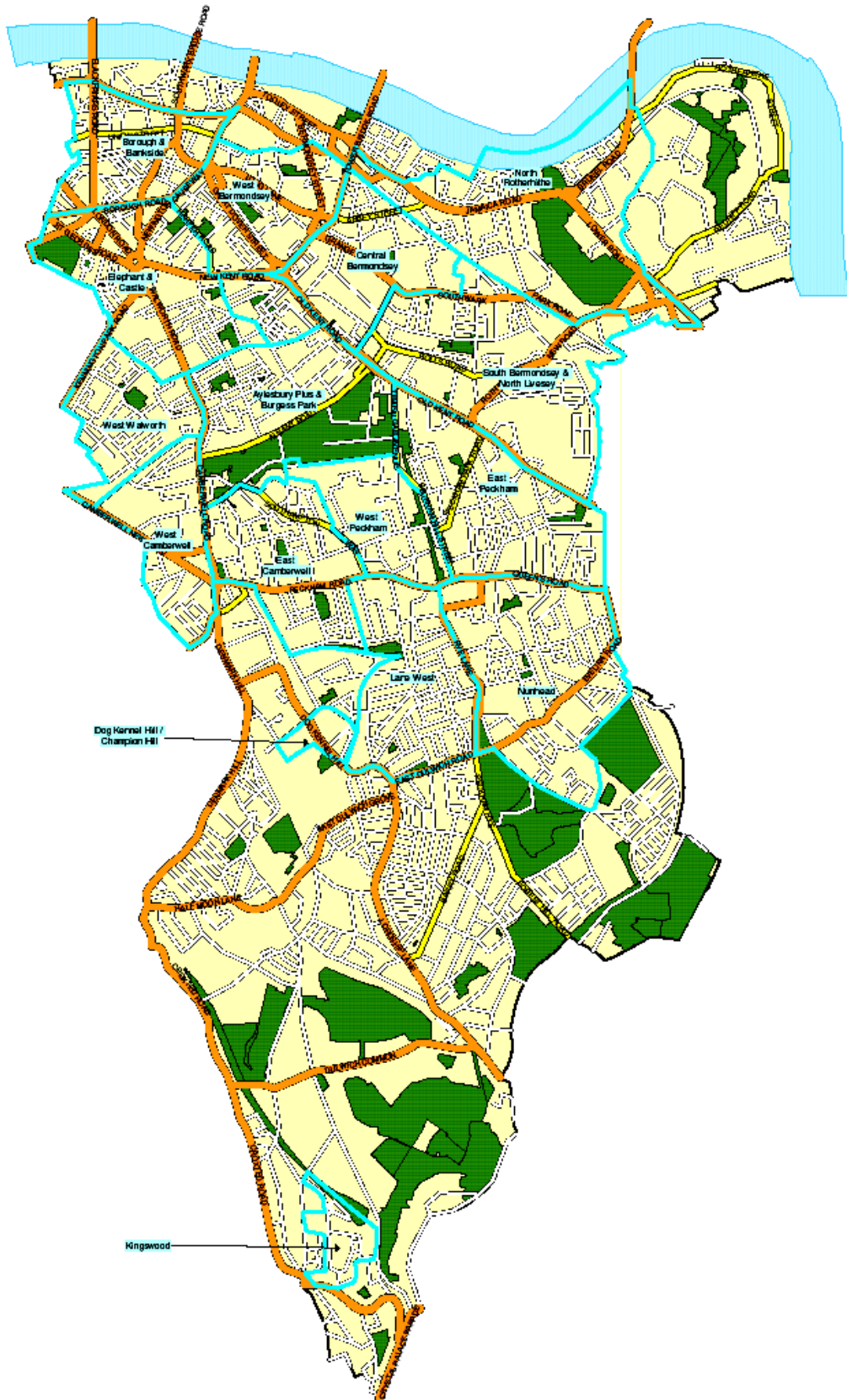
Section six deals with premises licences in some detail and applicants for such licences are urged to read this section, in particular, carefully. It provides advice on 'definition of premises' and 'premises ready for gambling' and helps clarify the position on 'provisional statements'. It goes on to examine issues relevant to the three licensing objectives (with particular consideration given to the third objective of preventing harm to children and vulnerable people) and, importantly, gives advice and information of the expectations of the licensing authority and the other responsible authorities around these objectives. This includes access arrangements; age identification schemes; restrictions on advertising; and social responsibility. Section six also sets out this authority's policy on location of licensed premises. This section also covers issues around social responsibility and sets out requirements for access arrangements across categories of premises.

Section seven of this policy provides a statement of the principles this authority will consider when considering applications for permits, temporary and occasional use notices. Section eight deals with the matter of small society lotteries.

Section nine of our policy sets out our approach to enforcement, examining how we aim to ensure that our enforcement actions are targeted where they are needed most and co-ordinated together with our partners. It also sets out how we aim to ensure that our enforcement actions are carried out in a fair, consistent and transparent manner.

This policy will be regularly reviewed and will be subject of public consultation at least every three years. We welcome your thoughts on its content and the manner in which we undertake our responsibilities under it.

SECTION TWO – ALL ABOUT SOUTHWARK



1. Alongside the City of London, Southwark is one of the oldest areas of London, with a history stretching back to Roman times. Southwark's population reached 274,000 in 2007 and is believed to be growing by as much as 4,000 per year, with a projected population of over 310,000 by 2016. The population has a young demographic profile and demonstrates rich ethnic and cultural diversity, with around one-third (90,600) of the population from black or ethnic minority communities. With this figure set to rise to 38% by 2011. Southwark is arguably one of the most diverse areas in the capital.
2. Southwark is made up of eight very distinctive urban neighbourhoods that extend along the river Thames and down into South East London. The borough also encompasses some of London's top attractions, creative hotspots, scenic villages and acclaimed green spaces.
3. Southwark has a wide-range of leisure and cultural opportunities; and makes a significant economic and employment contribution to the local community. The north of the borough is recognized as one of London's fastest growing tourist quarters and a thriving business location.
4. Alongside the borough's rich vibrancy, Southwark has its fair share of challenges. The Index of Multiple Deprivation (IMD) 2007 shows Southwark as the 27th most deprived local authority nationally and 60% of the borough's wards are among the 10% most deprived in the country. Consequently, the borough faces many challenges associated with meeting the complex health and social needs of an inner-city population. Unemployment in Southwark (8.9%) is higher than the London average (6.7%) and the percentage of the working population claiming benefits in Southwark is 15.6% compared to 13.9% across London. Gross weekly earning for both men and women in Southwark is lower than the London average.
5. In terms of violent crime, Southwark records a significantly higher number of violence against the person and robbery incidents compared to the London average.
6. Whilst there have been improvements, the attainment rates for Southwark pupils at Key Stages 1 and 2, GCSE and A levels are below the national average. Teenage conception rates for Southwark are still one of the highest in England.
7. To meet our challenges, Southwark has a large number of physical regeneration programmes across the borough, alongside a wide range of initiatives aimed at improving educational standards, reducing crime and improving health, housing, social care and the environment

Leading Southwark

8. Southwark is made up of 21 wards, with 63 councillors; three from each ward. These councillors sit on the council assembly, which is the “sovereign” body of the council. The assembly is chaired by the Mayor of Southwark and is responsible for approving the budget and policy framework. Currently Labour holds 35 seats, the Liberal Democrats 25 and the Conservatives 3 seats.
9. The council operates a strong leader / cabinet model. The cabinet is headed by the leader and deputy leader, with a further nine members holding portfolios of
 - Housing management
 - Children’s services
 - Equalities and community engagement
 - Community safety
 - Culture, leisure, sport and the Olympics
 - Transport, environment and recycling
 - Health and adult social care
 - Regeneration and corporate strategy
 - Finance and resources
10. The cabinet is responsible for leading the community planning and consultation process, drafting the budget and policy framework, and taking most decisions on resources and priorities.
11. Scrutiny committees take a close look at council decisions and activities and call for the council to be open and accountable. They examine services provided by the council and review the council’s budget and policies. Scrutiny can look at, or ‘call-in’ decisions made by the cabinet and recommend decisions are changed or reconsidered.
12. A licensing committee is established to consider licensing policy with contested licence applications being considered by Sub-Committees of the main committee as set down in table 1 in Section 4 of this document. Licensing matters fall under the responsibility of the cabinet member for community safety.
13. Eight ward based community councils were established in April 2003 to take local decisions in key areas that have a direct impact on the local neighbourhoods.

SECTION THREE – PURPOSE AND SCOPE OF THE POLICY

Purpose of the policy

14. This policy has four main objectives

- To reinforce to elected members on the licensing committee, the boundaries and power of the local authority and provide the parameters under which these licence decisions are made
- To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area
- To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed
- To support licensing decisions that may be challenged in a court of law

Scope of the policy

15. This policy covers matters arising from the range of functions and duties falling to the licensing authority under the act.

16. Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing **premises licences** in respect of casino premises; bingo premises; betting premises, including tracks; adult gaming centres; and family entertainment centres;
- Issue **provisional statements**;
- Regulate **members' clubs** and **miners' welfare institutes** who wish to undertake certain gaming activities by issuing **club gaming permits and / or club machine permits**;
- Issue **club machine permits to commercial clubs**;
- Grant permits for the use of certain lower stake gaming machines at **unlicensed family entertainment centres**;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
- Issue **licensed premises gaming machine permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required;
- Register **small society lotteries** below prescribed thresholds;
- Issue **prize gaming permits**;
- Receive and endorse **temporary use notices**;
- Receive **occasional use notices**;

- Provide information to the gambling commission regarding details of licences issued (see section on 'information exchange'); and
- Maintain registers of the permits and licences that are issued under these functions

17. It should be noted that local licensing authorities are not involved in licensing remote gambling. This is regulated by the gambling commission through operating licences.

The licensing objectives

18. 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. The licensing objectives are:

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

19. 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".

Definitions

20. "Gambling" is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize;
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not; and
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process, which relies on chance.

General information

21. The licensing authority is aware that, as per section 153 of the Act, when making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- In accordance with any relevant code of practice issued by the gambling commission;
- In accordance with any relevant guidance issued by the gambling commission;
- Reasonably consistent with the licensing objectives; and

- In accordance with the authority's statement of licensing policy.
22. However, the authority may depart from this policy, if the individual circumstances of any case merit such a decision, in the interests of promoting the licensing objectives. Where such a decision is taken, full reasons for the departure from the policy will be given.
 23. While this statement sets out the council's general approach to the making of licensing decisions, nothing in this statement overrides the right of any person to make an application; make representations about an application; or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

SECTION FOUR – ADMINISTRATION, EXERCISE AND DELEGATION OF THE FUNCTION

24. This document does not set out to deal with the circumstances under which any one of the available licences or consents may be required, nor does it attempt to set out the applications process.
25. Instead a range of separate guidance documents is available from the Southwark licensing service. These include:
- “Guidance to Premises Licences”;
 - “Guidance to Club Gaming Permits & Club Machine Permits”;
 - “Guidance to Unlicensed Family Entertainment Centres”;
 - “Guidance to Licensed Premises Gaming Machine Permits”;
 - “Guidance to Small Society Lotteries”;
 - “Guidance to Prize Gaming Permits”;
 - “Guidance to Temporary Use Notices and Occasional Use Notices”;
 - “Guidance to Hearing of Representations and Licence Reviews”;
 - and
 - “Guidance to Fees and Charges”.

