

## **EXECUTIVE**

Date: Tuesday 17 November 2015  
Time: 5.30 pm  
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Sarah Selway, Democratic Services Manager (Committees) on 01392 265275.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

### *Membership -*

Councillors Edwards (Chair), Denham, Hannaford, Leadbetter, Morris, Owen, Pearson and Sutton

## **Agenda**

### **Part I: Items suggested for discussion with the press and public present**

#### **1 Apologies**

To receive apologies for absence from Committee members.

#### **2 Minutes**

To sign the minutes of the meetings held on 15 September and 6 October 2015.

#### **3 Declarations of Interest**

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

**RESOLVED** that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of items 11 and 12 on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1, 2, 3 and 4 of Part I, Schedule 12A of the Act.

5 **Leisure Complex Programme Board - Minutes 26 October 2015**

To receive the minutes of the Leisure Complex Programme Board Minutes of 26 October 2015. (Pages 5 - 6)

6 **Adoption of a new Gambling Act 2005 Statement of Licensing Policy**

To consider the report of the Assistant Director Environment. (Pages 7 - 56)

7 **Renewal of the Air Quality Strategy**

To consider the report of the Environmental Health and Licensing Manager. (Pages 57 - 82)

Scrutiny Committee – Community considered the report at its meeting on 10 November 2015 and its comments will be reported.

8 **New Income Generating Initiatives at RAMM: Donations Campaign and Temporary Exhibition Admission Charges**

To consider the report of the Museums Manager & Cultural Lead. (Pages 83 - 92)

Scrutiny Committee – Economy considered the report at its meeting on 12 November 2015 and its comments will be reported.

9 **Topsham Flood Alleviation Measures**

To consider the report of the Assistant Director Public Realm. (Pages 93 - 98)

Scrutiny Committee – Economy considered the report at its meeting on 12 November 2015 and its comments will be reported.

10 **Martime Coastguard Agency Audit 2015**

To consider the report of the Assistant Director Public Realm. (Pages 99 - 102)

Scrutiny Committee – Economy considered the report at its meeting on 12 November 2015 and its comments will be reported.

## **Part II: Items suggested for discussion with the press and public excluded**

No representations have been received in respect of the following items in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **11 Corporate Property Assets Restructure**

To consider the report of the Corporate Manager Property.

(Pages  
103 - 196)

### **12 Exeter and Heart of Devon Growth Board Minutes**

Members are requested to note the minutes of the Exeter and Heart of Devon Growth Board meeting held on 8 September 2015.

(Pages  
197 - 202)

## **Date of Next Meeting**

The next scheduled meeting of the Executive will be held on **Tuesday 1 December 2015** at 5.30 pm in the Civic Centre.

**A statement of the executive decisions taken at this meeting will be produced and published on the Council website as soon as reasonably practicable.**

Find out more about Exeter City Council services by looking at our web site <http://www.exeter.gov.uk>. This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Democratic Services Officer (Committees) on (01392) 265115 for further information.

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## LEISURE COMPLEX PROGRAMME BOARD

Monday 26 October 2015

### Present:-

Councillor Edwards (Chair)  
Councillors Denham and Sutton

### Apologies:-

Councillor Prowse, Deputy Chief Executive, Assistant Director Finance (Section 151) and Corporate Manager Property (Client Lead Estates)

### Also Present

Chief Executive & Growth Director, Corporate Manager Policy, Communications and Community Engagement, Housing Development Manager and Client Lead Build, Project Manager - Leisure Operations, and Democratic Services Officer (Committees) (SLS)

Mark Thomas, Peter Simpson and Nic Bryant AFLS+ P Architects  
Tomas Gartner, Gale & Snowdon Eco Design  
Justin Pickford, Charles Hill and Scott Moore, Arcadis Design and Consultancy

8

### MINUTES

The minutes of the meeting held on 9 July 2015 were taken as read and signed by the Chair as correct.

9

### DECLARATIONS OF INTEREST

No declarations of discloseable pecuniary interest were made.

10

### LEISURE COMPLEX - DESIGN TEAM PRESENTATION ON THE CONCEPT DESIGN

The Client Lead, Build introduced the Design Team who would make a presentation of the Concept Design work to date, which would be used for the purpose of public consultation. The Design Team would also be seeking formal approval to proceed to the next stage of detailed design, Stage D.

The Design team in attendance included Mark Thomas, Peter Simpson and Nic Bryant from AFLS+ P Architects and Tomas Gartner of Gale & Snowdon Eco Design.

A summary of the Stage C Brief included:-

- An enhanced facility mix to improve the range of facilities and potential revenue generation of the leisure centre.
- The facility would achieve the environmental factors of the project brief.
- The facility would be integrated with the wider development (Crown Estates and Bus Station development) and it was anticipated that an outline planning application would be submitted in February 2016.
- The external finish of the building would be in keeping with the Council's aspiration for a 'landmark' facility to provide a focal point and sense of arrival in the city.
- The scope of work would also include the retail units that form 'Block E' on the Princesshay Leisure Masterplan in relation to the Exeter Active facility.

The complex would include the following:-

- 8 lane 25m swimming pool (2.0 m deep with a moveable floor)
- 4 lane 20m teaching pool (0.0 – 1.2m deep with a movable floor)
- Confidence water (60 sq metres)
- 100 spectator seating overlooking the main pool
- 150 station gym Exercise studio, with an interchangeable space for 30 + 20 persons
- Health suite - Wet and dry spa facilities including a 13 person sauna, steam room, four treatment rooms and hydrotherapy pool.
- Two storey soft play area for children
- 50 seat cafe with servery
- Flexible meeting room/space

The Design Team presented the detail of the Stage C Brief, and the presentation offered a fly through and visualisation of the central atrium showing all four levels of the building as well as capturing every aspect of the building and its facilities. The brief for a landmark, low energy building, incorporating passivhaus standards, capturing the natural light had been achieved. The key benefits included a 70% saving on energy costs and 50% reduction in water use as well as outstanding water and air quality and resilience from predicted future climate change. Members agreed that the aspiration to provide a visually attractive and iconic building forming part of a gateway to the city centre had been achieved. The Chair also welcomed the energy enhancing element as well as maximising the revenue opportunities for the benefit of the public. A Member was satisfied with the Design Team's response to future climate changes, which would in effect future proof the facility for a significant period of time.

It was noted that public consultation would take place at the end of November and would include the opportunity for the public to comment. A reserved matters planning application with the detail of the design was due to be submitted to the planning authority in February 2016.

The Chair thanked the Design Team for their informative presentation.

**RESOLVED** that:-

- (1) the Project Team progress through Stage C, Concept Design, Project Control Point, and in accordance with the Boards' governance arrangements, proceed to Stage D, Detailed Design; and
- (2) commencement in November 2015 of the consultation to provide an opportunity for the public and all stakeholders, including the user clubs to comment, be noted.

11

#### **DATE OF NEXT MEETING**

The next Leisure Complex Programme Board meeting would be timed to coincide with the next programme gateway, and the date of this would be determined in due course, but would be in Spring 2016.

(The meeting commenced at 6.00 pm and closed at 6.55 pm)

Chair

## REPORT TO LICENSING COMMITTEE, EXECUTIVE AND COUNCIL

Date of Meeting: 3 November 2015, 17 November 2015 and 15 December 2015

Report of: Environmental Health and Licensing Manager

Title: Adoption of a new Gambling Act 2005 Statement of Licensing Policy

### Is this a Key Decision?

No

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

### Is this an Executive or Council Function?

#### Council Function

#### 1. What is the report about?

1.1 Exeter City Council's current Statement of Licensing policy was written in 2012 and came into effect in January 2013. There is a legal requirement to review such policy statements every three years. The current policy must be reviewed by 31 January 2016. The Licensing Committee is constituted with formulating a new statement of licensing policy with the final Statement of Licensing Policy going to Full Council for adoption.

#### 2. Recommendations:

2.1 The Licensing Committee are requested to approve the Gambling Act 2005 Statement of Licensing Policy in order that it can be progressed through to Council for adoption on 15 December 2015 in order for implementation to take place on 31 January 2016.

2.2 That Executive supports the revised Gambling Act 2005 Statement of Licensing Policy

2.2 That Council formally adopts revised Gambling Act 2005 Statement of Licensing Policy

#### 3. Reasons for the recommendation:

3.1 The Licensing Authority must determine and publish a statement of Licensing Policy for the Gambling Act. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each three-year period.

3.2 Before determining such a policy section 349(3) of the Gambling Act 2005 places a statutory duty on the Authority to consult. Where revisions are made the authority must publish a statement of the revisions or the revised licensing statement.

3.3 The Licensing Committee resolved on 21 July 2015 that a public consultation should begin on a new policy. Following the Licensing Committee's decision, the Licensing Team consulted a wide range of stakeholders who may have an interest in this policy, including the police, gambling trade, support groups, regulatory authorities and other third party organisations as listed in section 3 of the policy.

3.4 The authority received comments back in relation to the consultation exercise, which are summarised in Appendix A and presented in full in Appendix B and C.

**4. What are the resource implications including non financial resources.**

- 4.1 The legislative changes and proposed changes to policy do not give rise to any additional resource implications or have any revenue impact.
- 4.2 There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements as changes are to existing processes. However, in delivering to the changed requirements there may be some training implications for existing staff.
- 4.3 Any future costs in relation to the production of the Statement of Principles will be met by income from fees.

**5. Section 151 Officer comments:**

There are no additional financial implications contained within this report.

**6. What are the legal aspects?**

- 6.1 Section 349 of the Gambling Act 2005 requires the Council as Licensing Authority to prepare and publish a statement of licensing policy that they propose to apply in exercising their functions under the Act. As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties.
- 6.2 Failure to adopt a policy in the prescribed timescale may lead to challenges that would be very difficult to defend.

**7. Monitoring Officer's comments:**

**8. Report details:**

- 8.1 Local Authorities were required to develop and adopt a Gambling Policy in consultation with the trade and local community and this must set out the authority's general approach to gambling licence applications. We are required to review the policy at least every three years. The authority must review its Gambling Act 2005 Statement of Licensing Policy by 31 January 2016.
- 8.2 The statement appended to this report has been updated to reflect updates and rewordings in the Gambling Commission's Guidance to Licensing Authority.
- 8.3 Section 2 of the policy has been changed to reflect areas of deprivation in the city, of which there are six that fall within the top 20% of deprived areas within England, with two falling into the top 10%.
- 8.4 The revised policy makes reference to Local Area Profiles which build up a picture of localities and in particular elements that could be impacted by gambling premises. The local area profiles can be found at Appendix B of the policy, and whilst referenced within the Gambling Act policy statement will be kept separate to enable the profiles to be updated without the need to re-consult on amending the full statement of licensing policy. The National Centre for Social Research British



Gambling Prevalence Survey 2010 stated that ‘high-time/high-spend gamblers, like high-time only gamblers, displayed the most adverse socio-economic profile. They were more likely to live in areas of greatest deprivation, live in low income households and be unemployed. This group showed a relative preference for betting on horse races, fixed odds betting terminals and playing casino games.’

8.5 The local area profile have regard to:

- Schools, sixth form colleges, youth centres etc, with reference to the potential risk of under-age gambling
- Hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling amongst these groups
- Religious buildings
- Any known issues with problem gambling
- The surrounding night time economy and any possible interaction with gambling premises
- The socio-economic makeup of the area
- The density of different types of gambling premises in certain locations
- Specific types of gambling premises in the local area

8.6 Section 7 details how the authority conducts inspection and enforcement activity with respect to gambling establishments. As part of the inspection programme, areas that will be covered include:

- Layout is maintained in accordance with the plan
- Looking at details of training policies
- Training undertaken by staff
- Entries in the refusal book
- Records of any relevant incidents in or outside the premises
- Signage displayed
- Approach to managed exclusion
- Involvement in local and national schemes

8.7 The authority embraces the Department for Business Innovation and Skills’ “Regulators Code.” The authority embraces the principles of better regulation to promote efficient and effective approaches to regulatory activity without imposing unnecessary burdens on business. The Licensing Authority shall have regard to any plan agreed between a company and primary authority.

8.8 Paragraph 9.32 of the policy document now reflects the authority’s ability to use Section 181 of the Gambling Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and circumstance in which they are made available by imposing a licensing condition. According to The National Centre for Social Research British Gambling Prevalence Survey 2010, ‘prevalence of playing fixed odds betting terminals was highest among those with the lowest personal income.’

8.9 A Pool of Conditions that can be used by the licensing committee, responsible authorities and applicants can be found at Appendix F of the Statement of Licensing Policy.

**9. How does the decision contribute to the Council’s Corporate Plan?**

9.1 The Gambling Act 2005 Statement of Licensing Policy will contribute to a healthy and safe city, and lend support to a robust, business friendly economy.

**10. What risks are there and how can they be reduced?**

10.1 There are risks that a poorly drafted policy that is neither proportionate nor reasonable, or is inadequately consulted upon, may give rise to legal challenge. These risks have been minimised by ensuring appropriate consultation has taken place.

10.2 The responses have been accepted where they add to the policy. Those responses that may give rise to challenge have been rejected primarily because the proposals are not legal. Due regard been given to the reasonableness and proportionality of policy tools.

**11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

11.1 Formulating a licensing policy that recognises the key aims of the council, responsible authorities and other stakeholders will make a positive impact on creating a vibrant city to live, work and visit.

**12. Are there any other options?**

12.1 The current policy must be reviewed and an updated policy statement produced by 31 January 2016.

**Assistant Director Environment**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

The Gambling Act 2005.

The Police Reform and Social Responsibility Act 2011.

SI No. 1129 (C.38) / 2012 *The Police Reform and Social Responsibility Act 2011 (Commencement No. 5) Order 2012.*

Guidance issued under Section 25 of the Gambling Act 2005.

Existing Statement of Gambling Policy.

The National Centre for Social Research British Gambling Prevalence Survey 2010

Contact for enquires:

Democratic Services (Committees)

Room 2.3

01392 265275

## Appendix A - Summary of Responses Received

Ref	Respondent	Comments	Response
01	John Bean Licensing Officer Devon & Cornwall Police	<p>Observations from police :-</p> <p>Consideration of Incident Log as condition in addition to Refusals Book and SIA door supervisors register.</p> <p>Link for operators under the Act to licensees forums in the City to provide shared information on issues of ASB and offenders.</p> <p>Officially review Gambling policy every 5 years (in-line with Licensing Act 2003 Policy).</p> <p>Several cosmetic amendments suggested.</p>	<p>This has been added to the policy</p> <p>The Community Safety Partnership will look at trying to establish such a forum</p> <p>The requirement under the Gambling Act at present is 3 years.</p> <p>These have been accepted</p>
02	John Liddle Director of Development Coral Retail	<p>Coral Racing Limited are broadly supportive of the document.</p> <p>Recommend including a reference that when judging applications, committees should not take into account of any moral objections to gambling.</p> <p>The guidance is generally in line with our expectations with regard to risk assessment with future variations and applications.</p> <p>Coral believe that additional local risk assessments (from April 2016) should be:</p> <ul style="list-style-type: none"> <li>A) To assess specific risks to the licensing objectives in the local area;</li> <li>B) To assess whether control measures going beyond standard control measures are needed.</li> </ul> <p>They confirm that this is similar to the risk assessment section in the policy.</p>	<p>This is set out in the Act and guidance already which is referred to in the policy</p> <p>This is noted</p> <p>This is noted</p>

## Appendix B - Response received from Devon and Cornwall Police

**From:** John.BEAN@devonandcornwall.pnn.police.uk  
[mailto:John.BEAN@devonandcornwall.pnn.police.uk]  
**Sent:** 11 September 2015 10:01  
**To:** Licensing Team  
**Cc:** NORSWORTHY Michael 13671  
**Subject:** Statement of Gambling Policy

Observations from police :-

Consideration of Incident Log as condition in addition to Refusals Book and SIA door supervisors register.

Link for operators under the Act to licensees forums in the City to provide shared information on issues of ASB and offenders.

Also to remain consistent with the Licensing Act 2003 the Statement of Gambling Policy already under constant review should only be officially reviewed every 5 years.

Within the document at 2.8 and 9.2 bullet point 4 should wording by Gambling policy rather than licensing policy ?

At 8.1 issue rather than issuing

In the Glossary, Default Conditions are noted twice.