Applications – general

26. Applications for any of the variety of licences and consents available from this council must be made on the form prescribed in regulations laid down by the Secretary of State. Applications shall not be progressed until the form has been completed in full and this, together with the relevant fee, and all other required information has been received by the licensing authority. Applications will be progressed in accordance with the Act. Prospective applicants should refer to the relevant guidance document for further information.

Provision of scale plans

27. Section 51 of the Act requires applicants to submit plans of the premises with their applications, in order to ensure that the licensing authority has the necessary information to make informed judgement about whether the premises are fit for gambling. The plan will also be used by the licensing authority to plan future premises inspection activity. (See guidance to licensing authorities, para.20.28).
28. Applicants should note that this council requires that current plans in scale 1:100 be submitted with all new applications for premises licences and for any application for a variation of a premises licence, unless otherwise agreed by this authority in writing. Plans need not be professionally drawn but must include all required detail.

Responsible authorities

29. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under section 157(h) of the Act to

designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of Southwark; and
 - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc
30. In accordance with the gambling commission's guidance for licensing authorities, this authority designates the Southwark safeguarding children board for this purpose.
31. This authority additionally recognises the Southwark safeguarding adults partnership as the body competent to advise the authority on issues relating to the protection of vulnerable adults.
32. The other responsible authorities are:
- The Southwark licensing authority;
 - The gambling commission;
 - The Southwark chief officer of police;
 - The Southwark fire and rescue authority;
 - The local planning authority;
 - Southwark environmental health service; and
 - HM Revenue and Customs.
33. The contact details of all the responsible bodies under the Gambling Act 2005 are provided at the end of this document. Details are also available on the council's website at www.southwark.gov.uk/businesscentre/licensing.

Interested parties

34. Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
35. "A person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- ***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 persons who satisfy (the above)"***
36. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

37. The position of this authority is that each case will be decided upon its own merits. This authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the gambling commission's guidance to licensing authorities at 8.11 to 8.18. It will also consider the commission's guidance that the term "has business interests" should be given the widest possible interpretation and include partnerships, faith groups and medical practices.
38. Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, community councils likely to be affected, will be considered interested parties. Other than those, however, this authority will generally require written evidence that a person / body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A proforma authorisation form is available on the licensing web site or upon request from the licensing office.
39. 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 sub-committee dealing with the licence application. If there are any doubts then please contact the licensing service (*see contact details provided at the end of this document*).

Consultation arrangements

40. This authority considers it important that the local community is fully aware of local licensing applications being made within its area. Requirements for applicants to advertise applications for new and varied premises licences by way of a public notice displayed at the premises and in the local press are laid down under statute. No applications for licences will be progressed by this council unless all public consultation requirements are met in full. Checks will be made to ensure that notices at application premises are displayed, so as to be clearly seen by passers by and maintained in position for the length of the consultation period.
41. As an additional aide to community awareness the licensing service has established a public register at <http://app.southwark.gov.uk/licensing/licenseregister.asp> upon which detail of all current licence applications under consideration (alongside detail of currently licensed premises) will be maintained. It is open to any person who wishes to be kept abreast of the latest applications to subscribe to "licensing alerts", by which e-mail notifications will be sent to those who have registered, when a new licence application is made within the relevant ward. Furthermore, the licensing service will ensure

that local ward councillors are informed of all new applications in their area.

Representations

42. It is open to any “responsible authority” or “interested party”, to lodge representations in respect of an application for a premises licence during the set consultation period. A representation would only be “relevant” if it relates to one or more of the licensing objectives, or raises issues under the policy statement, or under the commission’s guidance or codes of practice.
43. The commission’s guidance for local authorities advises that “moral objections to gambling are not a valid reason to reject applications for premises licences” (except as regards any ‘no casino resolution’ see section on casinos) and also that unmet demand is not a criterion for a licensing authority.
44. It is also for the licensing authority to determine on its merits whether any representation by an interested party is “frivolous” or “vexatious”.
45. When considering whether any representation made to it is “frivolous” or “vexatious” the authority will consider matters such as:
 - Who is making the representation, and whether there is a history of making representations that are not relevant;
 - Whether it raises a “relevant” issue” or
 - Whether it raises issues specifically to do with the premises that are the subject of the application.
46. Representations must be received in writing at the licensing service office by the last date for representations. Representations must be signed, dated, provide the grounds of representation in full and include the name and address of the person / body making the representation.
47. Where representations are being made by a trade association, trade union, residents’ and tenants’ association, or similar, information must be provided on the membership that live sufficiently close to the premises to be classed as interested parties.
48. Further information, including an outline of the process that is followed at public hearings, can be found in the separate document “Guidance to the Hearing of Representations and Licence Reviews”.

Determinations

49. Section 154 of the act provides that all decisions relating to premises licences are delegated to the licensing committee of the authority that has been established under section 6 of the Licensing Act 2003 except:
 - A resolution not to issue casino licences;
 - Functions in relation to the three year licensing policy; and

- Setting fees.
50. Decisions that are delegated to a licensing committee may be further delegated to a sub-committee of the licensing committee. The council's licensing committee is established with provision for sub-committees of three members to be drawn from the overall pool of the main committee membership.
 51. The council intends to establish a speedy, efficient and cost-effective licensing system and, thereby, where the Act carries a presumption of grant for non-contentious applications, these matters will be delegated to officers. All such matters will be reported for information and comment only to the next full licensing committee meeting.
 52. Where matters are subject of representations, this council will normally attempt to reach a negotiated outcome through our conciliation process. Conciliation is offered as we recognise that the best solutions are normally ones that all concerned parties can sign up to and in order to attempt to save the time and costs associated with holding a public hearing. Conciliation will be attempted up until 24 hours before the arranged hearing date. Where it is not possible to reach agreement, the application and representations will be determined by the sub-committee.
 53. Table 1 below sets out proposals for the delegation of decisions and functions to licensing committee, sub-committees and officers. This form of delegation is without prejudice to the council's right to redirect an application as appropriate in the circumstances of any particular case.

Matter to be dealt with	Full council	Sub-committee of licensing committee	Officers
Final approval of three year policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Application for a transfer of a premises 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 or representations withdrawn
Review of a premises licence		X	
Application for a club gaming / club machine permit		Where objections have been made (and not withdrawn)	Where no objections have been made / objections have not been withdrawn.
Cancellation of a club gaming / club machine permit		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	

Table 1 – Delegation of decisions and functions

Licence reviews

54. Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
- In accordance with any relevant code of practice issued by the gambling commission;
 - In accordance with any relevant guidance issued by the gambling commission;
 - Reasonably consistent with the licensing objectives; and
 - In accordance with the authority's statement of principles.
55. The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
56. The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
57. Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
58. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
59. The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:
- Add, remove or amend a licence condition imposed by the licensing authority;
 - Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - Suspend the premises licence for a period not exceeding three months; and
 - Revoke the premises licence.
60. In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

61. In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
62. Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
 - The licence holder;
 - The applicant for review (if any);
 - The commission;
 - Any person who made representations;
 - The chief officer of police or chief constable; and
 - Her Majesty's Commissioners for Revenue and Customs
63. Further information, including an outline of the process that is followed at review hearings, can be found in the separate document "Guidance to the Hearing of Representations and Licence Reviews".

Exchange of Information

64. Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the gambling commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
65. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the gambling commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
66. Should any protocols be established as regards information exchange with other bodies then they will be made available.

SECTION FIVE – OTHER POLICIES, OBJECTIVES AND GUIDANCE

67. This Policy is intended to complement the broad range of other relevant council and government policies, strategies, responsibilities, and guidance set out here. This Policy will also be checked for consistency with all current policies, objectives and guidance on an annual basis.

Other statutory requirements

68. The Council has other general statutory requirements relating to crime and disorder, anti-social behaviour, health, nuisance, human rights, disability discrimination and race relations, all of which complement the Gambling Act 2005. These are briefly outlined below.
69. Under Section 17 of the **Crime and Disorder Act 1998** an over-riding duty is placed upon the Council and the Police to minimise crime and disorder. The council as licensing authority must consider how the exercise of its functions impacts upon and contributes toward the prevention of crime and disorder within its area.
70. The **Anti-Social Behaviour Act 2003**, as amended by the Criminal Justice Act 2008, identifies types of anti-social behaviour that affect community life and provides local authorities, particularly environmental health officers, and the police with the tools to deal with these under sections 40 and 41.
71. **The Health Act 2006** introduced the smokefree workplaces law which was applied to all enclosed public places, workplaces and public and work vehicles on 1 July 2007. The law is enforced by local authorities.
72. The **Clean Neighbourhoods and Environment Act 2005** adds additional powers for dealing with noise emitted from licensed premises.
73. The **Human Rights Act 1998** incorporates the European Convention on Human Rights, making it unlawful for a local authority to act in any way that is incompatible with a convention right. The council will have particular regard to the relevant provisions of the European Convention of Human Rights –
- **Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his possessions, including for example the possession of a licence;**
 - **Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law; and**
 - **Article 8 that everyone has the right to respect for his home and private life.**

74. The **Disability Discrimination Act 1995** introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, including licensees:
- **Since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability;**
 - **Since October 1999 reasonable adjustments must be made for disabled people, such as providing extra help or making changes to the way they provide their services; and**
 - **Since 2004 reasonable adjustments must be made to the physical features of their premises to overcome physical barriers to access.**
75. Additionally, the **Disability Discrimination Act 2005** came into effect in December 2005. It placed a duty on public bodies to actively promote disability equality.
76. While access for people with disabilities is not one of the three licensing objectives, this council expects that responsible licensees will comply with the requirements of the Disability Discrimination Act 1995. As such the licensing service will work closely with the Southwark Disablement Association (SDA) to ensure that disabled people are not treated less favourably than other people for a reason related to their disability. As part of this arrangement this authority will inform the SDA of new licence applications and will support the SDA and licensees in improving access to services. The SDA can provide advice to any licensee on reasonable adjustments – contact details are provided in section 12 of this policy. Alternatively, information provided on the web site www.directenquiries.com by the nationwide access register in conjunction with RADAR (the Royal Association of Disability and Rehabilitation) may be helpful.
77. The **Race Relations Act 1976**, as amended by the **Race Relations (Amendment) Act 2000**, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.
78. This council recognises Southwark's diversity as one of its strengths and is committed to creating a more inclusive community. The council will aim to ensure that nothing within this Statement of Gambling Licensing Policy nor its associated practices discriminates against any group within the community and will pursue any opportunity to promote equality of opportunity and good community relations. To this end the council will undertake equalities impact assessments of the policy at regular intervals to identify the effects the policy may have had for different

groups and take appropriate action to prevent direct and indirect discrimination which may have been the result of the policy statement.

Other strategies and policies

79. The council will look to secure the proper integration of this policy with other council and government policies, strategies, responsibilities, and guidance documents issued.
80. In this context this policy is informed by the following strategies and policies.
81. All enforcement actions taken by the licensing service are governed by the council's **enforcement policy**, which has been drafted with full reference to the **enforcement concordat** and the provisions of the BERR (now BIS) Statutory Code of Practice for Regulators, the **Police and Criminal Evidence Act 1984 (PACE)** and the **Regulation of Investigatory Powers Act 2000 (RIPA)**.
82. Through the licensing service's links with the **Safer Southwark Partnership**, a statutory partnership between the council, police and other local agencies who work together to reduce crime and disorder in the borough, we will pursue measures in relation to the Southwark , **Community Safety Three Year Rolling Plan**, which concentrates on balancing short-term law enforcement action with longer-term crime prevention, and also the Southwark **Community Strategy**. The maintenance of a successful partnership working approach between the licensing authority and the police is crucial.
83. Southwark's local **Alcohol Harm Reduction Strategy**, prepared in response to the **National Alcohol Harm Reduction Strategy ("Safe. Sensible. Social. The next steps in the National Alcohol Strategy" (June 2007))** explores the relationships between alcohol and crime alongside health impacts and also Southwark's local **Crime and Drugs Strategy** prepared in response to the **National Substance Misuse Strategy**. The licensing service is positioned within the Community Safety & Enforcement Division where it enjoys good links with other internal and external service areas including the Southwark Drugs and Alcohol Action Team and the Police aimed at building initiatives to tackle the issues of alcohol harm reduction and drugs misuse.
84. The council and its partnership agencies will be publishing a 5 year Violent Crime Strategy for Southwark and this policy will be informed by the recommendation of the strategy.

Planning

85. The gambling commission guidance to licensing authorities states at section 7.59 "In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling

and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.”

86. This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the guidance at section 7.66 “When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those 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 not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

Duplication with other regimes

87. This authority will seek, therefore, to avoid any duplication with other statutory / regulatory systems where possible, including planning.
88. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should a situation arise.
89. When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.
90. Thereby, while the licensing authority is conscious that there is no legal basis for a licensing authority to refuse a licence application solely because it does not have planning permission, it would not be consistent for the authority to give a licence for an activity when it has refused planning permission for the same activity to take place. In such cases the council would expect the applicant to address the reasons why planning permission had not been granted and provide compelling reasons as to why licensing consent should be. Even so, there may be circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes which carries different hours to the licensing hours. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

91. Borough-wide and area based planning guidance exists through the **Southwark Plan** and supplementary planning guidance. Where relevant representations are made on applications, the licensing authority will have regard to the appropriate relevant guidance.
92. The council is also aware of the Mayor of London's best practice guidance on "**Managing the Night Time Economy**" and will have regard to its contents. The Southwark Violent Crime Strategy, to be published in the Autumn 2010, will make specific recommendation concerning the night time economy for the borough.

SECTION SIX – PREMISES LICENCES

93. This section considers the licensing objectives and some of the matters that this licensing authority may consider when determining applications for premises licences under the Act. It also considers this authorities approach to the setting of conditions on premises licences. This section should be read in conjunction with the separate “Guidance to Premises Licences” issued by this council.
94. When considering matters in this section, the authority will have regard to any guidance or codes of practice issued by the Secretary of State and / or the gambling commission which may relate to a specific premises or category of premises.
95. In the interests of good practice, this licensing authority will expect applicants to offer their own measures to meet the licensing objectives based on a risk-assessment approach. However, advice may be obtained from any of the responsible bodies when preparing a licence application.
96. This section sets out some of the expectations of the authority and the responsible bodies.
97. The authority will, however, always treat each case on its own individual merits.

General principles

98. Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
99. This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
 - In accordance with any relevant code of practice issued by the gambling commission;
 - In accordance with any relevant guidance issued by the gambling commission; and
 - Reasonably consistent with the licensing objectives and in accordance with the authority’s statement of licensing policy.

100. It is appreciated that as per the gambling commission's guidance to licensing authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any "no casino" resolution – see section on casinos (page 39) and also that unmet demand is not a criterion for a licensing authority.

Definition of "premises"

101. In the Act, "premises" is defined as "any place". Section 152 prevents more than one premises licence applying to any place, but a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate standards are in place. However, licensing authorities should pay particular attention if there are issues about subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
102. The gambling commission states in the third edition of its guidance to licensing authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example 32 High Street. But, that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured separately. Whether different parts of a building can be properly regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can be properly regarded as different premises.
103. This licensing authority takes particular note of the gambling commission's guidance to licensing authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating;

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit; and
 - Customers should be able to participate in the activity names on the premises licence.
104. The guidance also gives a list of factors which the licensing authority should be aware of, which may include:
- Do the premises have a separate registration for business rates?
 - Is the neighbouring premises owned by the same person or someone else?
 - Can each of the premises be accessed from the street or a public passageway?
 - Can the premises only be accessed from any other gambling premises?

Premises “ready for gambling”

105. The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
106. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement (page 31) should be made instead.
107. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- First, whether the premises ought to be permitted to be used for gambling; and
 - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
108. Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
109. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59 – 7.66 of the Guidance.

Provisional statements

110. Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
111. S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- Expects to be constructed;
 - Expects to be altered; or
 - Expects to acquire a right to occupy.
112. The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
113. In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the gambling commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which the provisional application is made.
114. The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- They concern matters which could not have been addressed at the provisional statement stage, or
 - They reflect a change in the applicant's circumstances
115. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- Which could not have been raised by objectors at the provisional statement stage;
 - Which in the authority's opinion reflect a change in the operator's circumstances; or
 - Where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial

change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

The Licensing Objectives

116. Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the gambling commission's guidance to local authorities and some comments are made below.

Objective 1 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

117. This licensing authority is aware that the gambling commission takes a leading role in preventing gambling from being a source of crime. The gambling commission's guidance does, however, envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be necessary, such as the provision of door supervisors. In doing so, this licensing authority would note that it is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

118. Thereby, where representations are received to premises licence applications under the crime and disorder objective, this authority will give appropriate consideration to the location of the premises (see separate section below) and also to issues such as:

- The configuration, design and layout of the premises, paying particular attention to steps taken to "design out" crime;
- Security arrangements within the premises, including whether CCTV is installed and, if so, the standard of the CCTV and the positioning of cash registers;
- Training provided to staff around crime prevention measures
- The level of staffing provided at the premises, including whether door supervisors are employed;
- The arrangements in place to conduct age verification checks
- Steps taken to redress the recurrence of any historical crime and disorder issues; and
- The likelihood of any violence, public disorder or policing problems if the licence is granted.

119. The above list is not exhaustive.

120. Where it is considered necessary for the promotion of the crime and disorder objective, this authority will impose appropriate conditions.

Objective 2 - Ensuring that gambling is conducted in a fair and open way

121. This licensing authority has noted that the gambling commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

Objective 3 - Protecting children and other vulnerable persons from being harmed or exploited by gambling

122. This licensing authority has noted the gambling commission guidance 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). This licensing authority will therefore consider, as suggested in the gambling commission guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

123. This authority is aware that the gambling commission's general licence conditions and associated codes of practice under the Gambling Act 2005 (October 2008) include requirements made under operating licences that licensees must have and put into effect social responsibility policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

124. In order that this authority and the other responsible authorities are able to make a proper informed judgement as to the effectiveness of these policies and procedures, this authority asks that copies of the relevant documentation are submitted to the appropriate authorities for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits.

125. Where concerns are raised through the representation system then consideration will be given to whether additional relevant conditions are necessary.

a) Preventing children from taking part in gambling

126. In particular it is noted that while under the act children (defined in the act as under 16s) and young persons (16 – 17s) may take part in private and non-commercial betting and gaming the act contains the following restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place:

- Casinos cannot admit anyone under 18 and regional casinos will not be allowed to permit under 18s into the gambling area;
- Betting shops cannot admit anyone under 18;
- Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines;
- Adult entertainment centres cannot admit those under 18;

- Family entertainment centres and premises with liquor licences (eg pubs) can admit under 18s, but they must not play category C machines which are restricted to those over 18;
- Clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines;
- Horse and dog tracks can admit under 18s, and they may have access to gambling areas on race days only. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

127. Accordingly, this authority will wish to ensure that these restrictions are complied with.

128. This licensing authority will expect applicants to offer their own measures to achieve the licensing objective, however, there are a range of measures and controls that this authority and the other responsible authorities would recommend that consideration is given to where appropriate:

- The use of proof of age schemes;
- The installation of CCTV systems with the maintenance of a 31 day library of recordings;
- The supervision of entrances to the premises and / or machine areas;
- The physical separation of areas;
- Full consideration as to the location of entrances;
- The provision of suitable notices / signage; and
- Setting of specific opening hours

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

130. As assistance to prospective licence holders the minimum expectations of this authority and the responsible bodies in relation to proof of age are given in table 2 below with issues shown as being, in our view, either essential or desirable.

Table 2

Essential	That notices shall be displayed informing customers and staff that under 18s will not be admitted to the premises or will not be permitted to take part in gambling activities (as applicable) and that age identification will be required
Essential	That a proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to

Desirable	<p>staff to be under the age of 18 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.</p> <p>That a “Challenge 25” or “Think 25” proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff to be under the age of 25 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. “Think 25” or “Challenge 25” notices shall be displayed informing customers and staff that admission to the premises will not be given to anyone appearing to be under 25 unless they can prove they are 18 or over. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.</p>
Essential	<p>That all staff shall be trained in the premises proof of age compliance scheme and records of such training shall be retained on the premises and made available for inspection by authorised officers.</p>
Essential	<p>That an incident log shall be maintained and details of all age related refusals recorded. This book shall be reviewed monthly by the nominated responsible member of staff and any actions taken recorded in the book and signed off by that member of staff. This log shall be retained on the premises and made available for inspection by authorised officers.</p>
Desirable	<p>That, if a CCTV recording system is installed inside the premises, it shall be so arranged as to monitor each entrance and exit and the gaming areas. A library of recordings taken by the system shall be maintained for 31 days and made available to authorised officers upon request.</p>

131. This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance; and
- Only adults are admitted to the area where the machines are located; and

- Access to the area where machines are located is supervised at all times, either by one or more persons whose responsibilities include ensuring that under 18s do not enter the area or by CCTV observed by one or more persons whose responsibilities include ensuring that under 18s do not enter the area; or
- The areas where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- A notice stating that no person under the age of 18 is permitted to enter the area must be displayed in a prominent place at the entrance to the area.