John Bean  
Licensing Officer  
Police Station  
Heavitree Road  
Exeter  
EX1 2LR  
Tel 01392 451512  
Mob 07764 638709

## Appendix C - Response received from Coral



Licensing Team,  
Exeter City Council,  
Civic Centre,  
Paris Street,  
Exeter,  
EX1 1RQ

15<sup>th</sup> October 2015

Dear Sir,

### Consultation on Exeter City Council's Statement of Principles – Gamblin Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. We politely highlight that the majority of Council's also include a reference that when judging applications, it should not take into account of any moral objections to gambling.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 6<sup>th</sup> April 2016) following the consultation completion (your detail commences on Page 18 - Section 9.1) and are pleased to see this information included. A number of Council's within this section have listed multiple locations which must be risk assessed despite there being no evidence that the location of such a venue in close proximity to a betting office is at greater risk of causing harm to the licensing objectives; we are pleased to recognise that your guidance is generally in line with our expectations.

We do wish to highlight that we are not of the opinion however regarding the proximity of a premises in relation to schools and leisure facilities. Whilst each application will be judged on its merits as mentioned at several points within your statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools and similar locations mentioned in the statement causes harm to the licensing objectives. We appreciate that such locations are included within Gambling Commission guidance to councils.

Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications from April 2016, Coral believe that these should be a) to assess specific



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Registered in England No. 541800  
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a company

risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. This to confirm is similar to your risk assessment section.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,



John Liddle  
Director of Development – Coral Retail



**Exeter**  
City Council

## THE GAMBLING ACT 2005

### Draft Statement of Gambling Policy 2016 - 2019

Assistant Director Environment  
Civic Centre  
Paris Street  
Exeter  
EX1 1RQ

 01392 265434  
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Draft Issue Date: 21 July 2015

Proposed Commencement: 31 January 2016

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## Section 1 - Introduction

- 1.1 Exeter City Council (the Council) is the Licensing Authority (the Authority) under the Gambling Act 2005 (the Act). Section 349 of the Act requires that all Licensing Authorities prepare, consult and publish a Statement of Licensing Policy which will be used when exercising its licensing functions in relation to its responsibilities under the Act.
- 1.2 Once published, this Policy Statement will be kept under constant review and in any case, will be re-published after every three years. Before any revision of this Statement of Gambling Policy is published, the Authority will carry out a full consultation exercise on the relevant sections. This version of the Statement has been revised following the third triennial review and is for the period 2016 – 2019.
- 1.3 Section 25 of the Gambling Act states in the Guidance to local authorities that “*The (Gambling) Commission shall from time to time issue guidance as to*
- a) the manner in which local authorities are to exercise their functions under this Act,*
  - and*
  - b) in particular, the principles to be applied by local authorities in exercising functions under this Act.”*
- 1.4 In producing a Gambling Licensing Policy, the Licensing Authority will have regard to the Licensing Objectives of the Gambling Act 2005, the current guidance issued by the Gambling Commission, any relevant current statutory regulations, codes of practice issued by the Secretary of State and any responses from those consulted on the policy statement.
- 1.5 This Policy, therefore, generally follows the principles laid down in the Gambling Commission’s Guidance to Licensing Authorities.
- The Gambling Act 2005 can be accessed at <http://www.legislation.gov.uk> and the Gambling Commission’s Guidance to Licensing Authorities may be accessed via [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)
- 1.6 The Act also requires this Authority to carry out its various licensing functions to promote the three licensing objectives:
- 1. Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime
  - 2. Ensuring that gambling is conducted in a fair and open way
  - 3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.7 The Licensing Authority will expect applicants for premises licenses to assess the impact of their premises on the locality in relation to crime and disorder and will give

consideration to the measures offered by applicants in relation to this licensing objective in their assessment. If an area has high levels of organised crime then the Authority will consider whether or not gambling premises are suitable for that location and whether conditions may be suitable such as the provision of Door Supervisors

- 1.8 The Licensing Authority considers that serious nuisance and anti-social behaviour can sometimes amount to disorder. They will consider factors such as how threatening the behaviour was to those affected and whether police assistance was required in determining whether disorder has been created.
- 1.9 In carrying out its licensing functions under the Act, particularly with regard to premises licences, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be:
- i) In accordance with any relevant code of practice issued by the Gambling Commission,
  - ii) In accordance with any relevant guidance issued by the Commission reasonably consistent with the licensing objectives, and in accordance with the statement published by this Authority under section 349 of the Act
  - iii) Nothing in this Policy will override the right of any person to make an application under this Act and have that application considered on its individual merits. Equally, nothing in this Statement will undermine the right of any person to make representations to an application, or seek a review of a licence where there is a legal power to do so.
- 1.8 This Authority will endeavour to ensure that when considering applications under this legislation it will avoid duplication with other regulatory regimes so far as possible.
- 1.9 Previous gambling legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. However, unfulfilled demand is not a criterion for a Licensing Authority in considering an application for a premises licence under this legislation. Each application will be considered on its merits without regard to demand.

## SECTION 2 – PROFILE OF THE CITY OF EXETER

- 2.1 Exeter is the Licensing Authority as defined by the Gambling Act 2005. The term “Licensing Authority” will be used in all future references to Exeter in this Policy.



- 2.2 Exeter is a mainly urban Authority located towards the East of the County of Devon and bordered by the more rural Authorities of East Devon, Mid Devon and Teignbridge. Exeter is the regional capital of Devon comprising 4774 hectares. Long established as a cultural and visitor centre, it attracts large numbers of tourists and holiday makers as well as providing attractions to the surrounding towns and villages of east and mid Devon.
- 2.3 To the south and west of Exeter is Plymouth and Torbay; between them they have three casinos all granted prior to the Gambling Act 2005 coming into force. Exeter lies at the end of the M5 corridor and has a well established airport as well as excellent rail and bus links to London and the rest of the country.
- 2.4 Because of the size of the City and the density of its residential population there are very few areas within its boundaries that could be described as solely commercial or shopping areas. Even those that are commercial or shopping areas have significant numbers of residential dwellings above commercial premises and residential areas in close proximity.
- 2.5 The Council area has a population of approximately 121,800 [2013 National Statistics]. This figure includes the student population.
- 2.6 There are seven Lower Super Output Areas (LSOAs) within the city which represent some of the most deprived areas in Exeter, affected by unemployment, low education, skills and training, low income and poor health and disability.

2.7 The seven LSOAs within Exeter are:

- Sidwell Street and Clifton Road Area – Newtown Ward
- Burnthouse Lane Trees Area – Priory Ward
- Burnthouse Lane Rifford Road Area – Priory Ward
- Burnthouse Lane Poets Area – Priory Ward
- Beacon Heath Area – Mincinglake Ward
- Newman Road Area – Cowick Ward
- Cathedral and City Centre East Area – St David's Ward

2.7 Six of the Priority Zone LSOAs fall within the 20% of most deprived areas in England (only the 'Newman Road area' falls outside) with the 'Sidwell Street and Clifton Road area' and 'Burnthouse Lane (Trees)' falling within the 10% of most deprived English regions.

2.8 In line with updated guidance, the Licensing Authority has developed local area profiles to help shape the Statement of Gambling Policy. The profiles will be maintained separately from this statement to enable profiles to be updated accordingly.


2.9 The local area profile will have regard to:


- Schools, sixth form colleges, youth centres etc, with reference to the potential risk of under-age gambling
- Hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling amongst these groups
- Religious buildings
- Any known issues with problem gambling
- The surrounding night time economy and any possible interaction with gambling premises
- The socio-economic makeup of the area, in particular the index of deprivation
- The density of different types of gambling premises in certain locations
- Specific types of gambling premises in the local area

2.10 The Licensing Authority is aware that nationally recognised studies have shown a close link between deprivation and problem gambling. The National Centre for Social Research British Gambling Prevalence Survey 2010 stated that 'high-time/high-spend gamblers, like high-time only gamblers, displayed the most adverse socio-economic profile. They were more likely to live in areas of greatest deprivation, live in low income households and be unemployed. This group showed a relative preference for betting on horse races, fixed odds betting terminals and playing casino games.'

2.11 The report also went on to say that 'compared with the average, those who were unemployed were more likely to gamble on several different activities (exceptions being the National Lottery Draw, other lotteries, football pools, betting on dog races and online betting). For example, 12% of those who were unemployed had played fixed odds betting terminals in the past year compared with 4% of respondents overall. Prevalence of playing fixed odds betting terminals was highest among those with the lowest personal income.'



Scale 1:45000  © Crown copyright Exeter City Council 100025458 5 Feb 2004  
 Revised ward boundaries

Planning Services, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1NN 

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## SECTION 3 – CONSULTATION ON THE STATEMENT OF GAMBLING POLICY

- 3.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. A new statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The revised statement must be then re-published.
- 3.2 Before publishing this Statement the Licensing Authority (Exeter City Council) consulted widely upon this statement before finalising and publishing. The consultation included the Police, the Fire Authority, representatives of local residents, representatives of local businesses and representatives of those persons carrying on gambling businesses in this Authority’s area. This Licensing Authority has also consulted with relevant departments within the Council.
- 3.3 The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 3.4 Other persons and bodies this authority consulted are:
- Citizens Advice Bureau
  - Crime and Disorder Reduction Partnership [CDRP]
  - Devon and Cornwall Constabulary.
  - Services Devon County Council Social services /Education dept
  - Devon and Somerset Fire and Rescue Service
  - Environmental Health
  - Gamblers Anonymous
  - Gambling Commission
  - Gamcare
  - Local Business and their representatives
  - Local residents and their representatives
  - Mencap
  - NSPCC
  - Representatives of existing licence holders
  - Voluntary and community organisations working with children
- 3.5 Our consultation took place between 21 July and 16 October 2015 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at: <http://www.bis.gov.uk/files/file47158.pdf>

3.6 The full list of comments made and the consideration by the Council of those comments will then be published with the final version of the policy which needs to be approved at a meeting of the Full Council on 15 December 2015.

3.7 Any comments relating to this policy statement please should be submitted to the Licensing Authority via e-mail or letter to the following contact:

Environmental Health and Licensing Manager, Licensing Team, Civic Centre Paris Street  
Exeter EX1 1RQ      E-mail: [licensing.team@exeter.gov.uk](mailto:licensing.team@exeter.gov.uk)

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

## SECTION 4 – DECLARATION

- 4.1 In producing this Statement of Gambling Policy, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005; the Guidance issued by the Gambling Commission and have considered those responses from those consulted on the Statement.



## SECTION 5 – RESPONSIBLE AUTHORITIES AND INTERESTED PARTIES

- 5.1 The Gambling Act 2005 allows for two different types of groups to make representations regarding applications to the Licensing Authority and also to apply having existing licences reviewed by the Authority. These groups are “Responsible Authorities” and “Interested Parties”
- 5.2 The Act defines Responsible Authorities as:
- a. A licensing authority in England and Wales in whose area the premises are wholly or partly situated
  - b. the Gambling Commission
  - c. the chief officer of police for a police area in which the premises are wholly or partly situated
  - d. the fire and rescue authority for an area in which the premises are wholly or partly situated
  - e. the local planning authority, in accordance with Part I of the Town and Country Planning Act 1990 (c. 8), for an area in which the premises are wholly or partly situated
  - f. 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 in which the premises are wholly or partly situated
  - g. a body which is designated in writing for the purposes of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm
  - h. Her Majesty's Commissioners of Customs and Excise
  - i. any other person prescribed for the purposes of this section by regulations made by the Secretary of State.
- 5.3 For the purpose of this Licensing Authority the body designated as competent to advise the authority about the protection of children from harm (“g” above) will be the Independent Safeguarding Authority.
- 5.4 Section 158 of the Act states that a person is an “Interested Party” if, in the opinion of the Licensing Authority that person:
- a. lives sufficiently close to the premises to be likely to be affected by the authorised activities
  - b. has business interests that might be affected by the authorised activities, or

- c. represents persons who satisfy paragraph (a) or (b).
- 5.5 The Licensing Authority is required by Legislation to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party.
- 5.6 The principles for this Authority are that each case will be decided upon its own merits and rigid rules will not be applied to its decision making. It will consider the examples provided in the Gambling Commissions Guidance for Licensing Authorities. It will also consider the Commissions Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.7 Section 158 of the Gambling Act states that an “interested party” must “live sufficiently close to the premises to be likely to be affected by the authorised activities”, or “has business interests that might be affected by the authorised activities”, or be a body representing persons who satisfy this criteria. The Gambling Commission recommends in its Guidance to Licensing Authorities that Interested Parties could include trade associations and trade unions, and residents and tenants associations. However, it fails to mention that those bodies should represent persons or businesses sufficiently close to be likely to be affected by the operation of the premises. This Authority will follow section 158 of the Act and will not generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. they live sufficiently close or carry on a business so that they will be likely to be affected by the activities being applied for.

## SECTION 6 – EXCHANGE OF INFORMATION

- 6.1 Licensing Authorities are required to include in their Statement of Policy the principles to be applied by the Authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Act 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 to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information with other bodies, then they will be made available.

## SECTION 7 – ENFORCEMENT

- 7.1 Licensing Authorities are required by regulation under the Act 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.
- 7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commissions Guidance for Local Authorities and will endeavour to be:
- a. Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - b. Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
  - c. Consistent: rules and standards must be joined up and implemented fairly;
  - d. Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - e. Targeted: regulation should be focused on the problem, and minimise side effects.
- 7.3 As per the Gambling Commission's Guidance for Licensing Authorities, this Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 This Authority will also, as recommended by the Gambling Commission's Guidance for Licensing Authorities, adopt a risk-based inspection programme. As part of the inspection programme, areas that will be covered include:
- Layout is maintained in accordance with the plan
  - Looking at details of training policies
  - Training undertaken by staff
  - Entries in the refusal book
  - Records of any relevant incidents in or outside the premises
  - Signage displayed
  - Approach to managed exclusion
  - Involvement in local and national schemes
- 7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with the premises licences and other permissions that it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It should be noted that any issues relating to the manufacture, supply or repair of gaming machines will also be dealt with by the Gambling Commission.
- 7.6 This Licensing Authority embraces the Department for Business Innovation and Skills' "Regulators Code." The authority embraces the principles of better regulation to promote efficient and effective approaches to regulatory activity without imposing unnecessary burdens on business.
- 7.7 The Licensing Authority shall have regard to any plan agreed between a company and

primary authority.

## SECTION 8 – LICENSING AUTHORITY FUNCTIONS

- 8.1 Licensing Authorities are required under the Act to undertake various regulatory functions in relation to a number of gambling activities. They are required to:
- a) Issue Premises Licences
  - b) Issue Provisional Statements where premises are intended to provide gambling activities
  - c) Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - d) Issue Club Machine Permits to Commercial Clubs
  - e) Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
  - f) Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - g) Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - h) Register small society lotteries below prescribed thresholds
  - i) Issue Prize Gaming Permits
  - j) Receive and Endorse Temporary Use Notices
  - k) Receive Occasional Use Notices
  - l) Provide information to the Gambling Commission regarding details of licences issued (detailed in Section 6 – Information Exchange)
  - m) Maintain registers of the permits and licences that are issued under these functions
  - n) Issue notices and other documentation required under the Act and the Regulations made
- 8.2 It should be noted that Licensing Authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

## SECTION 9 – PREMISES LICENCES

- 9.1 A Premises licence is required for the following categories of gambling premises:
- Betting (other than track)
  - Betting (track)
  - Bingo
  - Adult Gaming Centre
  - Family Entertainment Centre
- 9.2 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and Regulations made under the Act, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State (The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007). Licensing Authorities are able to exclude default conditions where appropriate and also attach additional conditions where relevant.
- 9.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant code of practice issued by the Gambling Commission
  - In accordance with any relevant guidance issued by the Gambling Commission
  - Reasonably consistent with the licensing objectives
  - In accordance with the Authority's statement of gambling policy (this document).
- 9.3 The Licensing Authority takes particular note of the Gambling Commission's Guidance for Licensing Authorities, which states that 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 that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not drift into a gambling area. Licensing Authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed)
- 9.4 Clearly, there will be specific issues that Authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

- 9.5 This Authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities relating to the artificial sub-division of premises. It also takes note of section 152 (1) of the Act and Regulation 12(2) of the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 and will look very carefully at any application that may appear to breach any of these provisions.
- 9.6 This Authority also takes particular note of the Gambling Commission’s Guidance regarding the “primary gambling activity” authorised under a premises licence. For example, where a premise is licensed to provide bingo facilities then the primary activity must be the provision of bingo, with gaming machines being an ancillary offering in the premises. This Authority also notes the Gambling Commission’s Code of Practice for the Primary Gambling Activity of licensed premises.
- 9.9 When an application is made for a premises licence for a premises that is in the course of construction or alteration, or are still to be constructed or altered, the Licensing Authority will take into account the current Guidance issued by the Gambling Commission. The Licensing Authority will also consider:
- Whether the premises ought to be permitted for gambling
  - Whether the appropriate conditions can be put in place to cater for the situation that the premises are not yet in a state in which they ought to be before gambling takes place
  - When the premises intends to start operating under the licence
- 9.10 In considering licensing applications, the Licensing Authority will take into account the following:
- The design and layout of the premises (in the form of a plan)
  - Staffing arrangements on the premises
  - Training given to staff in crime prevention measures appropriate to those premises
  - Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system
  - Where premises are subject to age restrictions, the procedures in place to conduct age verification checks
  - The likelihood of any crime, public order and anti-social behaviour issues if the licence is granted
  - Details of any intended participation in local business schemes (such as Exeter Business Against Crime, Business Improvement District, Chamber of Commerce, Best Bar None)
  - Details of intended national voluntary codes or schemes
  - The operators risk assessment to include
    - Identification of schools, sixth form colleges, youth centres etc, with reference to the potential risk of under-age gambling
    - Identification of hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling amongst these groups
    - Identification of Religious buildings
    - Any known issues with problem gambling
    - The surrounding night time economy and any possible interaction with gambling premises
    - The socio-economic makeup of the area



- The density of different types of gambling premises in certain locations
- How any risks identified will be mitigated
- What monitoring arrangements will be put in place where risks are identified

- 9.11 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 can. As per the Gambling Commission's Guidance for Licensing Authorities, this Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon regarding areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how potential concerns can be overcome.
- 9.12 This Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems including planning, where possible, 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.
- 9.13 Planning: The Gambling Commission Guidance to Licensing Authorities states: 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...

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:

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. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must 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.

- 9.14 Premises licences granted must be reasonably consistent with the licensing objectives. This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions, such as the provision of door supervisors, may be relevant.
- 9.15 Where gambling premises are located in sensitive areas, e.g. near schools, this Licensing Authority will consider imposing restrictions on advertising gambling facilities

on such premises where it is felt relevant and reasonably consistent with the Licensing Objectives.

- 9.16 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.
- 9.16 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted that the Gambling Commission's Guidance for Licensing Authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are particularly attractive to, children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas, appropriate signage etc.
- 9.19 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 updated with it, by way of a revision.
- 9.20 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, neighbourhood and type of premises
  - Reasonable in all other respects.
- 9.21 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. This 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.
- 9.22 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;

- Only adults are admitted to the area where these machines are located
- Access to the area where the machines are located is supervised
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- These considerations will apply to premises including buildings where multiple premises licences are applicable.

9.23 It is noted that because of restrictions imposed by the Gambling Act there are conditions which the Licensing Authority cannot attach to premises licences, which are:

- Any condition on the premises licence which makes it impossible to comply with an operating licence condition
- Conditions relating to gaming machine categories, numbers, or method of operation
- Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated)
- Conditions in relation to stakes, fees, winning or prizes.

9.24 The Gambling Commission advises in its Guidance for Licensing Authorities that they may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that there is no requirement for “in house” door supervisors at casinos or bingo premises to be licensed by the Security Industry Authority (SIA) through a specific exemption contained in Paragraph 17 of Schedule 16 to the Act. However, following clarification from the Department for Culture, Media and Sport (DCMS) and the Security Industry Authority (SIA), any contract staff employed in a Door Supervisor role will still require to be licensed by the SIA.

9.25 For premises other than “in house” staff employed at casinos and bingo premises, operators and Licensing Authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

9.26 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This Licensing Authority will make a door supervisor requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

9.27 In relation to Adult Gaming Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It is recommended that applicants provide means to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises. Such measures may cover issues such as:

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

9.28 In relation to (licensed) Family Entertainment Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The following list is not mandatory, nor exhaustive, and is merely indicative of example measures that may be appropriate to adopt. It is recommended that applicants are able to satisfy the Authority that, for example, there will be sufficient measures to ensure that under 18 year olds do not have access to any adult only gaming machine areas. Such measures may include:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truanting school children on the premises

9.29 *No Casinos resolution* – At this time this Licensing Authority has passed a no casino/no additional casinos” resolution under Section 166 of the Act, but should the Licensing Authority decide in the future to review this resolution, this Statement of Gambling Policy will be updated with details of that resolution. Any such decision will be made by the Full Council after a full consultation has taken place.

9.30 Management of areas where category B and C gaming machines are located in gambling premises that admit children and young people.

9.31 This Authority notes that the Gambling Commission’s Guidance states in that:

According to mandatory and default conditions relating to premises that admit under 18s, any area where category B and C gaming machines are located must be:

- separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose
- supervised (see below) at all times to ensure that under-18s do not enter the area

- arranged in a way that ensures that all parts of the area can be observed; and
- supervised either by:
  - one or more persons whose responsibilities include ensuring that under-18s do not enter the areas; or
  - CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas 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.

9.32 *Betting machines in Betting Premises* – the Licensing Authority, may when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at betting premises by imposing a licensing condition. When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- The size of the premises
- The number and location of the machines
- The number of counter position available for person-to-person transactions, and
- The number and ability of staff to monitor the licensed premises and prevent persons under the age of 18 from entering the premises.

9.33 *Betting Offices* – This Licensing Authority will look closely at applications to re-site betting offices in the same locality or to extend premises in order to enhance the quality of facilities offered to the public who may wish to use them. The Authority will look at those applications sympathetically where there are no concerns that the Licensing Objectives will be adversely affected.

9.34 This Licensing Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Authority a single named point of contact, who should be a senior individual, and whom the Authority will contact first should any compliance queries or issues arise.

9.35 *Travelling Fairs* - It will fall to this Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

9.36 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, 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.

- 9.37 **Provisional Statements** - This Licensing Authority notes the Guidance from the Gambling Commission which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.
- 9.38 The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations requires applications for Provisional Statements to be advertised in the same way as applications for Premises Licences. In terms of representations about premises licence applications, following 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. 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:
- a. which could not have been raised by objectors at the provisional licence stage; or
  - b. which in the authority’s opinion reflect a change in the operator’s circumstances.
- 9.39 This Authority has noted the Gambling Commission’s Guidance that “A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.”
- 9.40 *Reviews* - 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 one or more of the matters listed below, as well as consideration as to whether the request is frivolous, vexatious or 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 unless there is a material change in circumstances. Representations should be made in accordance with any relevant code of practice issued by the Gambling Commission;
- Made in accordance with any relevant guidance issued by the Gambling Commission;
  - Are reasonably consistent with the licensing objectives; and are made in accordance with the authority’s statement of licensing policy.
  - This Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## SECTION 10 – PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES

- 10.1 This part relates to Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7 to the Gambling Act 2005). Where an operator does not hold a premises licence but wishes to provide gaming machines, an applicant 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).
- 10.2 The Act states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives, and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for Licensing Authorities also states: "In its Licensing Authority Statement of Policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. ..., licensing authorities may want to give weight to matters relating to child protection issues."
- 10.3 An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC), and if the chief officer of police has been consulted on the application The Licensing Authority will require applicants to demonstrate:
- a. a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.
  - b. It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
- 10.4 Statement of Principles – This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truanting school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises. This Licensing Authority will also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.
- 10.5 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1) to the Gambling Act 2005). There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. 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.
- 10.6 If a premises wishes to have more than 2 machines then it needs to apply 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.*” 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. This Authority will also expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 10.7 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.
- 10.8 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. 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 machines.
- 10.9 Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3) to the Gambling Act 2005)
- 10.10 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 10.11 This Licensing Authority has prepared this Statement of Principles which expects 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;



- clear policies that outline the steps to be taken to protect children from harm;
- that they meet the objective of carrying out gambling openly and fairly; and,
- that the premises are mainly or wholly used for gambling purposes.

10.12 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

10.13 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the Licensing Authority cannot attach any further 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;
- the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

10.14 Club Gaming and Club Machines Permits

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 regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

10.15 The Licensing Authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account of a number of matters which include the constitution of the club, the frequency of gaming and ensuring that there are more than 25 members. The club must be conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

10.16 The Licensing Authority may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members or commercial club or miners welfare institute and therefore is not entitled to receive the type of

permit for which it has applied;

- the applicants 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.

10.17 There is also a fast-track application procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). It should be noted that commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. 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. 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.

10.18 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

#### 10.19 Temporary Use Notices

There are a number of statutory limits as regards temporary use notices. It is noted that the Gambling Commission Guidance states that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. 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. In considering whether a place falls within the definition of a set of premises, Licensing Authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. 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.

10.20 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. 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.

#### 10.21 Occasional Use Notices

This notice allows for betting on a track without the need for a premises licence on 8 days or less in a calendar year. 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 11 – SMALL SOCIETY LOTTERIES

- 11.1 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 society 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)
- 11.2 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
- 11.3 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 can be found on the Council's web-site at: [www.exeter.gov.uk/licensing](http://www.exeter.gov.uk/licensing)
- 11.4 Applicants for registration of small society lotteries must apply to the Licensing Authority in the area where 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.
- 11.5 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.
- 11.6 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 preceding 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.team@exeter.gov.uk](mailto:licensing.team@exeter.gov.uk)

- 11.7 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 for registration 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.
- 11.8 The Licensing Authority may refuse an application for registration if in their opinion:
- the applicant is not a non-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.
- 11.9 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.
- 11.10 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.
- 11.11 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 revocations 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.
- 11.12 Where a Society employs an external lottery manager, it will need to satisfy itself that the manager holds an operator's licence issued by the Gambling Commission, and the Licensing Authority will expect this to be verified by the Society.

## APPENDIX A – GLOSSARY OF TERMS

<b>Adult Gaming Centre</b>	Person operating an adult gaming centre (AGC) must hold a gaming machines general operating licence from the Commission and have an AGC premises licence from the Licensing Authority. They will be able to make category B, C and D gaming machines available to their customers.
<b>Alcohol licensed premises gaming machine permits</b>	The Licensing Authority can issue such permits for a number of category C or D machines in licensed premises. There is an automatic entitlement for alcohol on-licence holders to make available 2 gaming machines of category C or D for use in alcohol licensed premises.
<b>Betting Machines</b>	A machine designed or adapted for the use to bet on future real events (not Gaming Machines).
<b>Bingo</b>	<p>A game of equal chance.</p> <p>Whilst there is no statutory definition of Bingo, generally there are 2 different types of bingo:</p> <ul style="list-style-type: none"><li>• Cash Bingo, where the stakes paid made up the cash prizes that were won; or</li><li>• Prize Bingo, where various forms of prizes were won, not directly related to the stake paid.</li></ul> <p>Premises with a bingo premises licence, or a casino premises licence will be able to offer bingo in all its forms.</p> <p>Adult Gaming Centres, both licensed and unlicensed family entertainment centres, travelling fairs and any premises with a prize gaming permit, will be able to offer prize gaming which includes prize bingo.</p>
<b>Casino Premises Licence Categories</b>	<ol style="list-style-type: none"><li>a) Regional Casino Premises Licence</li><li>b) Large Casino Premises Licence</li><li>c) Small Casino Premises Licence</li><li>d) Casinos permitted under transitional arrangements.</li></ol>
<b>Code of Practice</b>	Means any relevant code of practice under section 24 of the Gambling Act 2005.
<b>Club Gaming Machine Permit</b>	Permit to enable commercial and non-commercial clubs to provide at their premises the number of gaming machines (Category B, C or D) as set out in the regulations.
<b>Default Conditions</b>	Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all premises licences, to a class of premises licence or licences for specified circumstances.

<b>Equal Chance Gaming</b>	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
<b>Exempt Lotteries</b>	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are 4 types:</p> <ul style="list-style-type: none"> <li>• Small Society Lottery (required to register with Licensing Authorities)</li> <li>• Incidental Non Commercial Lotteries e.g. Raffle at a dance/church fair</li> <li>• Private Lotteries e.g. Raffle at a student hall of residence</li> <li>• Customer Lotteries e.g. Supermarket holding a hamper raffle</li> </ul>
<b>External Lottery Manager</b>	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.
<b>Large Lottery</b>	Where the total value of tickets in any one lottery exceeds £20,000 OR tickets in separate lotteries in one calendar year exceeds £250,000. This requires an Operating Licence.
<b>Licensing Committee</b>	A committee of 10 to 15 Councillors appointed by the Council to represent the Licensing Authority in Gambling matters.
<b>Licensing Sub Committee</b>	A sub-committee of members appointed from the Licensing Committee to whom the functions of the licensing committee can be delegated under the Act to determine applications.
<b>Lottery</b>	An arrangement where 1) persons are required to pay to participate in the arrangement 2) in the course of the arrangement, one or more prizes are allocated to one or more members of a class 3) the prizes are allocated by a series of processes, and 4) the first of those processes relies wholly on chance.
<b>Mandatory Conditions</b>	Conditions that must be attached to a licence. This may apply to all Premises Licences, to a class of Premises Licence or licences for specified circumstances
<b>Occasional use notices</b>	Where there is betting on a track on up to 8 days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse racing venue, dog track and temporary tracks used for races or sporting events.
<b>Operating Licences</b>	Licences to permit individuals and companies to provide facilities for certain types of gambling. They may authorise remote or non remote gambling.
<b>Personal Licence</b>	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.
<b>Premises Licence</b>	Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and some family entertainment centres

<b>Premises</b>	Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to 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. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises
<b>Private Lotteries</b>	<p>3 Types of Private Lotteries:</p> <ul style="list-style-type: none"> <li>• Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society</li> <li>• Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises</li> <li>• Residents” Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises;</li> <li>• Prize Gaming - Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.</li> </ul>
<b>Small Lottery</b>	Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less
<b>Small Society Lottery</b>	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
<b>Provisional Statement</b>	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:</p> <ul style="list-style-type: none"> <li>• Expects to be constructed</li> <li>• Expects to be altered</li> <li>• Expects to acquire a right to occupy.</li> </ul>
<b>Temporary Use Notice</b>	To 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.
<b>Vehicles</b>	Defined as trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted





**APPENDIX B – DELEGATION OF FUNCTIONS**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Approval of Gambling Policy	<b>x</b>		
Policy not to permit casino	<b>x</b>		
Fee Setting (Where appropriate)	<b>x</b>		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Application for the transfer of a licence		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Application for a Provisional Statement		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Review of premises licence		<b>x</b>	
Application for club gaming/club machine permit		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Cancellation of club gaming /club machine permit		x	
Application for other permits			<b>x</b>
Cancellation of licensed premises gaming machine permits			<b>x</b>
Consideration of a Temporary Use Notice			<b>X</b>
Decision to give counter notice to Temporary Use Notice		<b>X</b>	

**APPENDIX C – CATEGORIES OF GAMING MACHINES**

**CATEGORY MAXIMUM STAKE MAXIMUM PRIZE**

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
A	Unlimited	Unlimited
B1	£2	£4000
B2	£100	£500
B3	£2	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D	10p or 30p when non-monetary prize £1 if “crane grab machine” 10p if “coin pusher machine”	£5 or £8 when non-monetary prize Prize value no more than £50 £8 cash plus up to £7 non-monetary prize

## APPENDIX D – USEFUL CONTACTS

If you wish to make any comments on the Gambling Policy of Exeter City Council or if you want further information regarding the Gambling Act 2005 please contact:

Environmental Health and Licensing Manager  
Exeter City Council  
Civic Centre  
Paris Street  
Exeter  
EX1 1RQ

Telephone: 01392 265702  
Email: [licensing.team@exeter.gov.uk](mailto:licensing.team@exeter.gov.uk)

Information is also available from:

The Department for Culture, Media and Sport  
2-4 Cockspur Street  
London  
SW1Y 5DH

Telephone: 020 7211 6200  
Internet: [www.culture.gov.uk](http://www.culture.gov.uk)  
Email: [gambling@culture.gov.uk](mailto:gambling@culture.gov.uk)