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

b) Restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children

133. The Gambling Act 2005 removed virtually all of the existing statutory restrictions on the advertising of lawful gambling conducted in Great Britain. Responsibility for the advertising by gambling operators will be shared by the Secretary of State, the commission, and the advertising regulatory bodies. We note, however, that the commission's codes of practice require all advertising of gambling products to be undertaken in a social responsible manner consistent with the advertising codes of practice which apply to the form and media in which they advertise their gambling services. This authority understands that the following general principles apply:

- Not to encourage irresponsible or excessive gambling;
- Not to seek to harm or exploit children, the young, or other vulnerable persons;
- Not to direct advertisements at those under 18; and
- Only to feature in their advertisements people who are, and seem to be, over 25

134. This authority may accept that further conditions on this matter should not normally be necessary, but all issues of non-compliance with the code will be rigorously investigated and reported to the relevant authorities.

c) Protection of vulnerable people

135. As regards the term "vulnerable persons" it is noted that the gambling commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be revised to include such.

136. This authority considers that for the purposes of protecting vulnerable people it is important that each licensee should recognise their social responsibility.
137. This authority notes that the commission's codes of practice place general requirements on operators to put into effect policies and procedures which promote socially responsible gambling. In particular, the codes of practice place responsibilities upon licensees to make information available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling. The information is required to cover:
- Any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend;
 - Timers or other forms of reminders or reality checks where available;
 - Self-exclusion options; and
 - Information about the help of further help or advice.
138. Again, the codes of practice do not require an operator to inform the licensing authority and other responsible authorities of these policies and procedures when applying for the premises licence.
139. However, in order that this authority and the other responsible authorities are able to make a proper informed judgement as to the suitability of these policies and procedures, this authority asks that copies of the documentation be submitted to the appropriate authorities for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits. Views may additionally be sought from the Southwark Safeguarding Adults Partnership. If concerns are raised under the representations system then consideration will be given to additional relevant conditions.
140. This authority and the other responsible authorities would expect that:
- Self-exclusion schemes introduced are clearly publicised on licensed premises; and
 - That information is made publically available about organisations that can provide advice and support, both in relation to gambling itself and to debt, for example for gambling addiction gamcare, gamblers anonymous, and the gordon house association; and for debt counselling Blackfriars advice service and national debtline.
141. While the value of self-exclusion schemes is recognised the authority would emphasise that these should not relieve responsibility from staff to be alert to any customers who are exhibiting signs of 'problem gambling' and providing support where possible.

Location

142. This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the gambling commission's guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
143. In pursuit of these objectives, when determining applications for premises licences, this authority will have regard to the location of the premises. The authority will give special consideration in relation to the proximity of premises to
- **Local schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families;**
 - **Places where vulnerable people are housed or treated, including clinics, recovery centres, outpatients clinics and homes;**
 - **Residential areas where there is a high concentration of children and young people or vulnerable people;**
 - **Areas where there is a high level of organised crime;**
 - **Places of worship, community facilities or public buildings;**
and
 - **Areas where there is considered to be an over concentration of similar existing licensed operation**
144. This list is not exhaustive.
145. It should be noted, however, that this policy does not preclude any application being made and each application will be decided upon its own merits, with the onus being on the applicant showing how potential concerns can be overcome.
146. Although this authority recognises that nuisance is not one of the three stated licensing objectives and that the guidance to the Act states that disorder is intended to mean activity that is more serious and disruptive than nuisance, this authority will receive information from the Council's environmental protection team on nuisance issues as being relevant to matters of location of premises.

Conditions generally

147. Any conditions attached to licences will be proportionate and will be:
- Relevant to the need to make the proposed building suitable as a gambling facility;
 - Directly related to the premises and the type of licence applied for;
 - Fairly and reasonably related to the scale and type of premises: and

- Reasonable in all other respects
148. Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under the licensing objectives and some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.
149. This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the gambling commission's guidance.
150. Where this authority proposes to attach a condition to a licence, other than either a mandatory or default condition, a hearing will be held unless all parties concerned consider it unnecessary.
151. This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track. As per the gambling commission's guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from the gambling areas where they are not permitted to enter.
152. It is noted that there are conditions which the licensing authority cannot attach to premises licences. These are:
- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
 - Conditions relating to gaming machine categories, numbers, or method of operation;
 - Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
 - Conditions in relation to stakes, fees, winning or prizes

Door supervisors

153. The gambling commission advises in its guidance to licensing authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to

the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

154. Where it is decided that the supervision of entrances / machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the guidance, part 33).

Casinos

155. This licensing authority has not passed a 'no casino' resolution under section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be taken by the full council assembly.

Adult gaming centres

156. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The authority notes the gambling commission's access provisions for adult gaming centres state that 'no customer must be able to access the premises directly from any other licensed gambling premises'. The authority will expect the applicant to satisfy it that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises. This licensing authority may consider measures to meet the licensing objectives.

Bingo premises

157. This licensing authority notes that the gambling commission's guidance states:

"18.4 – Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machines entitlement for that premises would be exceeded.

18.7 Children and young people are allowed into bingo premises, however, they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

158. This authority notes the gambling commission's access provisions for bingo premises state that:

- No customer must be able to access the premise directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track'

Betting premises

159. 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, for example, that under 18 year olds do not have access to the premises (see information provided under section relating to the third licensing objective – 125 onward).

160. This licensing authority will, as per the gambling commission's guidance, take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number / nature / circumstances of betting machines an operator wants to offer.

161. The authority notes that the gambling commission's access provisions for betting premises state:

- Access must be from a street (as per paragraph 7.23 guidance to licensing authorities) or from another premises with a betting premises licence
- There may be no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect this means that there cannot be an entrance to a betting shop from a shop of any kind and a betting shop cannot be situated at the back of a café for instance – the whole area would have to be licensed.

(Licensed) family entertainment centres

162. 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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas (see information provided under section relating to the third licensing objective – 125 onward).

163. Given that this category of premises is one to which children may properly have access, operators should also consider measures / training for staff on how to deal with suspected truant school children upon the premises.

164. This licensing authority will, as per the gambling commission's guidance, refer to the commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences.

Travelling fairs

165. This authority will firstly consider whether the application falls within the statutory definition of a travelling fair. This authority will then decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available, whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

166. It is noted that the 27-day statutory maximum for the land being used as a fair, applies on a calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

SECTION SEVEN – PERMITS / TEMPORARY & OCCASIONAL USE NOTICES

**Unlicensed family entertainment centre gaming machine permits
(statement of principles on permits – schedule 10 paragraph 7)**

167. Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (section 238).
168. The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and / or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the commission under section 25. The gambling commission's guidance to licensing authorities also states "in their three year licensing policy statement, licensing authorities may include a statement of principles they propose to apply when exercising their functions in considering applications for permits ..., licensing authorities will want to give weight to child protection issues." (24.6).
169. Guidance also states "... An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application."
170. This licensing authority has prepared a statement of principles which is that each applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits.
171. Copies of these policies and procedures must be submitted with any application for a permit. Applicants are advised that the minimum expectations of the local safeguarding children board are that policies and procedures will demonstrate:
- **How employees or contracted agencies will be made aware of the company's / organisation's policy / statement on keeping children safe from harm;**
 - **That recruitment processes for staff who may have to deal direct with children under the age of 18 seek to ensure, as best the company / organisation can, that the appointed applicant has not been known to have harmed children;**

- **That there will be clear expectations on staff with regard to their personal conduct in direct relations with children under 18 and guidance on what is appropriate in dealing with specific situations which may arise;**
- **That there are systems in place and that staff are aware of them for dealing with possible abuse or violence to children from other users of the licensed facility;**
- **That there are clear and accessible complaints systems for children to report if they have been harmed and that there are clear whistle-blowing procedures for staff who may have concerns about the welfare of children on the premises; and**
- **That all duty managers or staff in charge of the premises are aware of how to refer any concerns about the welfare of children to the local police, education authority or social services as necessary.**

172. Policies and procedures may also include appropriate 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.

173. This licensing authority will also expect, as per gambling commission guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that staff are trained to have a full understating of the maximum stakes and prizes; and that the applicant has no relevant convictions (as set out in schedule 7 of the Act).

(Alcohol) Licensed premises gaming machine permits – (schedule 13 para 4(1))

174. There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and / or D. In such cases the premises licence holder under the Licensing Act 2003 merely needs to notify the licensing authority and pay the relevant fee.

175. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

Permit for 3 or more machines

176. If a premises wishes to have more than 2 machines, then an application must be made for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the gambling commission issued under section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
177. This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.
178. Measures which will satisfy the authority may include
- **That adult machines are located within a bar or segregated area to which under 18s are not admitted; and**
 - **That procedures are in place to ensure that under 18s are not admitted (see advice in Part E of this policy); or**
 - **That adult machines are situated in full sight of the bar staff, or other staff who will monitor that the machines are not being used by those under 18; and**
 - **That procedures are in place that will ensure that under 18s are not able to play upon the machines (see advice in Part E of this policy).**
 - **Additionally, notices and signage may also be of help in both circumstances**
178. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as gamcare (see paragraph 141 above).
179. It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.
180. It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
181. 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.

Prize gaming permits

182. The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

183. This licensing authority has prepared a statement of principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- **That they understand the limits to stakes and prizes that are set out in regulations;**
- **That the gaming offered is within the law; and**
- **Clear policies that outline the steps to be taken to protect children from harm.**

184. In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any gambling commission guidance (Gambling Act 2005, schedule 14 paragraph 8(3)).

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

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

Club gaming and club machines permits

186. Members clubs and miners’ welfare Institutes (but not commercial clubs) 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 as set-out in forthcoming regulations.

187. Members’ clubs and miner’s welfare institutes – and also commercial clubs – may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines (3 machines of

categories B, C or D). NB commercial clubs may not site category B3A gaming machines offering lottery games in their club.

188. Gambling commission guidance for local authorities states: “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. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of royal british legion and clubs with political affiliations.”
189. The commission’s guidance also notes that “licensing authorities may only refuse an application on grounds that:
- **The applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;**
 - **The applicant’s premises are used wholly or mainly by children and/or young persons;**
 - **An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;**
 - **A permit held by the applicant has been cancelled in the previous ten years; or**
 - **An objection has been lodged by the commission or the police**
190. There is also a ‘fast-track’ procedure available for premises which hold a club premises certificate under the Licensing Act 2003 (schedule 12 paragraph 10). As the gambling commission’s guidance for local authorities states: “Under the fast-track procedure there is no opportunity for objections to be made by the commission or the police, and the ground upon which an authority can refuse a permit are reduced” and “The grounds on which an application under the process may be refused are:
- That the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.”
191. 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.

Temporary use notices

192. Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the gambling commission, would include hotels, conference centres and sporting venues.
193. The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
194. The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
195. There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in part 8 of the Act is discussed in part 7 of the gambling commission guidance to licensing authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
196. In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
197. This licensing authority expects 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, as recommended in the gambling commission's guidance to licensing authorities.