The Gambling Commission's Guidance can be viewed at: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## APPENDIX E – RESPONSIBLE AUTHORITY CONTACTS

### **Gambling Commission**

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6666

### **Devon & Cornwall Police**

The Chief Constable  
Devon & Cornwall Police Headquarters  
Licensing Department (East)  
Middlemoor  
Exeter  
EX2 7HQ

Tel: 01392 452225

### **Devon & Somerset Fire & Rescue Service**

Divisional Commander  
Central Command (Exeter Group)  
Exeter Fire Station  
Danes Castle  
Howell Road  
EXETER  
EX4 4LP

Tel: 01392 872354

### **HMRC**

Revenue & Customs,  
National Registration Unit  
Portcullis House,  
21 India Street  
Glasgow  
G2 4HY

### **Assistant Director Environment**

(For Environmental Protection/Health & Safety)

Assistant Director Environment  
Exeter City Council  
Civic Centre  
Paris Street  
EXETER  
EX1 1RQ

Tel: 01392 265193  
Fax: 01392 265852

### **Exeter City Council Planning & Development Service**

Assistant Director City Development  
Exeter City Council  
Civic Centre  
Paris Street  
EXETER  
EX1 1NN

Tel: 01822 813600

### **Devon County Council Child Protection**

Head of Safeguarding,  
Child Protection Manager  
Children's Services Division  
Devon County Council  
Parker's Barn,  
Parker's Way  
TOTNES  
TQ9 5UF

Tel: 01392 386091

### **Devon Trading Standards Service**

Chief Trading Standards Officer  
Devon County Council  
County Hall  
Topsham Road  
EXETER

Tel: 01392 382818

## APPENDIX F – POOL OF CONDITIONS

- F1 The premises shall be fitted out and operational within 6 months of the issue of the licence
- F2 The Licensee shall notify the Licensing Authority when the premises have been fitted out and are ready for operation, so that the Licensing Authority can inspect the premises. Such notification to the Licensing Authority shall be given no less than 10 days prior to the premises opening under the licence
- F3 There shall be a minimum of 2 staff (excluding back room staff) on duty at the premises at all times that it is open, whose duties are to include the age verification of persons entering the premises who appear under the age of 21 years.
- F4 The Licensee shall have a 'Challenge 21' policy whereby all customers who appear to be under the age of 21 are asked for proof of their age
- F5 The Licensee shall prominently display notices advising customers of the 'challenge 21' policy
- F6 The following proofs of age are the only ones to be accepted:
- Proof of age cards bearing the 'PASS' hologram symbol
  - UK Photo Driving Licence
  - Passport
- F7 The Licensee shall keep written records of all staff authorised to verify the age of customers has received adequate training on the law with regard to under age gambling and the procedure if an underage person enters the premises and that this is properly documented and training records kept. The record should be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F8 The Licensee is to keep a register (Refusals Book) to contain details of the date and time, description of under age persons entering the premises and the name of the employee who verified that the person was under age.
- F9 The Refusals Book is to be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F10 A CCTV system shall be maintained in a good working order and fully operational covering both internal and external areas when the premises are open to the public.
- F11 The medium on which CCTV images are recorded will be clearly visible, stored securely and shall be retained for a period of 28 days. Recordings shall be made available for inspection by the Police or Licensing Authority upon request.

F12 A book shall be kept at the premises, which is maintained with the following records

- The name of the door supervisor deployed
- The SIA registration number of the door supervisor deployed
- The time they commenced and finished duty
- All incidents that the door supervisor dealt with.

F13 The licensee will keep an incident book for the recording of any incident on the premises or involving premises staff (including Door staff). The incident book will be made available for inspection by the police at all times when the premises are being used for licensable activities. The incident book will be maintained in a legible form for a minimum of 12 months.



## REPORT TO SCRUTINY COMMITTEE – COMMUNITY, EXECUTIVE AND COUNCIL

Date of Meeting: 10 November 2015, 1 December 2015 and 15 December 2015

Report of: Environmental Health and Licensing Manager

Title: Renewal of the Air Quality Strategy

### Is this a Key Decision?

Yes

### Is this an Executive or Council Function?

Council

#### 1. What is the report about?

- 1.1 This report is to advise members about the renewal of the Air Quality Strategy, and to ask members to recommend that the strategy is adopted.
- 1.2 The previous Air Quality Strategy covered the period from 2009 to 2014, and so an updated Strategy is now required.

#### 2. Recommendations:

- 2.1 That Scrutiny Committee Community supports the Air Quality Strategy 2015-2020 circulated with this report.
- 2.2 That Executive supports the Air Quality Strategy 2015-2020 circulated with this report.
- 2.3 That Council formally adopts the Air Quality Strategy 2015-2020.

#### 3. Reasons for the recommendation:

- 3.1 Poor local air quality affects the health of those living and working in Exeter. The highest impacts on human health come from particulate matter (PM), but evidence for the effects of nitrogen dioxide is growing. For example, the effect of the smallest particulates (PM2.5) on mortality in the UK in 2008 was estimated to be equivalent to 29,000 premature deaths per annum. A local estimate puts annual mortality within Exeter at the equivalent of 42 deaths per year.
- 3.2 Impacts on health of this scale have a significant effect on human wellbeing and the economy. Recent evidence suggests that:
  - In the UK, pollution-related illnesses are responsible for more absences from the workplace over recent years than industrial disputes.
  - Small changes in fine particles (i.e. PM2.5) were associated with lower school assessment grades for high-school age children, because of school absences and reduced productivity while learning at school.
  - Removing all exposure to particulate matter would have a greater impact on life expectancy than eliminating passive smoking or road traffic accidents.
  - The costs to the UK economy in 2010 were roughly 5% of GDP.
- 3.3 The understanding of air quality costs and impacts is in its infancy and so care must be taken when quoting the effects listed above. Nevertheless, important implications for

health, wellbeing and economic growth are starting to emerge (Natural Capital Committee 2015).

- 3.4 This Air Quality Strategy describes all the air quality work that the council will undertake in the next five years, the statutory context for this work, and how it will contribute to reduced air pollution.

**4. What are the resource implications including non financial resources.**

- 4.1 The Strategy can be implemented fully using existing staffing resources. Financial resource is currently in place to maintain the current air quality monitoring equipment. Capital expenditure would be required if the air quality monitoring equipment needed replacing, but this would be dealt with through the submission of a capital expenditure report if required.

**5. Section 151 Officer comments:**

- 5.1 There are no additional financial implications contained within this report.

**6. What are the legal aspects?**

- 6.1 Exeter City Council has legal duties with respect to local air quality management (Environment Act 1995) and statutory nuisances (Environmental Protection Act 1990). The Air Quality Strategy is not a legal requirement but does explain how the Council will fulfil its statutory duties.

**7. Monitoring Officer's comments:**

- 7.1 This report raises no issues for the Monitoring Officer.

**8. Report details:**

- 8.1 The Air Quality Strategy draws together the existing air quality work undertaken by Environmental Health and Licensing at Exeter City Council (the Council). All of this work is driven by statutory obligations and the strategy provides a means of organising and co-ordinating it to best effect. This Strategy sits beneath and supplements the Exeter Vision and the draft Climate Change and Sustainability Strategy.
- 8.2 DEFRA's National Air Quality Strategy and Air Quality Action Plans set out how Government will improve and protect ambient air quality, as part of the creation of a sustainable environment.
- 8.3 The importance and profile of air quality was increased following the 2011 and 2014 enquiries into air pollution by the Environmental Audit Committee. Air quality has also made the national news as evidence of health impacts grows, particularly for ultra-fine particles (PM2.5) and as a result of court cases taken against HM Government by Client Earth for failing to comply with EU obligations.
- 8.4 The Government has challenged local authorities under Part IV of the Environment Act 1995 to assess and manage their air quality. National health-based standards and objectives have been published to allow air quality to be assessed and to drive

forward management policies in order to work towards meeting the standards and objectives.

- 8.5 The Council uses a comprehensive network of 62 air pollution monitors, along with computer models, to assess air quality in Exeter. These show that air quality is generally good. There is, however, a need to tackle emissions of nitrogen dioxide associated with motor vehicles along the busiest roads into the city. This resulted in the legal designation of an Air Quality Management Area (AQMA) by the Council for areas in very close proximity to some of the main routes into Exeter. In total, 232 Local Authorities have declared AQMAs. The great majority of these are the result of traffic-related emissions of nitrogen dioxide. These include five other Devon authorities and encompass areas as diverse as Cullompton, Norwich and Manchester.
- 8.6 The creation of the AQMA enables the Council to develop and focus policies designed to protect and improve Exeter's air quality. These have been formalised within a detailed Air Quality Action Plan for Exeter, which aims to reduce pollution by cutting congestion on the main routes into the city. The Council has also published a Low Emissions Strategy for the city which sets out actions that can be taken to reduce all transport emissions, including particulates, noise and carbon emissions as well as nitrogen dioxide.
- 8.7 In addition to local air quality management, the Council has numerous other statutory duties with regard to air quality such as the management of specified 'prescribed processes'. In Exeter there are currently 42 processes for which the Council or the Environment Agency has to issue permits and ensure that these are being complied with.
- 8.8 Other areas of work for the Environmental Health Services which are related to air quality issues include responding to air quality complaints and advice requests, and the provision of advice to the planning service (both forward planning and development control). Officers within Environmental Health and Licensing are also involved in programmes of work concerned with important sustainability issues such as climate change.
- 8.9 This air quality strategy provides details of all of these activities. It also gives a number of specific air quality objectives and summarises the approaches to these and the suggested methods of monitoring and reviewing the Council's progress in meeting them.
- 8.10 The air quality monitoring undertaken by the Council shows that air quality is generally very good in the city.

## **9. How does the decision contribute to the Council's Corporate Plan?**

- 9.1 The decision contributes to the purpose of 'keep me and my environment safe and healthy' within the Council's Corporate Plan. It will have additional positive impacts on 'delivering good development' and 'help me to run a successful business'.

## **10. What risks are there and how can they be reduced?**

- 10.1 Risks to the successful implementation of the Air Quality Strategy include failure to engage with partners and, the impact of development in the greater Exeter area on traffic levels. These risks are monitored as part of the Council's Local Air Quality

Management responsibilities and changes can be made to the Air Quality Action Plan as appropriate.

**11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

11.1 The purpose of the Strategy is to reduce emissions of pollution which are harmful to health and the environment. Those affected most by poor air quality are people with existing medical conditions, the young and the elderly and so these groups will receive the greatest positive benefit from the Strategy. Pollution concentrations are highest beside busy and congested roads, so the populations living in these areas will also receive greater benefit from the Strategy.

**12. Are there any other options?**

12.1 Action to reduce local air pollution where levels exceed Government objectives is a legal duty, as is investigating and taking action to abate statutory nuisances.

**Assistant Director Environment**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

Natural Capital Committee (2015). The State of Natural Capital, Protecting and Improving Natural Capital for Prosperity and Wellbeing.

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# **EXETER AIR QUALITY STRATEGY**

## **2015-2020**

## The Air Quality Strategy – Executive Summary

This Air Quality Strategy draws together the existing air quality work undertaken by Environmental Health and Licensing at Exeter City Council (the Council). All of this work is driven by statutory obligations and the strategy provides a means of organising and co-ordinating it to best effect. This Strategy sits beneath and supplements the Exeter Vision and the draft Climate Change and Sustainability Strategy.

DEFRA's National Air Quality Strategy and Air Quality Action Plans set out how Government will improve and protect ambient air quality, as part of the creation of a sustainable environment.

The importance and profile of air quality was increased following the 2011 and 2014 enquiries into air pollution by the Environmental Audit Committee. Air quality has also made the national news as evidence of health impacts grows, particularly for ultra-fine particles (PM2.5) and as a result of court cases taken against HM Government by Client Earth for failing to comply with EU obligations.

The Government has challenged local authorities under Part IV of the Environment Act 1995 to assess and manage their air quality. National health-based standards and objectives have been published to allow air quality to be assessed and to drive forward management policies in order to work towards meeting the standards and objectives.

The Council uses a comprehensive network of 62 air pollution monitors, along with computer models, to assess air quality in Exeter. These show that air quality is generally good. There is, however, a need to tackle emissions of nitrogen dioxide associated with motor vehicles along the busiest roads into the city. This resulted in the legal designation of an Air Quality Management Area (AQMA) by the Council for areas in very close proximity to some of the main routes into Exeter. In total, 232 Local Authorities have declared AQMAs. The great majority of these are the result of traffic-related emissions of nitrogen dioxide. These include five other Devon authorities and encompass areas as diverse as Cullompton, Norwich and Manchester.

The creation of the AQMA enables the Council to develop and focus policies designed to protect and improve Exeter's air quality. These have been formalised within a detailed Air Quality Action Plan for Exeter, which aims to reduce pollution by cutting congestion on the main routes into the city. The Council has also published a Low Emissions Strategy for the city which sets out actions that can be taken to reduce all transport emissions, including particulates, noise and carbon emissions as well as nitrogen dioxide.

In addition to local air quality management, the Council has numerous other statutory duties with regard to air quality such as the management of specified 'prescribed processes'. In Exeter there are currently 42 processes for which the Council or the Environment Agency has to issue permits and ensure that these are being complied with.

Other areas of work for the Environmental Health Services which are related to air quality issues include responding to air quality complaints and advice requests, and the provision of advice to the planning service (both forward planning and development control). Officers within Environmental Health and Licensing are also involved in programmes of work concerned with important sustainability issues such as climate change.

This air quality strategy provides details of all of these activities. It also gives a number of specific air quality objectives and summarises the approaches to these and the suggested methods of monitoring and reviewing the Council's progress in meeting them.

The air quality monitoring undertaken by the Council shows that air quality is generally very good in the city.

## 1. INTRODUCTION

- 1.1 Few things are as fundamental as the air we breathe. Modern medical statistics now allow us to begin to see the real impact that the air we breathe has on our health. The main local air pollutants of concern in Exeter are nitrogen dioxide (NO<sub>2</sub>) and particulates (PM). Particulate matter causes the greatest harm to people's health, but evidence for the effects of nitrogen dioxide is growing too. For example, the smallest particulates (PM<sub>2.5</sub>) have been estimated to cause equivalent to 29,000 premature deaths per year in the UK. In Exeter the local figure is thought to be around 42 deaths per year<sup>1</sup>. The young, the old and those with existing medical conditions will be the most affected. Other research has also suggested links between high levels of fine particles (PM<sub>2.5</sub>) and lower school assessment grades for high-school age children, because of school absences and reduced productivity while learning at school<sup>2</sup>.
- 1.2 Impacts on health of this scale inevitably have a significant effect on the population and the economy. Recent evidence<sup>2</sup> suggests that the scale of the effect may be greater than the impact of industrial disputes in terms of the number of absences from work, and greater than passive smoking or road traffic accidents in terms of the impact on life expectancy. The costs to the UK economy in 2010 were roughly 5% of GDP<sup>2</sup>. The understanding of air quality costs and impacts is still developing and so care must be taken when quoting the effects listed above. Nevertheless, important implications for health, wellbeing and economic growth are starting to emerge<sup>2</sup>.
- 1.3 Clean air that is fit to breathe is one of the key factors required to deliver a safe environment for both current and future generations. The Council has developed a number of interlinked strategies which aim to deliver a sustainable environment, described below.

## 2. STRATEGIC CONTEXT

### The Exeter Vision

- 2.1 The Exeter Vision Partnership<sup>3</sup> aims to ensure Exeter develops sustainably by bringing together the public, community, voluntary and business sectors to work on the priorities that matter most to our city's communities. The Exeter Vision is our city's sustainable community strategy and to become a sustainable city Exeter must balance the economic, social and environmental aspects of the community.
- 2.2 The long-term benefits of supporting the environment include improved health, varied wildlife, visual and recreational appeal, and continuing pride in the city. The city's parks, valley parks, Ship Canal, Exe Estuary, important wildlife sites and nearby Dartmoor National Park make a big contribution to people's quality of life, providing opportunities for informal recreation, learning and self development. They also affect the city's ability to attract visitors and investment. Although we presently enjoy a good natural environment, it is under threat from many different sources, in particular inappropriate development, poor management and the effects of climate change. To address these issues, businesses, public agencies and communities need support to change the way we think about the environment and use natural resources.
- 2.3 The Exeter Vision includes the following aspirations:

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<sup>1</sup> Public Health England, PHE-CRCE-010: Estimating Local Mortality Burdens associated with Particulate Air Pollution 2014. <http://www.hpa.org.uk/Publications/Environment/PHECRCEReportSeries/PHECRCE010/>

<sup>2</sup> Natural Capital Committee (2015). The State of Natural Capital, Protecting and Improving Natural Capital for Prosperity and Wellbeing.

<sup>3</sup> Devon & Cornwall Constabulary, Devon County Council, Devon Primary Care Trust, Devon Wildlife Trust, Environment Energy, Exeter Business Forum, Exeter Cathedral, Exeter Chamber of Commerce, Exeter City Council, Exeter College, Exeter Council for Voluntary Service, Exeter Federation of Small Businesses, Exeter Senior Voice, Met Office, University of Exeter.

- To identify the risks of climate change and develop appropriate adaptation measures.
- To identify opportunities to use energy and heat from the 'Waste to Energy' plant.
- To negotiate energy efficient & renewable energy schemes through planning applications.
- To drive forward best practice in sustainable procurement.
- For communities to actively seek to minimise climate change, including through energy efficiency and the use of renewable energy.
- For pollution on land, in water and in the air to be minimised and for waste to be minimal and disposed of in accordance with good practice.
- For developments and buildings to be sited in sustainable locations and to be high quality, mixed-use, durable, flexible and adaptable, using materials that minimise negative environmental impacts.

### **The Council's Purposes**

2.4 To meet the above challenges, the Council has adopted a set of purposes, which include the aims of becoming a sustainable city and improving quality of life:

- Deliver good development
- Keep me/my environment safe & healthy
- Help me run a successful business

### **The Draft Climate Change and Sustainability Strategy**

2.5 This document is under review. It will describe the Council's response to global climate change. This Air Quality Strategy will be reviewed in light of the final Climate Change and Sustainability Strategy if required.

### ***Air Quality Strategy***

2.6 This air quality strategy draws together the existing air quality work undertaken by the Council's Environmental Health and Licensing. All of this work is driven by statutory obligations and the strategy provides a means of organising and co-ordinating it to best effect. This strategy sits beneath and supplements the Exeter Vision and the draft Climate Change and Sustainability Strategy.

The key aims of the air quality strategy are:

- to ensure that the air breathed by residents and visitors to Exeter is of the highest possible quality and without unacceptable risk to health;
- to ensure that air quality issues are identified, considered and taken into account by the Council in order to secure more sustainable forms of development.

2.7 Sections 3 through to 6 describe the air quality work currently undertaken by the Council. They detail the main air quality legislation, recent developments in this field and the measures that the Council has taken (or will take) to implement them. Section 7 outlines the overall approach and the key aims of the air quality strategy, while Section 8 identifies the principal objectives of the strategy and summarises the proposed approaches to delivering and monitoring them.

## **3. LOCAL AIR QUALITY MANAGEMENT**

3.1 The Environment Act 1995 and the associated regulations (the Air Quality (England) Regulations 2000 and the Air Quality (England) (Amendment) Regulations 2002) impose a duty on local authorities to review the air quality within their districts on a regular basis. Air



quality within the local authority area must be assessed and compared with health-based objectives which have been set by the Government and which relate to seven key pollutants (See Appendix 1).

- 3.2 If there are any locations in an authority's area in which an objective is unlikely to be met within a specified period, and, if members of the public could be exposed to the poor air quality in such a location, an 'Air Quality Management Area' (AQMA) must be designated. Possible measures to improve air quality within that management area should then be reviewed within an Air Quality Action Plan. In total, 232 Local Authorities have declared AQMAs, the majority of which are the result of traffic-related nitrogen dioxide concentrations. These include five other Devon authorities and encompass areas as diverse as Cullompton, Norwich and Manchester.
- 3.3 Environmental Health and Licensing undertake the air quality review process each year according to a timetable set out by the Government. A network of 62 air pollution monitors, along with computer models, is used to assess air quality in Exeter. The Council operates two automatic monitoring sites. The main site is at the Royal Albert Memorial Museum (RAMM) in Queen Street, which provides continuous measurements for sulphur dioxide (SO<sub>2</sub>), ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), carbon monoxide (CO) and small particles (PM<sub>10</sub>). The data from the O<sub>3</sub>, and NO<sub>x</sub> analysers are included in the DEFRA AURN network (Exeter Roadside site), but the PM<sub>10</sub>, SO<sub>2</sub> and CO are not. The second automatic analyser site is at Alphington Street, which measures PM<sub>10</sub> concentrations.
- 3.4 Both the PM<sub>10</sub> analysers are TEOMs. The TEOM method of measuring particulates has failed the DEFRA equivalence test, however advice from DEFRA is that Local Authorities need not replace TEOMs immediately unless PM<sub>10</sub> concentrations are close to the objective level. In Exeter, the objective level for particulates is not likely to be exceeded and therefore the two TEOMs are still being used. When they are due for replacement, care will have to be taken to ensure that any new equipment does meet the equivalence criteria.
- 3.5 Graphs showing the recent trends in concentrations of carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), particulate matter (PM<sub>10</sub>), sulphur dioxide (SO<sub>2</sub>) and ozone (O<sub>3</sub>) are included at Appendix 4. These show that air quality is generally very good and concentrations of all pollutants measured are stable or decreasing (with some inter-annual variability).
- 3.6 Nitrogen dioxide is the only pollutant where compliance with the Government's National Air Quality Strategy 2000 objective is not attained in all parts of the city, although in the majority of the city concentrations are generally low. However evidence of the health impacts of local air pollutants such as fine and ultra-fine particles (PM<sub>10</sub> and PM<sub>2.5</sub>) as well as nitrogen dioxide is growing, even where concentrations are low. Public Health England have estimated that in Exeter PM<sub>2.5</sub> concentrations result in 42 additional deaths per year<sup>4</sup>. The young, the old and those with existing medical conditions will be those most affected.
- 3.7 Although the majority of national air pollutant objectives are met in Exeter, there is a need to reduce traffic emissions generally, and emissions of nitrogen dioxide specifically along the five main arterial routes into the city. This has resulted in the legal designation of an Air Quality Management Area (AQMA) for areas in very close proximity to some of the main routes into Exeter. A map showing the location of this area can be seen in appendix 5. This plan also shows the monitoring locations. The yellow stars indicate those locations where an exceedence of the annual average NO<sub>2</sub> objective was measured in 2014.
- 3.8 The creation of this area enables the Council to develop and focus policies designed to protect and improve our air quality. These have been formalised within a detailed Air Quality Action Plan for Exeter, which aims to reduce pollution by cutting congestion on the main routes into the city. The Council has worked closely with Devon County Council (the

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<sup>4</sup> Public Health England, PHE-CRCE-010: Estimating Local Mortality Burdens associated with Particulate Air Pollution 2014. <http://www.hpa.org.uk/Publications/Environment/PHECRCEReportSeries/PHECRCE010/>

Highways Authority) to produce the Action Plan, which is available to view at <http://www.exeter.gov.uk/index.aspx?articleid=15176> . The AQAP has been submitted to and accepted by the Department for Environment, Food and Rural Affairs (DEFRA). From this, one can conclude that Exeter's Air Quality Action Plan is a robust document.

3.9 As part of the AQAP, an Exeter Low Emission Strategy for 2015 to 2018 was published in 2015. It seeks to reduce transport emissions of nitrous oxides (NO<sub>x</sub>) and contribute towards meeting the EU limit values for NO<sub>2</sub>, whilst also reducing emissions of particulates, noise and carbon dioxide (CO<sub>2</sub>). The strategy will improve connections between the work done by air quality officers and public health specialists. It will consider both local air quality and climate change issues to ensure that policies are beneficial to both.

3.10 The strategy contains actions that are arranged under 6 themes:

- Exeter City Council actions
- Business and employer actions
- Commuting / personal travel
- Reducing congestion on roads
- Encouraging low emission vehicles
- Health and awareness

These actions will be undertaken by Exeter City Council and key stakeholders including Devon County Council during the period 2015 to 2018 to ensure that the city continues to grow and prosper, and that planned development is delivered as sustainably as possible.

#### **4. ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2010**

4.1 Certain types of industrial and waste disposal processes must be permitted under the above regulations in order to operate legally. The authority responsible for issuing the permit is either the Environment Agency or Exeter City Council, depending on the type of process involved. All processes which fall under Parts B or A2 of the regulations are regulated by the Council.

4.2 Environmental Health and Licensing are currently responsible for the regulation of a total of 36 Part B and 3 A2 processes (see Appendices 2 and 3). The permit applies controls on the levels of prescribed substances that may be emitted to the atmosphere, or in the case of A2 installations, to the three media of air, land and the water environment. Operators of the processes must provide detailed information on monitoring and controls to prevent or minimise emissions based on the principle of 'Best Available Techniques' (BAT). The documentation for all Part B and A2 permitted processes in the Exeter is available on a public register as required by statute.

4.3 Officers work closely with these businesses to ensure that their impacts on the environment are minimised. Permitted premises are visited by officers to ensure compliance with the conditions contained within the permit. Furthermore all complaints relating to these processes are thoroughly investigated and if necessary enforcement action will be taken if there is a breach of a condition. This role plays an important part in the protection of local air quality. In general there is good compliance by permitted premises within Exeter.

4.4 There are three Part A1 processes in Exeter, detailed below, which are regulated by the Environment Agency:

<b>SITE</b>	<b>ADDRESS</b>	<b>SUBSTANCE</b>
South West Metal Finishing	Alphinbrook Road, Marsh Barton, Exeter, EX2 8TJ	Acids
Exeter Power	Kenton Place, Marsh Barton, Exeter	Power Station
Bocm Pauls Limited	Kestrel Way, Sowton, Exeter, EX2 7LN	Animal Feed Compounding

Environment Agency officers undertake a similar role to that of Council officers and inspect these processes to check compliance with permit conditions. The permit will ensure that pollution from these processes is prevented, or where that is not practicable, minimised.

## **5. AIR QUALITY COMPLAINTS AND ADVICE REQUESTS**

- 5.1 The Environmental Protection Act 1990 Part 3 requires local authorities to inspect their districts for the presence of any statutory nuisance, to investigate complaints alleging nuisance and to serve an abatement notice where it finds that a statutory nuisance exists. As far as air quality is concerned, this section of the Act means that the Council is obliged to check for, and investigate, incidents of nuisance arising from smoke, fumes, odours and dust.
- 5.2 The Clean Air Act 1993 prohibits the emission of dark smoke from any industrial or commercial premises except for processes prescribed for control under the Environmental Permitting regime (see section 3 above) which are exempt from all parts of the Clean Air Act. It also deals with pollution from smoke, grit, dust and fumes from furnaces and the creation of smoke control areas.

### **Current Activity in Exeter**

- 5.3 In the year 2014/15 over 200 requests regarding air quality issues were received by Environmental Health and Licensing. The majority of domestic air quality complaints regarding sporadic events cannot be easily resolved using the statutory nuisance provisions of the Environmental Protection Act 1990 due to problems in gathering adequate evidence. Problems arising from a fixed, continuous commercial or industrial source are easier to quantify but the solutions are often complex and expensive. Also, if businesses can show that they are using the 'best practicable means' to reduce the impact of a nuisance, the local authority cannot successfully pursue legal action against them.
- 5.4 There are no bye-laws relating to bonfires, however, officers from Environmental Health and Licensing do investigate any complaints about bonfires and other smoke problems and offer appropriate advice to both the complainant and the person causing the complaint. In cases where a person has repeated bonfires, action under the statutory nuisance provisions of the Environmental Protection Act 1990 can be considered.
- 5.5 Approximately 60% of the City is covered by Smoke Control Areas which restrict the type of fuel and type of appliance that may be used in domestic premises. There are no plans to extend this any further as sulphur dioxide levels, the prime pollutant that the areas seek to control, are no longer a problem in the City.
- 5.6 Investigating complaints about air quality related statutory nuisances, such as smoky bonfires, odours and smoke from domestic chimneys, is a significant aspect of the Council's work. This statutory work provides an opportunity to educate through liaison and enforcement. All complaints are investigated and officers will apply the appropriate level of enforcement in line with the Environmental Health and Licensing enforcement policy in order to protect public health and the air quality in the city.
- 5.7 There were no significant air pollution incidents identified from the investigations carried out in relation to service requests received during 2014/15; this is consistent with previous years and illustrates that in general there are few air pollution problems in Exeter from activities in domestic and commercial premises.

## **6. AIR QUALITY AND THE PLANNING PROCESS**

- 6.1 The National Planning Policy Framework (NPPF) describes planning policy. It places a general presumption in favour of sustainable development, based on local development plans. The NPPF contains twelve core planning principles, one of which is that planning

should “*contribute to...reducing pollution*”. Planning decisions should prevent unacceptable risks from air pollution, by ensuring that new development is appropriate for its location. The effects of pollution on health, and the sensitivity of the area and the development should be taken into account. With particular reference to air quality, the NPPF states that:

*“Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan”.*

6.2 The NPPF is supported by online Planning Practice Guidance (PPG), which explains that:

*“Assessments should be proportional to the nature and scale of development proposed and the level of concern about air quality”.*

It also provides examples of the types of measures to be considered. It states that:

*“Mitigation options where necessary, will depend on the proposed development and should be proportionate to the likely impact”.*

Guidance also makes it clear that the controls under the planning and pollution control regimes should complement rather than duplicate each other.

6.3 Officers in Environmental Health and Licensing will closely liaise with Planning Services to ensure that air quality issues are taken into consideration at both the development and adoption of the Council’s Development Plan documents and policies, and when Members consider planning applications.

### **Transport Management**

6.4 The third local transport plan (LTP3) is the mechanism by which Devon County Council will identify, program and implement infrastructure schemes and allocate funding for sustainable transport. The LTP3 sets out an overall vision for a 15 year timespan, with objectives that include the following:-

- delivering and supporting new development and economic growth;
- working with communities to provide safe, sustainable and low carbon transport choices;
- strengthening and improving the public transport network; and
- making Devon the “place to be naturally active”.

6.5 Specific measures are described in the Exeter Strategy. Under the headings of “Improving access to the city centre” and “Enabling and supporting smarter travel”, this contains details of the following relevant policy areas:

- To maintain and develop a high quality bus network by implementing real-time information, smart-card technology, additional priority measures and interchanges with other transport modes.
- The Devon Metro scheme involves expanding the role of railways serving Devon, including new stations within Exeter at Newcourt and Marsh Barton and improved links from surrounding local towns.
- New Park and Ride sites to the north and west of Exeter.
- Provide charging facilities for electric vehicles at key locations and expand this network as required.
- Increase cycling and walking by the development of further targeted routes between key residential and employment areas.
- Promote car sharing and car clubs with negotiated contributions from developers to expand these schemes as required.

- Proactive traffic management involves managing peak pressures using real time displays and developing a traffic signal strategy for key corridors.
- Introduce further HGV priority measures and investigate the potential for freight consolidation centres.
- Promote healthier and sustainable travel options using a variety of media to raise awareness and provide information.
- Support existing school travel plans and work with key employers and employment areas to develop further travel plans.

6.6 There is further information on all of these measures in the Exeter Strategy. It does not however identify actual schemes or allocate funding. This is done through a series of implementation plans. In the Strategy, Devon County Council also recognises that “with funding opportunities limited, it will be necessary to negotiate contributions towards sustainable transport infrastructure from all new development, including funding for travel planning measures. Alternative sources of funding will also need to be sought and using demand management measures such as workplace parking for new developments will help generate income for reinvesting in the transport system.”

6.7 The LTP3 intends to manage the impact of future development, and to use this to deliver improvements to the current transport situation as well where possible. This is reflected in the findings of the Strategic Environmental Assessment of the LTP3, which were that it would have a low positive impact on air quality. The SEA recognises that there is high uncertainty associated with this, as the pace and timing of the delivery of development and associated infrastructure is not certain. The air quality impacts will also be affected by behavioural responses to the various measures and these can be hard to predict accurately.

6.8 Officers from Environmental Health and Licensing liaise directly with Devon County Council transport management officers and through the Devon Chief Environmental Health Officers’ Environmental Protection sub-group.