Occasional use notices

198. The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

SECTION EIGHT – SMALL SOCIETY LOTTERIES

199. Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The licensing authority will register and administer small societies lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories.
- Licensed lotteries (requiring an operating licence from the gambling commission); and
 - Exempt lotteries (including small society lotteries registered by the licensing authority)
200. Exempt lotteries are lotteries permitted to run without a licence from the gambling commission and these are:
- Small society lotteries;
 - Incidental non-commercial lotteries;
 - Private lotteries;
 - Private society lotteries;
 - Work lotteries;
 - Residents' lotteries;
 - Customer lotteries;
201. Societies may organise lotteries if they are licensed by the gambling commission or fall within the exempt category. The licensing authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. Guidance notes on small society lotteries, limits placed on them and information setting out financial limits will be made available on the council's web-site or by contacting the licensing service (see contact details at the end of this document).
202. Applicants for registration of a small society lottery must apply to the licensing authority in the area in which their principal office is located. Where the licensing authority believes that the society's principal office is situated in another area, it will inform the society as soon as possible and where possible, will inform the other licensing authority.
203. Lotteries will be regulated through a licensing and registration scheme; conditions imposed on licences by the gambling commission; codes of practice and any guidance issued by the gambling commission. In exercising its functions with regard to small society and exempt lotteries, the licensing authority will have due regard to the gambling commission's guidance.
204. The licensing authority will keep a public register of all applications and will provide information to the gambling commission on all lotteries

registered by the licensing authority. As soon as the entry on the register is completed, the licensing authority will notify the applicant of his registration. In addition, the licensing authority will make available for inspection by the public the financial statements or returns submitted by societies in the proceeding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the licensing authority will notify the gambling commission in writing, copying this to the society concerned. The licensing authority will accept return information either manually but preferably electronically by emailing licensing@southwark.gov.uk

205. The licensing authority will refuse applications for registration if in the previous five years, either an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant has been refused. Where the licensing authority is uncertain as to whether or not an application has been refused, it will contact the gambling commission to seek advice.
206. The licensing authority may refuse an application for registration if in their opinion:
- The applicant is not a commercial society;
 - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 - Information provided in or with the application for registration is false or misleading.
207. The licensing authority will ask applicants to set out the purposes for which the society is established and will ask the society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The licensing authority may also seek further information from the society.
208. Where the licensing authority intends to refuse registration of a society, it will give the society an opportunity to make representations and will inform the society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
209. The licensing authority may revoke the registered status of a society if it thinks that it would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocation will take place unless the society has been given the opportunity to make representations. The licensing authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
210. Where a society employs an external lottery manager, it will need to satisfy itself that the manager hold an operator's licence issued by the

gambling commission, and the licensing authority will expect this to be verified by the society.

SECTION NINE – ENFORCEMENT

211. Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
212. This licensing authority's principles are that it will be guided by the gambling commission's guidance to licensing authorities and will endeavour to be:
- **Proportionate:** Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** Regulators must be able to justify decisions and be subject to public scrutiny;
 - **Consistent:** Rules and standards must be joined up and implemented fairly;
 - **Transparent:** Regulators should be open, and keep regulations simple and user friendly; and
 - **Targeted:** Regulation should be focused on the problem, and minimise side effects
213. These principles are consistent with principles contained within the council's enforcement policy and within the better regulation unit's Enforcement Concordat, to which this council is a signatory. All enforcement actions will be in accordance with this enforcement policy.
214. In order to ensure that this authorities enforcement activities are targeted and make the best use of resources, this licensing authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives;
 - Relevant codes of practice;
 - Guidance issued by the gambling commission, in particular Part 36; and
 - The principles set out in this statement of licensing policy.
215. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The gambling commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

216. This licensing authority also keeps itself informed of developments as regards the work of the better regulation executive in its consideration of the regulatory functions of the local authorities.
217. Bearing in mind the principle of transparency, this licensing authority's enforcement / compliance protocols / written agreements are available upon request to the licensing service (*see contact details provided at the end of this document*). Our risk methodology is also available upon request.
218. It remains the over-riding intention, however, of the licensing authority, the police, and the other enforcement agents to work together with responsible licence holders and operators to help them run a successful business that plays a positive role within the local community. Where operators are acting responsibly we will look to provide support, advice and education and we will look to give early warning of any concerns identified at any premises. However, the authorities will use the range of enforcement powers made available under the Act where individuals act with disregard to their responsibilities.

SECTION TEN – CONTACT DETAILS

Southwark Licensing Service

You can contact the Licensing Service in a number of ways

By post or in person by appointment during office hours

Southwark Licensing Team

C/O Health Safety & Licensing Unit
 Community Safety Enforcement Business Unit
 The Chaplin Centre
 Thurlow Street
 London, SE17 2DG

By telephone: (Via the Customer Contact Centre 24/7) 020 7525 5000

By e-mail: licensing@southwark.gov.uk

By visiting our web site at www.southwark.gov.uk/businesscentre/licensing

Other responsible authorities***The Gambling Commission***

Victoria Square House
 Victoria Square
 Birmingham, B2 4BP

Commissioner of Police for the Metropolis

The Police Licensing Office
 Walworth Road Police Station
 12 – 28 Manor Place
 London
 SE17 3RL
 Tel: 020 7232 6210

The London Fire and Emergency Planning Authority

Fire Safety Regulation
 South East Area 3
 169 Union Street
 London, SE1 0LL
 Tel: 020 8555 1200

The Council's Building & Development Control Services (including Planning)

160 Tooley Street
 London
 SE1 2TZ
 Tel: 020 7525 2000

The Environmental Protection Team (dealing with nuisance issues)

C/O Southwark Community Safety Enforcement Business Unit
 The Chaplin Centre
 Thurlow Street
 London
 SE17 2DG
 Tel: 020 7525 2000

The Local Safeguarding Children Board

Southwark Safeguarding Children Board
 PO Box 64529
 4th Floor
 160 Tooley Street
 London
 SE1 2TZ
 Tel: 0207 525 3733
 Fax: 0207 525 3236

The Local Safeguarding Vulnerable Adults Board

Safeguarding Adults Manager
 Southwark Safeguarding Adults Partnership
 160 Tooley Street
 London, SE1 2TZ
 Tel: 0207 525 3733
 Fax: 0207 525 3236

HM Customs & Revenue

Detail to be provided for final copy

Please note that in the case of applications made in respect of vessels a different set of responsible authorities apply. Please contact the Licensing Service for information.

OTHER AGENCIES***Southwark Disablement Association***

Patrick Horan
 Access Officer & Chair
 Southwark Disablement Association
 2 Bradenham Close
 London
 SE17 2QB
 Tel: 020 7701 1391

Appendix A – Consultation

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The chief officer of police
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005

In preparing this Statement of Gambling Licensing Policy this authority

- Placed public notices in the local media and on the council's web site advertising the opportunity to comment on the draft policy;
- Wrote directly to all known potential licence applicants;
- Wrote directly to all known tenants and residents organisations;
- Wrote directly to all known gambling business representatives;
- Wrote directly to all known community representative and other interest groups;
- Wrote directly to all ward councillors; and
- Provided information to each community council.

Detail of the written submissions received and analysis of those submissions can be obtained from the licensing service.

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision Consultation Responses				
Name	Address	Section	Comment	Response
Paul Compton, Police Licensing Officer for Southwark Borough on behalf of the Borough Commissioner	Licensing Office, Walworth Police Station, 12/28 Manor Place, Walworth London, SE17 3BB	General	The policy appears to adequately reflect recent changes and is appropriate for implementation on Southwark	Comments noted.
Debra Lawless, Southwark Environmental Protection Team (Responsible authority)	C/O Southwark Environmental Health & Trading Standards, The Chaplin Centre, Thurlow Street, London, SE17 2DG	General	Queries the fact that public nuisance is not included within the stated licensing objectives, when there are a number of potential relevant issues including matters of sound containment; lighting; nuisance from customers; and litter.	The matter is noted and the concern recognised, however, the licensing objectives are established by section 1 of the Gambling Act 2005. These are stated as (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; (b) ensuring that gambling is conducted in a fair and open way; and (c) protecting children and other vulnerable people from being harmed or exploited by gambling.
Debra Lawless, Southwark Environmental Protection Team (Responsible authority)	C/O Southwark Environmental Health & Trading Standards, The Chaplin Centre, Thurlow Street, London, SE17 2DG	General	In view of the position as stated above, queries why environmental health are consulted.	Section 157 of the 2005 Act sets out the “responsible authorities” with regards to gambling premises licensing. The list of responsible authorities includes “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 which the premises are wholly or partly situated”. Within Southwark this responsibility falls to the Environmental Protection Team. Responsible authorities are statutory consultees within the gambling premises licence application process. The Gambling Commission’s guidance to licensing

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision				
Consultation Responses				
Name	Address	Section	Comment	Response
				authorities (3 rd edition May 2009) notes at section 8.5 that “the Act contains a similar list of responsible authorities to that contained in the Licensing Act 2003, despite the lack of corresponding licensing objective of public safety (and nuisance) ... The result the Act aims to achieve through the inclusion of a wide range of responsible authorities is one where all relevant regulatory bodies and organisations are made aware of applications for gambling premises licences or other permissions. In many instances comments that responsible authorities make are relevant to the licensing authority’s determination”.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain’s amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	General	Note that (the) consultation follows the model format circulated by LACORs and commend this as we believe that premises licence decisions should be administered consistently between local authorities.	Comment noted.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain’s amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section three – Purpose and Scope of the Policy	The exercise of discretion – The exercise of a local authority’s discretion is an essential part of regulation under the Act and the principles that are to be applied are to be viewed against the duty of the licensing authority under section 153 which is to “aim to permit the use of premises for gambling”.	Section 32 of part C of the draft policy statement includes full reference to section 153 of the Act, noting that “the licensing authority is aware that as per section 153 of the Act, in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it (a) in accordance with any relevant code of practice issued by the Gambling Commission; (b) in