### **Development Control**

6.9 As detailed above potential impacts on air quality are a material planning consideration. On a day to day basis, Environmental Technical Officers check all planning applications for any potential impacts on air quality and developments likely to be affected by existing/potential sources of pollution, and work with the City Development to minimise any likely adverse effects.

## **7. A STRATEGIC APPROACH TO AIR QUALITY**

7.1 As identified in previous sections Exeter City Council already plays a major role in controlling the adverse effects of air pollution via its Environmental Health and Licensing Service. In addition, the Local Development Framework and development control activities help to minimise the creation of new polluting activities and promote sustainable development.

7.2 The City Council undertakes the prime role in managing local air quality and has a duty to continuously review and assess ambient air quality against specific objectives.

7.3 Local air quality management is an on-going process and, in order to facilitate accurate assessment and control of present and future air quality, it is important to adopt a strategic approach. This strategy draws together existing Council activities that will work towards achieving the prescribed objectives.

7.4 To further develop the air quality strategy two key aims have been identified:

- to ensure that the air breathed by residents and visitors to the City is of the highest possible quality and without unacceptable risk to health;

- to ensure that air quality issues are identified, considered and taken into account by the Council in order to secure more sustainable forms of development.

7.5 A series of objectives have been drawn up which support these two key aims. These objectives are explained and the approach to delivery are summarised in the following section (Section 8) of this report. Performance is measured annually against service plan targets, by documented review of the strategy and against National and Local performance indicators.

## 8. OBJECTIVES OF THE AIR QUALITY STRATEGY

OBJECTIVE	APPROACH	MONITORING AND REVIEW
<p>1. To meet the air quality objectives laid down in the National Air Quality Strategy. Where objectives are not met to work towards achieving the air quality objectives.</p>	<ol style="list-style-type: none"> <li>1. Carry out Assessments of Air Quality in line with Government timetable.</li> <li>2. Where objectives are not met declare an AQMA in line with statutory requirements.</li> <li>3. To work with Devon County Council to monitor the AQAP, submit annual reports to DEFRA within the required timetable, and review the plan in 2016.</li> <li>4. Maintain the citywide NO<sub>2</sub> diffusion tube network and annually review the locations of the tubes to ensure that they are located in relevant locations.</li> <li>5. Maintain the real-time monitoring stations located at the RAMM and Alphington Street.</li> </ol>	<ol style="list-style-type: none"> <li>1-3. Reports will be submitted to DEFRA, for approval, as required by the statutory timetable.</li> <li>4. Undertake an annual review of monitoring locations.</li> <li>5. Calibrate/maintain the equipment in line with the requirements of the national Automatic Urban Rural Network.</li> </ol>
<p>2. To implement the Low Emissions Strategy (LES) for Exeter</p>	<ol style="list-style-type: none"> <li>1. Work with Devon County Council and partners to implement the actions in the LES in accordance with the work programmes.</li> </ol>	<ol style="list-style-type: none"> <li>1. To be monitored and reported in the Service Plan.</li> </ol>
<p>3. To provide an effective service for responding to and resolving air quality complaints and enquiries.</p>	<ol style="list-style-type: none"> <li>1. To respond to service enquiries in accordance with the service standard and internal procedures.</li> </ol>	<ol style="list-style-type: none"> <li>1. To be monitored and reported in the Service Plan.</li> </ol>
<p>4. To work in partnership with operators and regulate processes permitted under the Environmental Permitting regime in line with DEFRA's requirements and best practice.</p>	<ol style="list-style-type: none"> <li>1. Inspect all prescribed processes in line with risk-ranking as detailed by DEFRA guidance.</li> <li>2. Review all prescribed processes at least once every six years.</li> <li>3. Identify and secure key pollution control improvements as specified in Process and Sector Guidance Notes through education or, if necessary, enforcement.</li> </ol>	<ol style="list-style-type: none"> <li>1-3. Monitored via the annual statistical return submitted to DEFRA and in the Service Plan.</li> </ol>
<p>5. To raise public awareness of Air Quality issues and to promote behaviour aimed at improving air quality.</p>	<ol style="list-style-type: none"> <li>1. To contribute articles on air quality to the local media and take part in national campaigns.</li> <li>2. To maintain and review the air quality information on the Council website.</li> </ol>	<ol style="list-style-type: none"> <li>1-2. To be monitored and reported in the Service Plan.</li> </ol>
<p>6. Identify and address air quality issues through the Local Development Framework and Development Control process.</p>	<ol style="list-style-type: none"> <li>1. Liaise with officers in City Development to ensure the protection of air quality is identified within the Local Development Framework.</li> <li>2. Identify and control air quality issues arising from individual planning applications through close liaison with the Development Control section.</li> </ol>	<ol style="list-style-type: none"> <li>1. Monitor development of LDF.</li> <li>2. Monitor achievement via the Service Plan</li> </ol>

## 9. CONCLUSIONS

- 9.1 The air quality monitoring undertaken by the Council shows that air quality is generally very good in the city. There is, however, a need to tackle emissions of nitrogen dioxide associated with motor vehicles along the busiest roads into the city. This has resulted in the designation of an Air Quality Management Area (AQMA) by the Council for areas in very close proximity to some of the main routes into Exeter. The need to declare an AQMA is not unique to Exeter, nationwide 232 Local Authorities have declared AQMAs, the majority of which are also the result of traffic-related nitrogen dioxide concentrations. These include five other Devon authorities and encompass areas as diverse as Cullompton, Norwich and Manchester. An Air Quality Action Plan has been developed with Devon County Council in order to implement measures which will work towards achieving the air quality objective. Progress on the implementation of the AQAP will be reported to DEFRA annually.
- 9.2 As part of the AQAP, an Exeter Low Emission Strategy for 2015 to 2018 was published in 2015, which identifies actions that will reduce transport emissions of nitrous oxides (NO<sub>x</sub>) and contribute towards meeting the EU limit values for NO<sub>2</sub>, whilst also reducing emissions of particulates, noise and carbon dioxide (CO<sub>2</sub>).
- 9.3 In addition to local air quality management, the Council has numerous other statutory duties with regard to air quality such as the management of specified 'prescribed processes'. Officers work closely with these businesses to ensure that their impacts on the environment are minimised. This role plays an important part in the protection of local air quality.
- 9.4 Investigating complaints about air quality related statutory nuisances, such as smoky bonfires, odours and smoke from domestic chimneys, is a significant aspect of the Council's work. This statutory work provides an opportunity to educate through liaison and enforcement. All complaints are investigated and officers will apply the appropriate level of enforcement in line with the Council's enforcement policies in order to protect public health and the air quality in the city.
- 9.5 Officers liaise with City Development to ensure that air quality issues are taken into consideration at both the development and adoption of the Council's Development Plan documents and policies, and when Members consider planning applications. Officers within Environmental Health and Licensing are also involved in programmes of work concerned with important sustainability issues such as climate change.
- 9.6 All of the above play an integral role in ensuring that aims and aspirations of the Exeter Vision and the Councils' Strategic Objectives are met.



## APPENDIX 1

Objectives given in the National Air Quality Strategy 2000, for the purposes of Local Air Quality Management and compliance based on 2014 data.

Pollutant	Air Quality Objective		Date to be achieved by	Compliance
	Concentration	Measured as		
Benzene	16.25 µg/m <sup>3</sup>	Running annual mean	31.12.2003	Yes
	5.00 µg/m <sup>3</sup>	Running annual mean	31.12.2010	Yes
1,3-Butadiene	2.25 µg/m <sup>3</sup>	Running annual mean	31.12.2003	Yes
Carbon monoxide	10.0 mg/m <sup>3</sup>	Running 8-hour mean	31.12.2003	Yes
Lead	0.5 µg/m <sup>3</sup>	Annual mean	31.12.2004	Yes
	0.25 µg/m <sup>3</sup>	Annual mean	31.12.2008	Yes
Nitrogen dioxide	200 µg/m <sup>3</sup> not to be exceeded more than 18 times a year	1-hour mean	31.12.2005	No
	40 µg/m <sup>3</sup>	Annual mean	31.12.2005	No
Particles (PM <sub>10</sub> ) (gravimetric)	50 µg/m <sup>3</sup> , not to be exceeded more than 35 times a year	24-hour mean	31.12.2004	Yes
	40 µg/m <sup>3</sup>	Annual mean	31.12.2004	Yes
Sulphur dioxide	350 µg/m <sup>3</sup> , not to be exceeded more than 24 times a year	1-hour mean	31.12.2004	Yes
	125 µg/m <sup>3</sup> , not to be exceeded more than 3 times a year	24-hour mean	31.12.2004	Yes
	266 µg/m <sup>3</sup> , not to be exceeded more than 35 times a year	15-minute mean	31.12.2005	Yes

## APPENDIX 2

### Industrial Processes in the Exeter designated as 'Part B' Processes with regard to the Environmental Permitting Regulations 2010

SITE	ADDRESS	SUBSTANCE
Central Garage	70A Fore Street, Topsham, Exeter, EX3 0HQ	Waste Oil
Isca Motors	Water Lane, Exeter, EX2 8BY	Waste Oil
Vanborn & Radford	Lions Holt Garage, R/O 77Victoria Street, Exeter, EX4 6JG	Waste Oil
Exeter Gearbox Centre	Grace Road Central, Marsh Barton, Exeter, EX2 8QA	Waste Oil
SHB Hire Ltd	Bradman Way, Marsh Barton, EX2 8PE	Waste Oil
Exeter Motor Works	Unit 2, 31-35 Old Tiverton Road, EX4 6LG	Waste Oil
MBS	Marsh Green Road, Marsh Barton, Exeter	Waste Oil
Nationwide Crash Repair Centre	Exhibition Way, Pinhoe, Exeter, EX4 8HT	Paint Solvent
Vospers	9 Marsh Barton Road, Marsh Barton, Exeter, EX2 8YA	Paint Solvent
Fairweather Autosshine	Vulcan Works, Water Lane, Exeter, EX2 8BY	Paint Solvent
Sowton Motor Body Repairs	10 Bittern Road, EX2 7LW	Paint Solvent
Exeter Diesels Ltd	10 Marsh Barton Road, EX2 8LW	Paint Solvent
E & JW Glendinning	Kenton Place, Marsh Barton, Exeter	Concrete batching
Hanson	16 Hennock Road, Marsh Barton, Exeter	Concrete batching
Aggregate Industries (Bardon)	Heron Road, EX2 7LL	Concrete batching
Exeter and Devon Crematorium	Topsham Road, Exeter	
System Six	3 Christow Road, EX2 8QP	Particulates
Original Style	Falcon Road, Sowton	Particulates
Johnsons	Cowley Bridge Road, Exeter, EX4 5AA	Solvents
Johnsons	76 South Street, Exeter	Solvents
Royal Devon and Exeter Hospital	Barrack Road, Exeter, EX2 5DW	Solvents
Careclean	43 Sidwell Street, Exeter, EX4 6NS	Solvents
Kenjo	139 Sidwell Street, Exeter	Solvents
Morrisons	Prince Charles Road, EX4 7BY	Solvents

**Industrial Processes in the Exeter designated as 'Part A(2)' Processes with regard to the Environmental Permitting Regulations 2010**

<b>SITE</b>	<b>ADDRESS</b>	<b>SUBSTANCE</b>
Jewson	Kestrel Way, Sowton, Exeter, EX2 7LA	Particulates, timber treatment chemicals
J L Thomas & Co. Ltd	Spring Gardens, Canal Banks, Exeter, EX2 8DX	Hypo chloride caustic soda, sulphuric acid
Howmet UK Ltd	Kestrel Way, Sowton, Exeter, EX2 7LG	Acids, Solvents

### APPENDIX 3

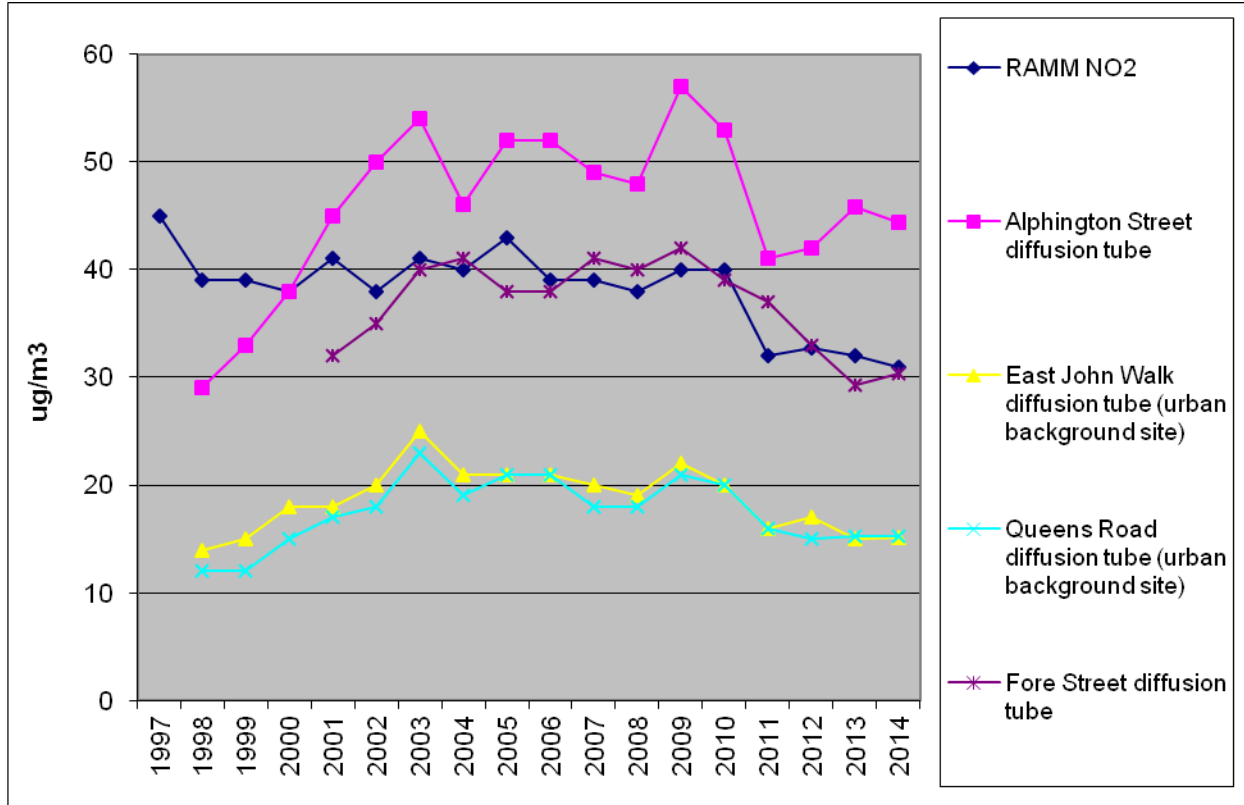
#### Processes authorised for the unloading of petrol from mobile containers into storage at service stations

SITE	ADDRESS	SUBSTANCE
J Sainsbury's (Pinhoe) Petrol Station	1 Hill Barton Road, Pinhoe, Exeter, EX1 3PF	Petrol and Diesel
Alphington Service Station (Esso)	Alphington Road, Exeter, EX2 3NA	Petrol and Diesel
Pinhoe Garage Ltd	Main Road, Pinhoe, EX4 8HR	Petrol and Diesel
Tesco Filling Station	Exeter Vale Shopping Centre, Russell Way, Exeter, EX2 7EZ	Petrol and Diesel
J Sainsbury's (Alphington) Petrol Station	Alphington Road, Exeter	Petrol and Diesel
Shell Countess Wear Garage	399 Topsham Road, Countess Wear, Exeter, EX2 6HA	Petrol and Diesel
University Garage (Esso)	Cowley Bridge Road, Exeter, EX4 5AD	Petrol and Diesel
Tesco Express	85 Fore Street, Heavitree, Exeter, EX1 2RN	Petrol and Diesel
Granada Services (Esso)	M5 Service Station, Sowton, Exeter, EX2 4AR	Petrol and Diesel
Dunns Motors	Trusham Road, Marsh Barton, Exeter, EX2 8RL	Petrol and Diesel
Birchy Barton Filling Station	Honiton Road, Exeter, EX1 3EB	Petrol and Diesel
Morrisons	Prince Charles Road, Exeter, EX4 7BY	Petrol and Diesel

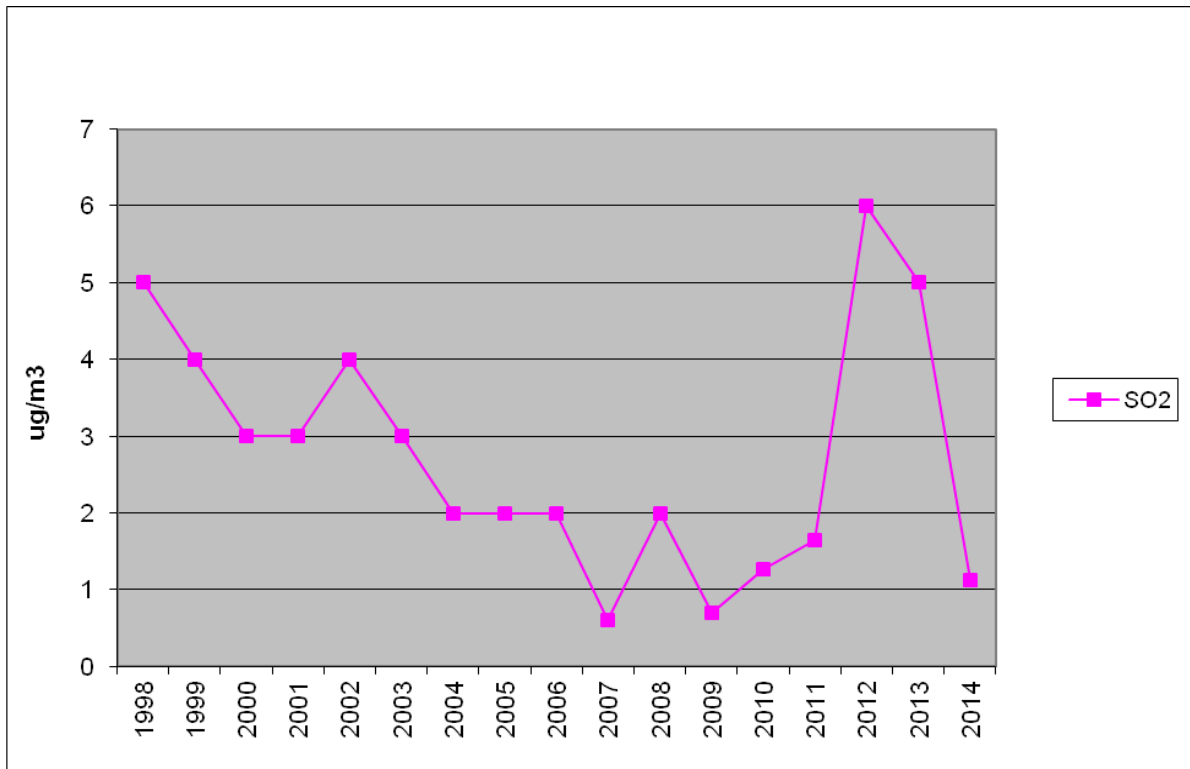
**APPENDIX 4**

**Graphs showing the trend in pollutant concentrations in Exeter. These demonstrate that air quality is generally very good and concentrations of all pollutants measured stable, or decreasing (with some inter-annual variability)**

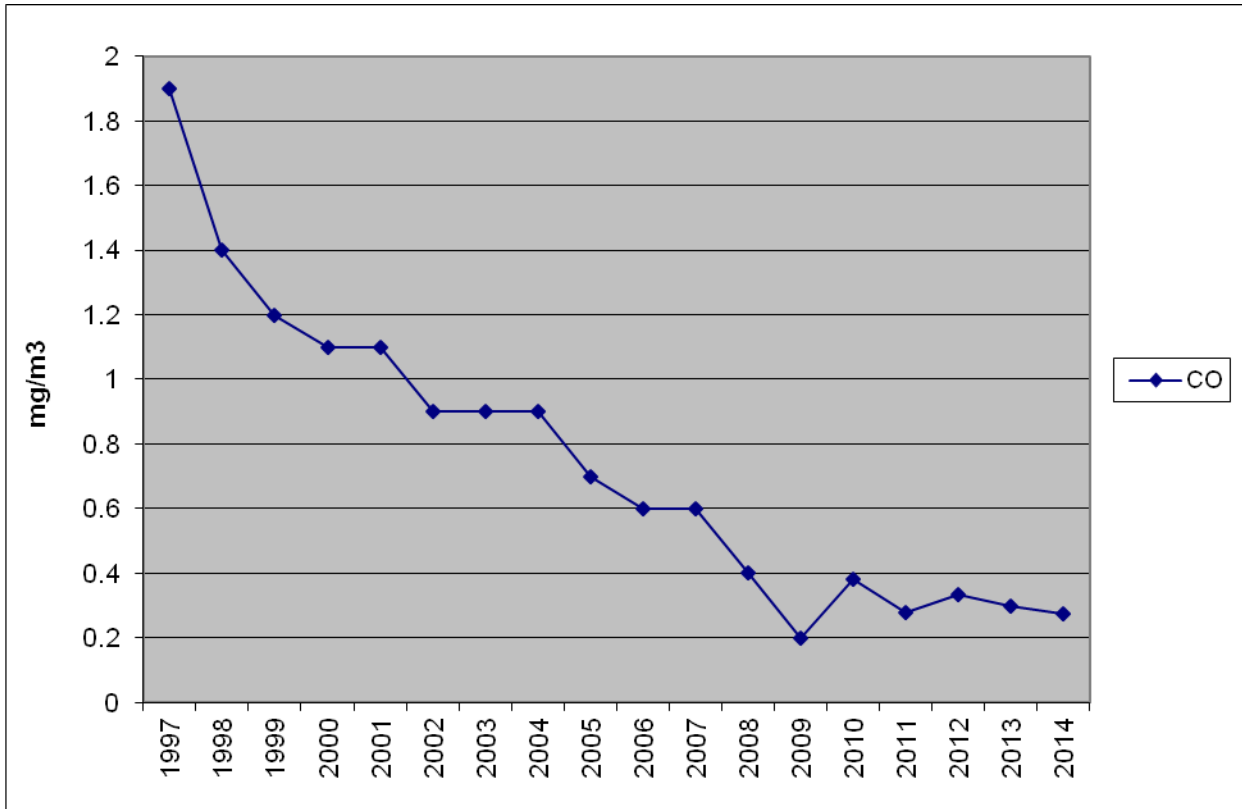
Historic Nitrogen Dioxide Concentrations at RAMM Queen Street and Four Long-Term Diffusion Tube Locations.



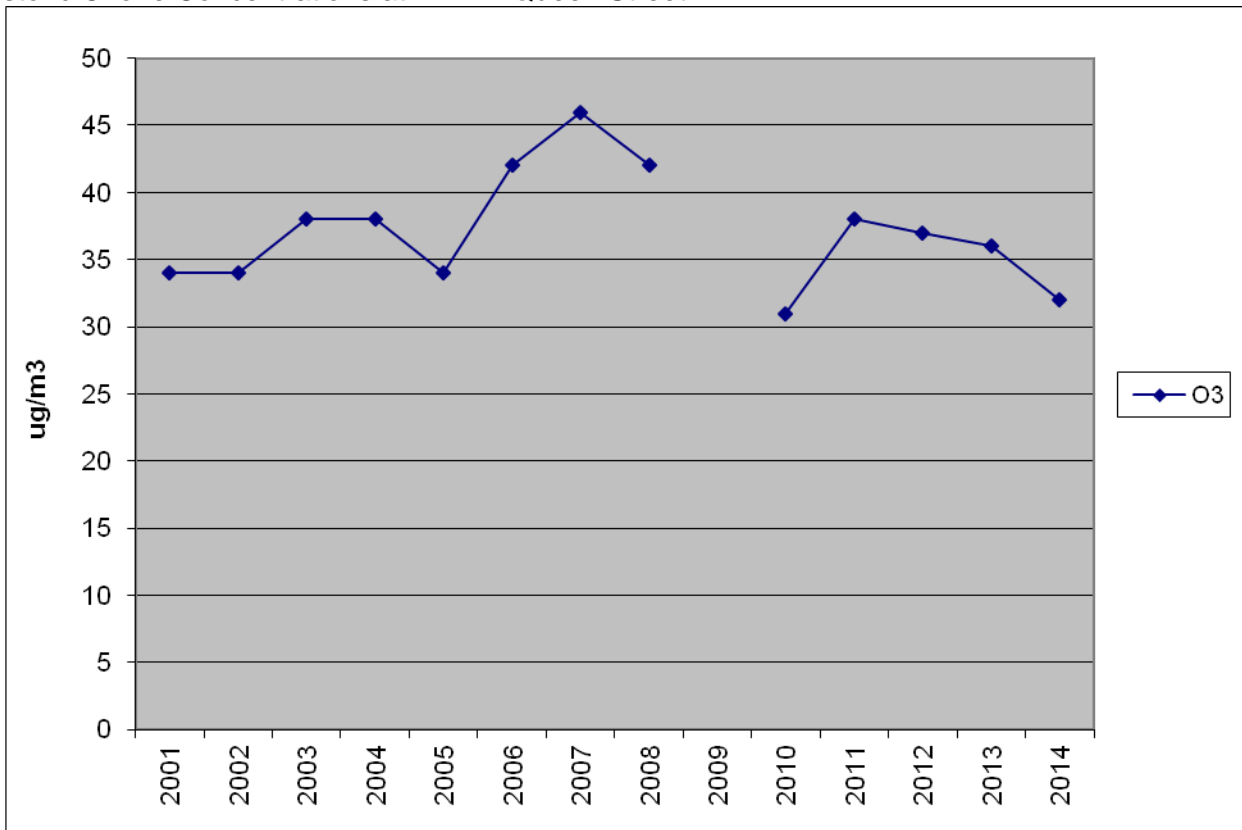
Historic Sulphur Dioxide Concentrations at RAMM Queen Street



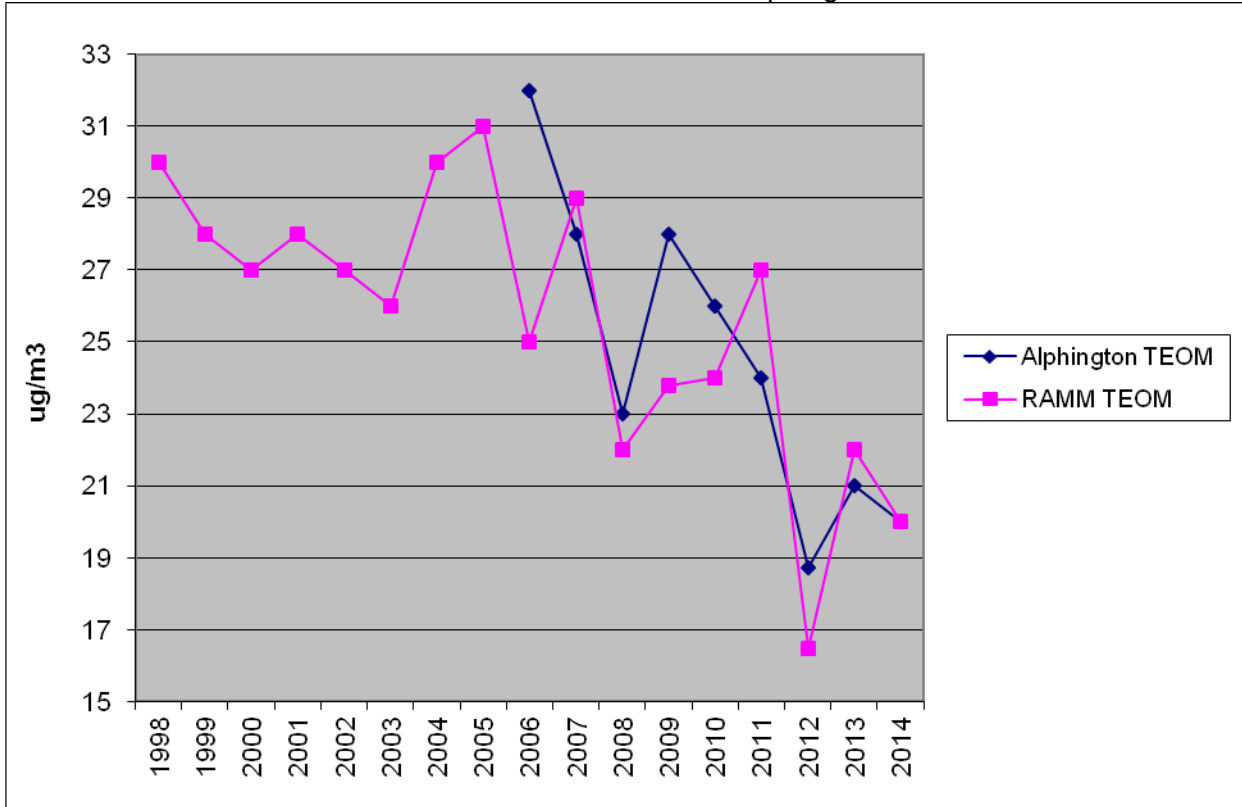
Historic Carbon Monoxide Concentrations at RAMM Queen Street



Historic Ozone Concentrations at RAMM Queen Street



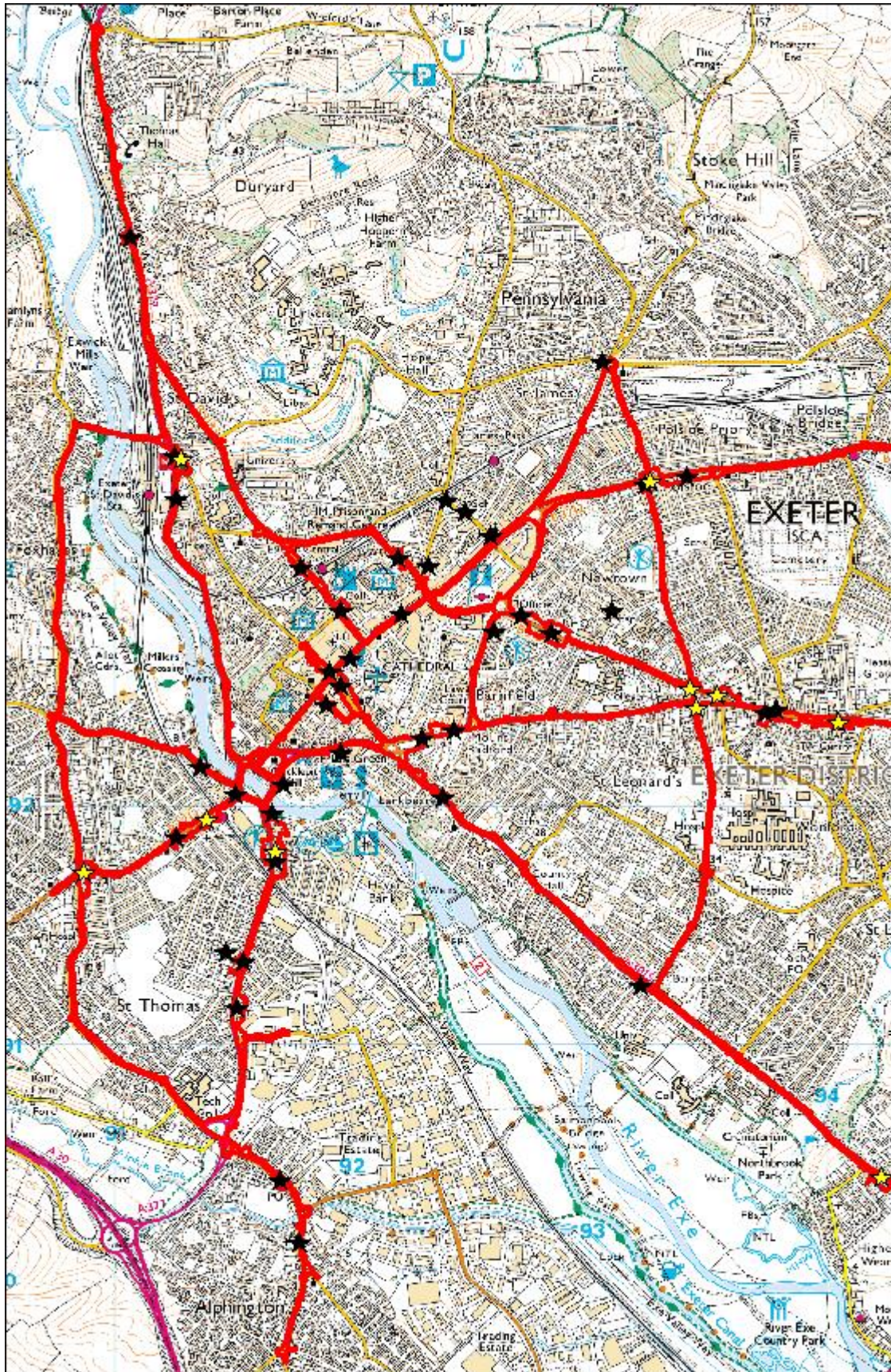
Historic PM10 Concentrations at RAMM Queen Street and Alphington Street TEOMs