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision				
Consultation Responses				
Name	Address	Section	Comment	Response
				accordance with any relevant guidance issued by the Gambling Commission; (c) reasonably consistent with the licensing objectives; and (d) in accordance with the authority's statement of licensing policy."
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section four – Administration, Exercise and Delegation of Function	Interested parties - It is noted that Gambling Commission Guidance states that "interested parties" includes trade associations and although BACTA is not itself an interested person under the terms of the Gambling Act 2005 it does represent, through it's members, parties who live sufficiently close to premises to be affected by activities being applied for.	This authority's approach to "interested parties" and "representations" is set out in part D of the draft policy statement. Section 45 notes that "interested parties" includes a person who (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities; (b) has business interests that might be affected by the authorised activities; or (c) represents persons who satisfy (a) or (b). Section 47 notes that the authority will determine each issue of whether a person is an interested party on it's own merits and that Gambling Commission Guidance states that "has business interests" should be given the widest possible interpretation. Section 52 notes that a representation would only be relevant if it relates to one or more of the licensing objectives, or raises issues under the policy statement, the Commission's codes or guidance.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section four – Administration, Exercise and Delegation of Function	Reviews of licensed premises – Licensing authorities are given the power to initiate a review of a premises licence. Such reviews should only result from a breach of the licence or a threat to the licensing objectives.	Section 63 of part D of the draft policy statement recognises that the authority can "initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision Consultation Responses				
Name	Address	Section	Comment	Response
(Interested party representing Britain's amusement industry with 650+ members)			Therefore if licence has been granted and the premises operated in accordance with the licence there would be no grounds to review a licence if additional guidance or regulations are issued. A licence should not be subject to retrospective application of guidance.	reason which it thinks is appropriate". Section 10.5 of the Gambling Commission Guidance which states that a formal review would normally be at the end of a process of ensuring compliance by the operator is acknowledged. On this basis it is accepted that a licence would not normally be subject to retrospective review if additional guidance or regulations are issued but this authority would not wish to restrict its ability to act in unforeseen circumstances.
Sally Slade, LBS Food Safety & Trading Standards Unit Manager	The Chaplin Centre, Thurlow Street, London, SE17 2DG	Section four – Administration, Exercise and Delegation of Function	Raises the view that Trading Standards should be a responsible authority under the protection children from harm objective and should have enforcement powers. Also believes that the authority should be able to refuse applications on grounds of need.	The Act neither lists Trading Standards as one of the stated responsible authorities nor provides any enforcement powers to the service. This is one element where the Act differs from the 2003 Licensing Act. However, the good work established by the trading standards service in dealing with under-age sales generally has been recognised in preparation of this statement of policy and is reflected in the advice offered under prevention of under-age gambling. The trading standards service is also likely to be consulted in the event that enforcement activities around under-age gambling are considered.
John Emery, Safeguarding Adults Manager, Southwark Safeguarding Adults Partnership	160 Tooley Street, London, SE1	Section Six – Premises Licences	That the Partnership would wish to be recognised as the body competent to advise on issues concerning safeguarding vulnerable adults.	Noted in policy with arrangements made for the partnership to be notified of new and varied applications.
Leslie Macleod-Miller,	Alders House	Section six –	Conditions must not duplicate protection	Section 112 of part E of the draft policy

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision Consultation Responses				
Name	Address	Section	Comment	Response
Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	133 Aldersgate Street, London, EC1A 4JA	Premises Licences	<p>which is already imposed by regulation from the Commission. Therefore before any condition is imposed there must be:</p> <ul style="list-style-type: none"> • identification of which of the licensing objectives is threatened; • actual evidence of such threat; • reasons why the proposed condition would be effective to address such threat; and • reasons why such threat is not already addressed by existing regulation in the form of operating licence conditions, premises licence mandatory conditions and Gambling Commission codes of practice. 	<p>statement establishes that “this authority will seek to avoid any duplication with other statutory / regulatory systems where possible.”</p> <p>Section 144 notes that “any conditions attached to licences will be proportionate and will be (a) relevant to the need to make the proposed building suitable as a gambling facility; (b) directly related to the premises and the type of licence applied for; (c) fairly and reasonably related to the scale and type of premises; and (d) reasonable in all other respects.”</p> <p>Section 145 states that “decisions upon individual conditions will be made on a case by case basis.”</p>
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section six – Premises Licences	<p>Protection of children and other vulnerable people / category D machines – BACTA fully supports the protection of children and the vulnerable. The Act contains specific offences under Parts 3 and 4 which include heavy fines and imprisonment should children and young people be exposed to adult only environments. Parliament considered that such penalties would be effective to deter breaches of the Act. In particular the DCMS conducted a detailed review of evidence regarding the way in which Category D machines are offered to children and concluded that there was no evidence of harm. The Minister stated to Parliament that any change in the way in which Category D machines were offered</p>	<p>Comments noted. No part of the draft policy statement seeks to impose restrictions to the way in which category D machines are offered to children beyond parliamentary intention or process.</p>

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision				
Consultation Responses				
Name	Address	Section	Comment	Response
			would be based on evidence and discussed before Parliament. It would therefore be inappropriate for a licensing authority to impose restrictions that were contrary to Parliamentary intention or Parliamentary process.	
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section six – Premises Licences	<p>Definition of premises and primary purpose - We note that the Gambling Commission has revised its guidance on the primary activity and the definition of premises. In deciding whether to grant a premises licence, the local authority should be concerned that the application meets the requirements of the regulations. The Gambling Commission will ask an operator how he/she will be providing the gambling before granting the operating licence, e.g. they will ask how the bets will be taken and settled before granting a betting licence. Therefore a licensing authority can be satisfied that a gambling operator is able to provide the main gambling type. Premises is defined by the Act as 'any place'.</p> <p>Historically the concept of a premises within a premises has operated without evidence of any difficulty, examples of a premises within a premises include piers, motorway service stations, etc. DCMS lawyers confirmed during the passage of the Bill that this concept of a premises within a premises would continue under the 2005 Act, subject, of course, to any conditions applicable to individual licences. It should be noted that Parliament provided that certain premises would permit direct access from areas licensed for family admission to those which</p>	This licensing authority notes the new guidance provided by the Gambling Commission on primary activity; the definition of premises and split premises. The authority will be mindful of the Guidance in considering and determining all applications for gambling premises licences. All applications will be considered upon their own merits with all relevant matters taken into account.

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision				
Consultation Responses				
Name	Address	Section	Comment	Response
			<p>are restricted to adults only. Of course the adult only areas are subject to conditions regarding protection of the three licensing objectives and there are severe penalties set out in Parts 3 and 4 of the Act for breach. The gaming machine industry has operated designated adult areas within family entertainment areas for over 10 years and on the basis of evidence Parliament has accepted that this model of direct access should be adopted specifically in relation to licensing FECs and regional casinos. Should there be evidence in the future that the licensing objectives are not upheld, the Secretary of State has the power to react through due Parliamentary process. While licensing authorities should take particular care in considering applications for multiple licenses under one premises, their concern should be to ensure that there are clear barriers and that the license conditions are properly observed. It is clearly Parliamentary intention to permit adjacent adult and family areas referred to above, however, the direct internal access to such areas must be sufficiently clear to prevent “drift”. It should be recalled that the demand test does not apply under the Act and therefore licensing authorities should not refuse an application based upon their view of the numbers of machines which will be permitted in a particular geographical area. The focus for attention should be to ensure that each licensed premises complies with licence conditions and codes of practice.</p>	

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision Consultation Responses				
Name	Address	Section	Comment	Response
Malcolm Ward, Quality Assurance and Safeguarding Manager	Southwark Children's Services & safeguarding Children Board, PO Box 64529, 4 th Floor, 160 Tooley Street, London, SE1 2TZ	Section ten – Contact Details	Change of contact details noted	Noted with amendment made.

Item No. 8.3	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Member and Officer Protocol update	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATION

1. That the proposed revisions to clauses 45 to 47 of the member and officer protocol as set out in paragraph 5 of this report be agreed.

BACKGROUND INFORMATION

2. The member and officer protocol contains sections on using and caring for equipment. With new member IT arrangements in place there is a need to update the protocol to reflect the new offer.
3. At the Constitutional Steering Panel (CSP) meeting on 30 March 2010 it was agreed that the member and officer protocol be resubmitted to a future meeting of CSP with the following amendments to the section on councillors' use of IT equipment:
 - Paragraph 1 - remove the word 'replacement' and clarify sentence.
 - Paragraph 2 - include reference to the fact that any insurance paid by a councillor would be recoverable from the council.
4. On 4 October 2010 the constitutional steering panel considered the proposed changes to the member and officer protocol and agreed that the proposed revisions to clauses 45 to 47 be recommended to council assembly for adoption.

KEY ISSUES FOR CONSIDERATION

5. The proposed new clauses incorporating these changes are:

Recommended rewording	
Using and caring for equipment	
45.	Members have a personal responsibility for any IT equipment supplied to them by the council and should take all reasonable steps to ensure that this equipment is kept safe and in good working order. Members should also report any loss/theft to member services in order to secure replacement equipment <u>but should note that only one issue and one upgrade/replacement will be paid for by the council in any 4-year term of office. Members should report any technical problems, lack of service etc. to the council's contractor.</u>
46.	<u>Members are advised to consider adding council issued equipment to their home insurance arrangements. Members will be able to claim any additional related premium from the council.</u>

Recommended rewording

46.47. A restricted level of personal use of the equipment is permitted provided it does not constitute misuse as detailed in the communication protocol. Members will need to:

1. reimburse the council for any personal use of equipment that incurs a cost to the council or;
2. confirm that all costs were associated with official council business.

Members will also be responsible for any use of equipment, authorised by them or not (unless reported lost or stolen), and hence any associated costs.

48. Members are reminded that details of expenses paid on their behalf are published on the Southwark website.

47.49. IT equipment supplied to members remains the property of the council and must be returned when their period of office ends.

The subsequent clauses in the member and officer protocol will be renumbered.

Resource implications

6. Any costs resulting from members' expense claims in respect of increased insurance premiums can be contained within existing budgets. There are no other council resource implications arising from this report.

Legal implications

7. There are no specific legal implications relating to this report. Article 1.5(b) of the constitution states that any changes to the member and officer protocol are reserved to council assembly. The role of the constitutional steering panel is to give prior consideration to any constitutional change and in doing so it can also make recommendations to council assembly.

Community impact statement

8. This report has no immediate impact on the community.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Constitution and member and officer protocol	160 Tooley Street London SE1 2TZ & council's website	Graham Love 020 7525 0617
Constitutional Steering Panel	160 Tooley Street London SE1 2TZ.	Lesley John 020 7525 7228

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Graham Love, Head of Democratic Services	
Version	Final	
Dated	7 October 2010	
Key Decision?	No	
Consultation with other officers / directorates / cabinet member		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes – incorporated in report
Finance Director	Yes	Yes – incorporated in report
Cabinet Member	No	No
Date final report sent to Constitutional Team		7 October 2010

Item No. 8.4	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Changes to Scheme of Delegation – Planning Committee and Community Councils – Planning Enforcement	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

1. That council assembly notes the cabinet resolution of 15 June 2010 to ask council assembly to amend Part 3F: Planning Committee and Part 3H: Community Councils of the Southwark Constitution to make constitutional amendments on the reporting of enforcement matters.
2. That council assembly notes recommendations 10 and 11 of the scrutiny sub-committee's planning enforcement review report as requested by the cabinet's resolution made on 15 June 2010 (see paragraph 5).
3. That council assembly adopt the constitutional changes recommended by the constitutional steering panel, as set out in this report, as follows:
 - Part 3F: Planning Committee – see paragraph 13
 - Part 3H: Community Councils – see paragraph 18.

BACKGROUND INFORMATION

4. On 15 June 2010 cabinet considered a planning enforcement review report from scrutiny sub-committee C following a review of planning enforcement. An extract from the scrutiny report is set out in paragraph 12.
5. Recommendations 10 and 11 of the scrutiny sub-committee proposed the following in respect of the planning committee and community councils:
 - Recommendation 10 - The scheme of delegation in the council's constitution should be amended to facilitate the referral (at the discretion of the head of development management) of planning enforcement decisions to the planning committee.
 - Recommendation 11 - Each community council should receive regular (at least quarterly reports) on planning enforcement issues, building upon the pilots already underway. These should normally be presented by an officer who could answer questions.
6. In the report to the cabinet this recommendation had the support of the strategic director of regeneration and neighbourhoods.

7. The cabinet resolved firstly, that the recommendations of the planning enforcement review undertaken by scrutiny sub-committee C be agreed; and secondly that the recommendations from the report be referred to planning committee, constitutional steering panel, council assembly and chairs of the community councils, as appropriate, for consideration and implementation.
8. Reports were submitted to the meeting of chairs / vice-chairs of the community councils and planning committee on 6 September and 7 September 2010 - comments are set out in paragraph 21. The role of the constitutional steering panel is to give prior consideration to any constitutional change and in doing so it can also make recommendations to council assembly.
9. The constitutional steering panel considered this report on 4 October 2010 and agreed to note that on 15 June 2010 the cabinet asked council assembly to amend the constitution regarding the reporting of enforcement matters. It also noted two of the scrutiny sub-committee's recommendations on planning enforcement and agreed that the proposed constitutional changes set out in paragraph 14 and 19 of this report be recommended to council assembly for adoption.

KEY ISSUES FOR CONSIDERATION

10. The Planning Acts give the council a wide range of powers to deal with a breach of planning control. The implementation of these powers is known as planning enforcement. Planning enforcement is an important element of the overall planning regime. The delivery of an effective, consistent and efficient enforcement service can have a great positive impact on the lives and livelihoods of the people of Southwark.
11. A breach of planning control occurs when an organisation or individual:
 - carries out development that needs planning permission without first obtaining it, or
 - breaches the conditions attached to planning permission.
12. The scrutiny report states that the individual recommendations suggested in the review are small in scale. However when taken together it is the view of the scrutiny sub-committee that they would have a substantial impact on the effective delivery of the service by:
 - setting a clear framework for joined-up working with other regulatory regimes
 - improving clarity of roles
 - establishing clear priorities for use of resources
 - providing better information and guidance for users of the planning service.
13. The following is an extract from the scrutiny report.

<p>6. Schemes of delegation</p>
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| <p>6.1 The sub-committee considered the scheme of delegation on planning enforcement currently in operation, and whether this is appropriate for the efficient operation of the enforcement service.</p> |
|--|

- 6.2 The current arrangement is a simple approach with the delegation of all planning enforcement matters to the head of development management.
- 6.3 Benchmarking evidence was considered on the delegation schemes in some other local authorities.
- 6.4 The benchmarking exercise demonstrated that overall there is a trend towards maximising delegation, but with some variation of approach, and referral to elected members where there is uncertainty over:
- Whether something falls within existing agreed policies and plans (departure from the development plan)
 - If there is a judgement to be made about expediency
 - If a decision is likely to be controversial
 - If an elected member “calls in” an enforcement action/lack of action.
- 6.5 The sub-committee discussed the merits of the various approaches vis a vis the simple 100% delegation approach.
- 6.6 Overall, because of the technical and legal nature of decisions to be taken, and the need for rapid action, the current scheme of delegation was considered to be appropriate for operational issues in the majority of cases. However, while the 100% delegation approach has the advantage of simplicity, there are sound democratic arguments for there to be at least some scope for decision-making by members.
- 6.7 It was agreed that on enforcement matters which are not straightforward it would be useful for the head of development management to be able to refer matters upwards as appropriate. We did not feel it appropriate to be prescriptive about the categories of case that might be referred for member decision. We felt the simplest approach would be to amend the Constitution to give the Head of Development Management a broad discretion to relinquish a decision to members. However, we anticipated that in practice, the sort of cases likely to be considered appropriate for member decision would be in particular:
- where officers propose not to take enforcement action on a controversial issue
 - on matters of strategic importance
 - on matters which, though minor individually, have a considerable cumulative effect
 - where a decision could set a precedent establishing or varying priorities for enforcement action.
- 6.8 We recognised that these would invariably be “after the event” cases in which the issue is whether or not to issue an enforcement notice or possibly a breach of condition notice; or to take self-help steps to give effect to an enforcement notice (eg. demolishing a building where the developer has failed to comply with a requirement to do so). Members would not have a role in taking decisions about pre-emptive measures such as temporary stop notices, because there the speed of decision making is crucial. There was consideration of the role of different bodies in the council’s decision making structure, including community councils which currently have a role to play in the context of planning applications. In the case of enforcement, the sub-

committee feel that the most appropriate place of referral for planning enforcement decisions would be the Planning Committee. This would avoid inconsistency of approach, and would reflect the fact that decisions relinquished to members are likely to include cases that are either of strategic importance or locally controversial. However, we emphasise that community councils should nevertheless receive regular reports about enforcement in their area: see below.

- 6.9 The sub-committee's provisional view is that this change could be achieved by a simple amendment to Part 3F of the Constitution by adding a new matter to the ten already reserved for decision by the Planning Committee along the following lines:

“In cases referred to them by the appropriate chief officer, head of service or head of business unit, to consider and determine the taking of enforcement steps.”

Planning Committee

14. The scrutiny sub-committee recommended an amendment to the constitution as set out in paragraph 6.9 of the scrutiny report. In order to put this into effect in the constitution, officers are proposing the addition of a new clause in the matters reserved for decision to the planning committee as follows:

Insert in Part 3F, Matters Reserved for Decision, a new clause 11:

“To consider planning enforcement cases where the appropriate chief officer decides that the matter is of a strategic or controversial nature and should be referred to the committee to consider and determine the taking of enforcement steps.”

Footnote to new clause 11:

“The appropriate chief officer has a broad discretion to refer matters to the committee. In practice, the sort of cases likely to be considered appropriate for member decision would be in particular:

- where officers propose not to take enforcement action on a controversial issue
- on matters of strategic importance
- on matters which, though minor individually, have a considerable cumulative effect
- where a decision could set a precedent establishing or varying priorities for enforcement action.

Operational or routine enforcement issues will not be referred to the committee.”

15. This proposed wording gives clarity on the scope of the delegation in line with the wishes of the scrutiny sub-committee and cabinet. The footnote reflects the view of the scrutiny report on the respective roles of the relevant officer and the committee. The authority to make referrals will be exercised by the relevant officer, who is likely to be the head of development management, and this will be recorded in the departmental scheme of management.

Community Councils

16. Community councils do not currently have any delegated powers to deal with planning enforcement issues. Therefore the quarterly reports would be for information purposes only.
17. Members are advised that the proposal for community councils to receive a report on a matter, which is not for decision, would fall within the general role and functions of community councils to be a focal point for discussion and consultation on matters that affect their respective local area, as set out in Part 3H, paragraph 4.
18. Officers would therefore recommend the inclusion of an additional clause on planning enforcement at Part 3H: Community Councils of the Southwark Constitution, expressly setting out this role and function.
19. In order to put this into effect in the constitution, officers are proposing the addition of a new clause as follows:

Part 3H: Community Councils – Matters Reserved for Decision

Insert new clause 7 in section entitled Planning functions (non-executive function) Consultative/non decision making

7. To receive regular information reports (at least quarterly) on local planning enforcement issues.

Renumber subsequent clauses

20. Members will note that this amendment would reflect the scrutiny sub-committee's wishes for greater clarity of the role of community councils in respect of enforcement issues and improved communication between the council and the community to be achieved, in addition to increasing the reporting on planning enforcement issues.

Community impact statement

21. These measures would formalise and improve the reporting on local planning enforcement issues to local communities.

Consultation

22. The planning committee on 7 September 2010 noted the proposals and discussed a number of issues. Members had some concerns about the potential increase in the workload of the committee and possible time delays in the taking of enforcement action. Officers explained that officers do have discretion in determining the matters to be reported to the committee and would use this discretion to ensure enforcement operations were not impeded. Members questioned whether reporting to the community councils might create different expectations in different areas when implementing enforcement. In response, officers stated that the constitutional changes provided for certain decisions to come to the planning committee, whilst community councils would receive information reports in order to avoid this situation. The meeting of chairs / vice-chairs of the community councils had noted the proposals.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**Strategic Director of Communities, Law & Governance**

23. The purpose of this report is to consider the Cabinet resolution of 15 June 2010 to implement constitutional amendments to Part 3F: Planning Committee and Part 3H: Community Councils of the Southwark Constitution to improve the reporting of enforcement matters.
24. In terms of the proposal for the planning committee, members will note from the report that this amendment is required to provide the relevant officer with the requisite discretion to refer planning enforcement decisions to the Planning Committee for consideration, where deemed appropriate as set out in paragraph 12 above.
25. Members will note, from this report that the amendment proposed would result in the form of words set out in paragraph 13, in Part 3F: Planning Committee under the heading 'Matters Reserved for Decision.'
26. Decisions as to the taking of enforcement action are delegated to the strategic director of regeneration and neighbourhoods under Part 3P of the Southwark Constitution and there is no intention to amend this arrangement under the proposed change.
27. In respect of community councils, a member of a community council who is also a member of the planning committee would need to consider declaring a personal interest when the quarterly report is presented should he or she have sat on the planning committee which considered any of the matters covered in the report.
28. Members are advised that the role of agreeing and amending the terms of reference of committees and community councils is a matter that has specifically been reserved to council assembly under Part 3A, subject to prior consideration of any constitutional change by the constitutional steering panel (see Article 1.5 (b)).

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Scrutiny Sub-Committee C - Planning Enforcement Review	Scrutiny Team, 160 Tooley Street London SE1 2TZ	Peter Roberts 020 7525 4350
Cabinet 15 June 2010 - Planning Enforcement Review	Constitutional Team, 160 Tooley Street London SE1 2TZ	Everton Roberts 020 7525 7221
Constitutional Steering Panel - 4 October 2010	Constitutional Team, 160 Tooley Street London SE1 2TZ	Lesley John 020 7525 7228

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer	
Version	Final	
Dated	7 October 2010	
Key Decision?	No	
Consultation with other officers / directorates / Cabinet member		
Officer Title	Comments Sought	Comments Included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	No	No
Head of Development Management	Yes	Incorporated in report
Cabinet Member	No	No
Date final report sent to Constitutional Team	7 October 2010	

Item No. 9.	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Motions	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

BACKGROUND INFORMATION

In accordance with council assembly procedure rule 1.12 (9), the member moving the motion may make a speech directed to the matter under discussion. This may not exceed five minutes without the consent of the Mayor.

The seconder will then be asked by the Mayor to second the motion. This may not exceed three minutes without the consent of the Mayor.

The meeting will then open up to debate on the issue and any amendments on the motion will be dealt with.

At the end of the debate the mover of the motion may exercise a right of reply. If an amendment is carried, the mover of the amendment shall hold the right of reply to any subsequent amendments and, if no further amendments are carried, at the conclusion of the debate on the substantive motion.

The Mayor will then ask members to vote on the motion (and any amendments).

IMPLICATIONS OF THE CONSTITUTION

The constitution allocates responsibility for particular functions to council assembly, including approving the budget and policy framework, and allocates to the cabinet responsibility for developing and implementing the budget and policy framework and overseeing the running of council services on a day-to-day basis. Therefore any matters that are reserved to the cabinet (i.e. housing, social services, regeneration, environment, education etc) cannot be decided upon by council assembly without prior reference to the cabinet. While it would be in order for council assembly to discuss an issue, consideration of any of the following should be referred to the cabinet:

- to change or develop a new or existing policy
- to instruct officers to implement new procedures
- to allocate resources.

Note: In accordance with council assembly procedure rule 2.9 (7) & (8) (prioritisation and rotation by the political groups) the order in which motions appear in the agenda may not necessarily be the order in which they are considered at the meeting.

1. MOTION FROM COUNCILLOR LEWIS ROBINSON (Seconded by Councillor Michael Mitchell)

Please note that, in accordance with council assembly procedure rule 2.9 (6), council assembly shall consider this motion.

Free school breakfasts

Council assembly notes:

1. The current administration's manifesto commitment to provide a "free healthy school meal" for every primary school child studying in the borough.
2. That officers are currently working on proposals and costs to implement this commitment.

Council assembly believes:

3. There is a considerable body of evidence, both academic and within the education profession in our borough, supporting the introduction of "breakfast clubs", especially in primary schools. This has mainly been driven by concerns that a substantial proportion of pupils are not eating breakfast and arriving at school hungry, impacting on learning and behaviour during the school day. Breakfast clubs have a wider impact in assisting pupils to arrive at school at time and provide a safe and calm environment before the school day.
4. Evaluations have taken place in inner city boroughs similar to Southwark (Camden, Haringey and Lambeth in particular) where schools participating believed that benefits derived were; children no longer hungry at the start of the school day, more focused on their work, improved punctuality and less unauthorised absences. It was also concluded that the introduction of a "breakfast club" in schools in deprived neighbourhoods was associated with an improvement in pupils' Key Stage 2 average point score.

Council assembly therefore requests the cabinet:

5. Many of our schools in Southwark have different needs and circumstances. It is often the headteachers, the education professionals at each school, who best understand the needs of their schools pupils rather than politicians.
6. In taking forward its proposals to introduce a "free healthy school meal" for every primary school child, to consult the headteachers' forum and individual schools on whether they would prefer the funding allocated to their school to be spent on providing a "free school breakfast".

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

2. MOTION FROM COUNCILLOR ANOOD AL-SAMERAI (Seconded by Councillor Paul Noblet)

Please note that, in accordance with council assembly procedure rule 2.9 (6), council assembly shall consider this motion.

Labour's broken election pledges

1. Council assembly notes the following promises made to Southwark residents by Labour in opposition before May 2010's elections:
 - 1) A commitment to save Maydew House.
 - 2) A commitment to build thousands of affordable homes at the Elephant and Castle.
 - 3) A commitment to include a new leisure centre at the Elephant and Castle, including the provision of a new swimming pool and a like-for-like replacement of existing facilities.
 - 4) A commitment to retain Southwark's historic town halls for council use.
 - 5) A commitment to continue with Liberal Democrat plans to refurbish Southwark Park Athletics Track.
 - 6) A commitment to keep council tax rises at or below inflation.
 - 7) A commitment to introduce universal free, healthy school meals for primary school children by 2014.
 - 8) A commitment to cut the council's communications budget.
2. Council recognises that the failure of the previous Labour government's economic policies, that saw the UK build up a record peacetime deficit, means the council faces a reduction in central government funding over the next few years.
3. Council assembly welcomes the comments by the new Labour leader Ed Miliband that "there will be cuts, and there would have been if we had been in government. Some of them will be painful, and would have been if we were in government. I won't oppose every cut."
4. Council assembly further notes with concern that:
 - 1) The cabinet has been unwilling to guarantee a future for Maydew House under council ownership and its only achievement has been to agree the forced removal of Maydew tenants, without a guaranteed right of return.
 - 2) Labour's deal at the Elephant and Castle reportedly cost the council in reduced capital receipts compared to the draft deal with the previous Liberal Democrat-led administration, and will only deliver a guaranteed 25% affordable housing, or around 600 affordable homes for rent – half the number that currently exist on the Heygate.
 - 3) Despite the longstanding wish of local residents for a new and improved leisure centre at the Elephant & Castle, Labour have decided to embark on a poorly managed and costly consultation exercise which does not even include options for the much-used, and revenue generating, squash courts.
 - 4) The administration is considering options to sell-off Southwark's historic town halls, which could mean the closure of the current Bermondsey One Stop Shop and block any future plans to improve Newington Reference Library.

- 5) Labour's inaction on the refurbishment of Southwark Park Athletics Track has led to Sport England withdrawing their funding, leaving the whole project in severe jeopardy and setting back Southwark's plans for an Olympic legacy.
 - 6) The pledge to introduce universal free and healthy school meals for every primary school child and the expectation of the leader that they would be in place for year one in September have not been met and there is no indication from the current Labour administration that this pledge will ever be fulfilled.
5. Council assembly calls on the cabinet to confirm its commitment to keeping council tax increases to the level of inflation or below and to reducing the council's communications budget.
 6. In light of the slow progress on delivery of its pledges and its abandonment of other key pledges, council assembly calls on the Labour administration to:
 - 1) come clean with Southwark's residents and admit that they over-promised, despite knowing that there would be cuts in central government funding regardless of who won the general election.
 - 2) immediately implement a reduction of 10% in special responsibility allowances (SRAs) for all cabinet members to reflect their poor performance in delivering on their promises.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration. Any proposals on SRAs will be submitted to the constitutional steering panel for consideration.

3. **MOTION FROM COUNCILLOR WILMA NELSON** (Seconded by Councillor Eliza Mann)

Please note that, in accordance with council assembly procedure rule 2.9 (6), council assembly shall consider this motion.

Thames Water sewage tunnel

1. Council assembly notes the proposal by Thames Water to close Kingstairs gardens for seven years and the Alfred Salter playground, Druid Street, for two years for the construction of the new Thames Tunnel.
2. Council assembly further notes that if the Thames Water proposals go ahead both sites will be used to construct massive permanent sewage ventilation towers with significant loss of local green space and residential amenity.
3. Council assembly supports the Thames Tunnel scheme, but believes these two sites – which provide welcome recreational and green spaces in some of the most densely populated parts of the capital – are entirely inappropriate for the task of constructing a major infrastructure project.
4. Council requests that the cabinet calls on Thames Water to find less environmentally damaging alternative sites and make every effort to convince them of this case.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

BACKGROUND PAPERS

Background Papers	Held At	Contact
Member Motions	Town Hall Peckham Road London SE5 8UB	Constitutional Team 020 7525 7228

Lead Officer	Ian Millichap, Constitutional Manager
Report Author	Sean Usher, Constitutional Officer
Version	Final
Dated	7 October 2010

Item No. 10.	Classification: Open	Date: 20 October 2010	Meeting Name: Council Assembly
Report title:		Late Motion – Police numbers in Southwark	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law and Governance	

LATE MOTION

MOTION FROM COUNCILLOR JOHN FRIARY (seconded by Councillor Claire Hickson)

1. Council assembly notes the work of Southwark 1000 police campaign in its ongoing efforts to secure increased police numbers for the borough. It notes the campaign's cross party nature.
2. Council assembly notes that the Metropolitan Police will not be protected from the government's spending cuts.
3. Council assembly notes that the Police Federation estimated on 10 September 2010 that the Metropolitan Police could be forced to axe 4000 police officers across London as a result of the cuts.
4. Council assembly notes that, in contrast, to police cuts under the Tories and Liberal Democrats, the Metropolitan Police grew from 25,400 officers at the turn of the millennium to 31,000 this year, with a corresponding drop in crime.
5. Council assembly believes that cuts in police officer numbers in Southwark will put local resident's safety at risk.
6. Council assembly therefore calls on all Southwark's MPs to vote against police cuts. It calls on Simon Hughes, the Deputy Leader of the Liberal Democrats, to campaign against cuts that will see officer numbers drop in Southwark.

REASON FOR LATENESS

Due to an administrative error the motion was not submitted within the deadline for receipt of members' motions. The motion is urgent as the vote on the comprehensive spending review, which will cover police funding is to happen before the next council assembly.

NOTES:

1. Prior to debating the late motion the following council assembly procedure rule would need to be suspended:
 - Notice for motions to be delivered (CAPR 2.9 (3)).

2. If the late motion is agreed, any proposals will be submitted to the cabinet for consideration.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Member Motions	Town Hall Peckham Road London SE5 8UB	Constitutional Team 020 7525 7228

Lead Officer	Ian Millichap, Constitutional Manager
Report Author	Lesley John, Constitutional Officer
Version	Final
Dated	4 October 2010

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**COUNCIL ASSEMBLY AGENDA DISTRIBUTION LIST (OPEN) (FULL LIST)
MUNICIPAL YEAR 2010-11**

NOTE: Original held by Constitutional Team; all amendments/queries to
Lesley John Tel: 020 7525 7228

ONE COPY TO ALL UNLESS OTHERWISE STATED	Copies	To	Copies
Councillors (All)	1 each	Officers	3
Political Assistants		Ian Millichap	1
Dan Falchicov, Liberal Democrat Political Assistant	1	Sonia Sutton	1
John Bibby, Labour Group Political Assistant	1	Robin Campbell	1
Libraries	6	Constitutional Team	40
Albion / Dulwich / Newington / Local Studies Library	1 each	(6 copies to Lesley John , 2 nd Floor, Hub 4 Tooley Street and 34 copies to Lesley John, Town Hall Peckham)	
Press	2	Trade Unions	9
Southwark News	1	Roy Fielding, GMB	1
South London Press	1	Euan Cameron, Unison	1
Corporate Management Team	8	Tony O'Brien, UCATT	1
Annie Shepperd	1	Michael Davern, NUT	1
Eleanor Kelly	1	James Lewis, NASUWT	1
Deborah Collins	1	Pat Reeves, ATL	1
Gill Davies	1	Miss Sylvia Morris, NAHT	1
Richard Rawes	1	Irene Bishop, ASCL	1
Romi Bowen	1	Mick Young TGWU	1
Duncan Whitfield	1	Local M.P.	1
Susannah White	1	Simon Hughes M.P.	
		Others	2
		Shahida Nasim, Audit Commission, Ground Floor, Tooley Street	1
		Mr. Mark Roelofsen	1
		Total:	139