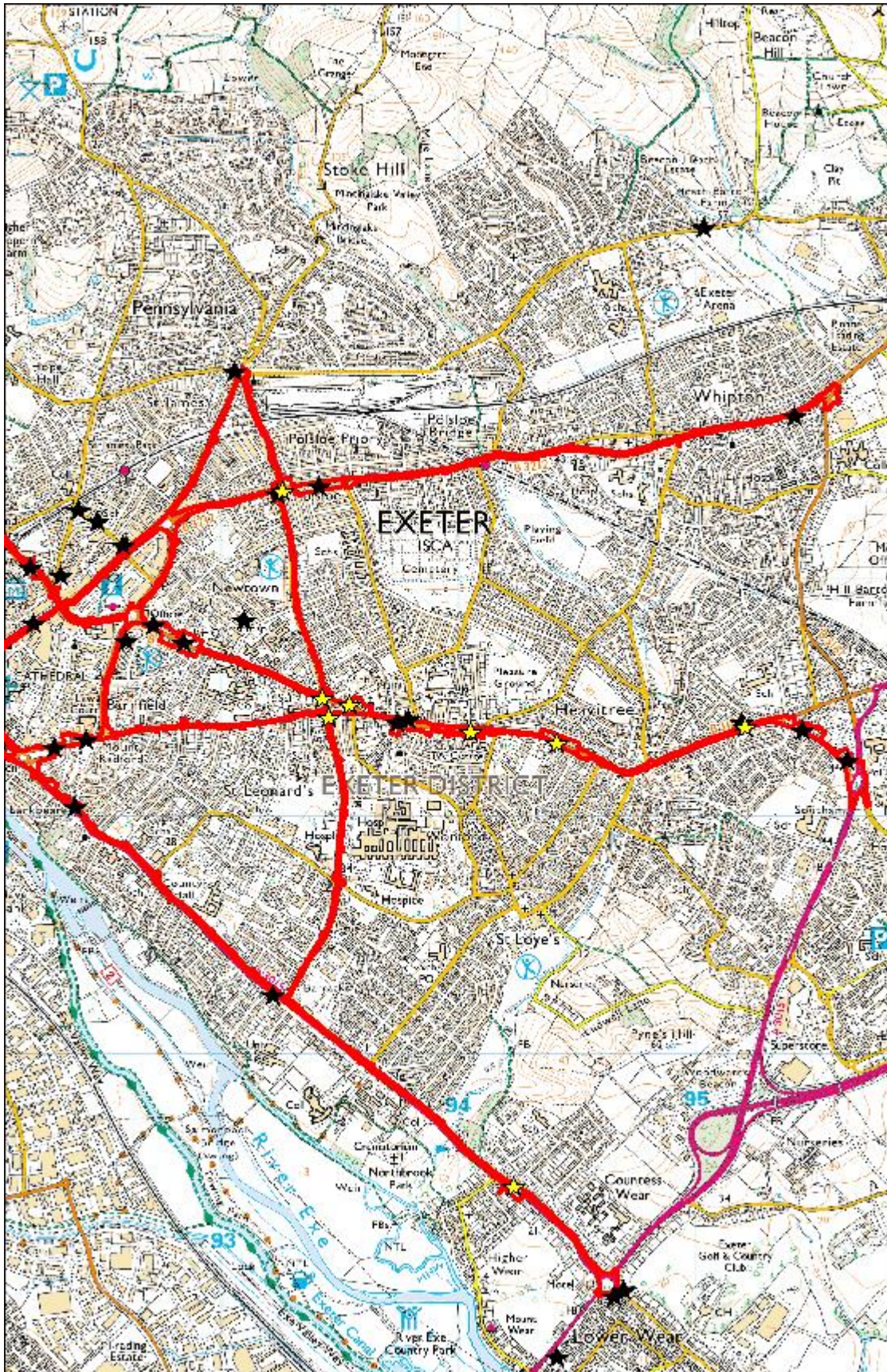
APPENDIX 5

Maps showing AQMA Boundary, Monitoring Locations and Exceedences of NO<sub>2</sub> Annual Average Objective in 2014 (exceedences shown in yellow)



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## REPORT TO SCRUTINY COMMITTEE ECONOMY & EXECUTIVE

Date of Meeting: 12<sup>th</sup> November 2015 and 17<sup>th</sup> November 2015

Report of: Museums Manager & Cultural Lead

Title: New Income Generating Initiatives at RAMM: Donations Campaign and Temporary Exhibition Admission Charges.

### Is this a Key Decision?

No

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

### Is this an Executive or Council Function?

#### Executive

#### 1. What is the report about?

- 1.1. This report focuses on two new initiatives at the Royal Albert Memorial Museum (RAMM) designed to generate income to support the museum's 'core' costs and service delivery. These proposals are made in the context of the financial challenges faced by the local authority and the service review this had driven. The first initiative relates to the introduction of admission charges for some temporary exhibitions. The second, provided to Members for information, concerns a new donations campaign encouraging increased levels of individual giving.

#### 2. Recommendations:

That Scrutiny Committee - Economy requests the Executive to approve the following:-

- 2.1. The introduction of a visitor admission charge in relation to temporary exhibitions at RAMM. The first ticketed temporary exhibition planned will be the International Garden Photographer of the Year which will take place 23 April – 28 August 2016;
- 2.2. Delegated authority to be given to the Museum Manager, in consultation with the Portfolio Holder, to decide when an admission charge should be applied to any of the temporary exhibitions at RAMM;
- 2.3. To agree that a follow up report is produced for Members to present the results and findings around charging for International Garden Photographer of the Year. Based on the findings of this first exercise, a stepped approach to charging for some exhibitions may be developed. At this stage it is considered likely that charges will be attached to selected and not all temporary exhibitions. (See paragraph 8.2); and
- 2.4. To note the related donations campaign, which also invites visitor's financial contribution.

#### 3. Reasons for the recommendation:

- 3.1. At present entry to the museum, permanent displays, temporary exhibitions and some events and activities are free, as well as experiences to enrich the visit, including Wi-Fi, activity bags for children and handling activities. General admission and many activities will remain free to visitors.

- 3.2. Income generation at RAMM, with the aim of reducing the City Council's revenue expenditure on the service, has been the subject of several discussions with Members.
- 3.3. A number of activities are currently offered through paid tickets, these include tours, talks, lectures, evening events and workshops. In delivering these activities RAMM seeks to support its core costs.
- 3.4. In this report's proposals general admission to the Museum and many other 'enrichment' activities will remain free to visitors.
- 3.5. New internal systems will support our income generation activity. A new Customer Relationship Management System will allow us to gather and manage information about visitors, informing our planning around audience development, future programming, marketing and fundraising. The systems will also enable the streamlined management of financial transactions taking place in the museum and online; producing better management and operational information. This system has been separately and externally funded.

#### **4. What are the resource implications including non financial resources.**

- 4.1. The public's acceptance of exhibition charging will be related to their wider understanding of the funding challenges facing the local authority; service transformation and the need for cost savings in all areas of council delivery. The introduction of charges is a significant change for Exeter residents and will need careful communication corporately and by RAMM. Input from the City Council's Communication Team and potentially Members will be required.
- 4.2. Part of RAMM's task will be to communicate the need for the public's support, given recent investment received and a track record of success. A proactive donations campaign will highlight the wider need for visitors to help provide financial support. It will differ from the current 'Ask' of visitors by concentrating instead on the benefits of RAMM as a shared public space and experience for visitors. It draws on recent research from the New Economics Foundation which identified the key factors influencing mental health, well being and happiness. RAMM's donation campaign highlights to visitors how their visit has benefitted them and others and encourages a reciprocal donation as a result.
- 4.3. Selling and issuing tickets for temporary exhibitions will involve some setup costs. RAMM plans to minimise any additional costs by encouraging ticket purchases through the museum's existing till points and advance on-line sales. However the need to respond to 'impulse' decisions by visitors in the gallery is recognised and we plan that tickets should be immediately available from the Museum Assistant on duty. Costs involved will include mobile PDQ credit card reader (£199.99 for three month plus £23.00 for set up and collect fee) and tablet (existing equipment) for collecting ticket sales information. These set up costs will be covered through initial sales income. It will require IT support from Strata. The immediate ticket sales will create additional demands on the Museum Assistant Team which we plan to mitigate through the employment of casuals when necessary and front of house volunteers. Our calculations are based on one additional member of front of house staff (casual staff member) joining the Visitor Services Team for the duration of the charging exhibition.

#### **5. Section 151 Officer comments:**

- 5.1 The section 151 Officer is satisfied that the costs required to set up the scheme are modest. However, the returns are also modest and it is not therefore proposed

necessary to change the Museum budget at this stage. If approved and the scheme is successful, then this will be reviewed as appropriate.

## **6. What are the legal aspects?**

6.1 This information will be sought and reported back to Committee if any issues arise.

## **7. Monitoring Officer's comments:**

7.1. The Monitoring Officer recommends that a policy showing which type of exhibition would attract an entry fee and how much is to be charged should be introduced following the consideration of the content of the report referred to in paragraph 2.3 above.

## **8. Report details:**

8.1. These proposals form part of RAMM's drive to make a positive income contribution to offset its revenue costs. As a major area of council expenditure, RAMM was a significant feature in the questions that formed the Cultural City section of the 'Stronger Exeter' consultation that took place in autumn 2014. This provided direct public feedback about the value the community placed on the museum but also their willingness (or not) to accept charging for different areas of service. Whilst there was strong resistance to the introduction of a general admission charge, the consultation results showed a preparedness to pay for special exhibitions. 833 people said 'charging for entry to special exhibitions' should be considered, 452 disagreed, 202 people were unsure. On this basis the museum now wishes to explore the introduction of paid ticketing for some temporary exhibitions.

8.2. The proposal is to commence by introducing a charge for the International Garden Photographer of the Year 23 April – 28 August 2016. The International Garden Photographer of the Year is a well known, popular exhibition which will bring with it an audience of its own. This is a touring exhibition, many of the venues showing it are National Trust properties, as well as venues which have an admission cost.

8.3. After this initial exercise and further report to Members, our intention would be, (subject to their approval) to identify exhibitions within RAMM's mixed programming that are felt to have particular potential for footfall and income generation, whether this is through subject appeal; high profile partnership, known interest groups, media links and unique selling properties. Other exhibitions in the programme are likely to remain free admission, for instance those based on RAMM's collections; community shows or those with specific external funding constraints. Careful consideration would need to be given to ticketing for selling shows which generate commission for ECC, as this may inadvertently restrict number of 'would be' purchasers.

8.4. Many other museums and galleries have already implemented exhibition charging, so RAMM is introducing practice already in place in other UK towns and cities. Evidence from national and other regional museums is that a 10% 'conversion' rate is typical (i.e. 10% of visitors coming to a free admission museum will pay the ticket price for a special exhibition). RAMM's particular visitor pattern of frequent visits from a core local audience, may mean the conversion rate is as low as 5%. RAMM is undertaking visitor sampling over the autumn to establish the proportion of current museum visitors who also see the temporary exhibitions. (At present our automated counting only collects data at entry/exit points, not within museum's spaces). This baseline information will enable RAMM to understand its match with experience nationally, the impact of

charging on visitor patterns and the delivery of other performance indicators (for external funding).

8.4.1. For illustrative purposes we can provide estimated income which could have been generated on a mixture of past exhibitions, offset against exhibition costs, please note it is not always possible to track the complete final spend due to the complexities of the financial system.

Exhibition	Description	Cost*	Potential visitor numbers	Potential income** 10% conversion	Outcome (net) **	Potential income *** 5% conversion	Outcome (net) ***
Paper Persuaders 27 Sept 2014 to 22 Mar 2015	Bought-in touring exhibition	£2,500 - £6,500 staffing = <b>£9,000</b>	6,948	£20,844	£11,844	£10,422	£1,422
Art & Soul 22 Nov 2014 to 12 Apr 2015	RAMM generated major loan exhibition supported by £40,000 from Arts & Humanities Research Council via University of Exeter	£6,000 - £6,500 staffing = <b>£12,500</b>	8,383	£25,044	£12,544	£12,574	£74.00
Benedict Rubbra 2 May to 9 Aug 2015	Individual local artist	£1,000 - £6,500 staffing = <b>£7,500</b>	5,990	£17,890	£10,470	£8,985	£1,485
West Country to World's End 26 Oct 2013 to 2 Mar 2014	RAMM generated major loan exhibition supported by £40,000 from Paul Mellon Fund for British Art	£21,000 - £6,500 staffing = <b>£14,500</b>	8,453	£25,359	£10,859	£12,679.50	-£1,820
Social Fabric 23 May to 6 Sept 2015	Touring show from British Museum, with some RAMM content, costs largely borne by BM	£2,000 - £6,500 staffing = <b>£8,500</b>	7,732	£23,196	£14,696	£11,598	£3,098

\*These costs do not include: curation, conservation, design, marketing, promotion and administration. These are provided by in-house staff.

Staffing - The cost for one casual each day is @ £6500 (*Calculation: £8.02 x 7.5hrs per day = £60.15 x 108 days [18 six day weeks] = @ £6500*)

\*\* Based on 10% of visitors attending RAMM over the time period of the exhibition visiting the gallery space and 50% of visitors purchasing a full price ticket £4 and 50% a concession rate of £2.

\*\*\* Based on 5% of visitors attending RAMM over the time period of the exhibition visiting the gallery space and 50% of visitors purchasing a full price ticket £4 and 50% a concession rate of £2.

- 8.5. Visitor response to charging for International Garden Photographer of the Year will be monitored to inform our approach to potential charging in the future. The 'experimental' nature of this initial exercise is recognised and we expect to learn and refine our approach depending on visitor response to the principle of charging; their propensity to purchase tickets; level of charging and satisfaction rates. Initial work to develop systems to support and market ticketing for International Garden Photographer of the Year will form the basis of this initiative for other shows.
- 8.6. In the longer term we anticipate costs per ticket will vary for each temporary exhibition according to size and nature of exhibition and the cost of hosting or commissioning. Subject to Committee approval of delegated authority, Museums Manager would agree ticket pricing in consultation with h Portfolio Holder.
- 8.7. For International Garden Photographer of the Year the following ticket prices are envisaged.
- Adult: £4.00
  - Concessions: £2.00 (Students, X-card holders, supporter groups such as the Friends, Art Fund)
  - 19s and under: Free (given the requirement for full time education)
  - Groups: 1 person in 10 goes free

Which could equate to:

Exhibition	Description	Cost*	Potential visitor numbers	Potential income** 10%	Outcome ** (net)	Potential income *** 5%	Outcome *** (net)
International Garden Photographer of the Year	Bought-in touring exhibition	£5,655 - £6,500 = <b>£12,115</b>	5,000	£15,000	£2,885	£7,500	-£4,615

- 8.8. It is important to note that a visit to the museum remains free. As an example the space used for the International Garden Photography of the Year exhibition equates to only 6% of the total gallery space within the museum. So by far the larger percentage of the museum space is free to enter.
- 8.9. **DONATIONS CAMPAIGN:** a donations campaign designed to encourage individual giving will be launched in late 2015 and will be underway at the time of exhibition charging introduction. The campaign does not concentrate purely on the act of giving money, it is a larger campaign which describes the benefits of RAMM as a valuable shared space for visitors, providing the essential elements known to generates sense of wellbeing and happiness (as defined by the New Economics Foundation). Locally, our campaign describes them as the 5 STEPS TO HAPPY, which are viewable in the museum and supported by an online campaign, which provides us with another stream of fresh customer data. The 5 STEPS TO HAPPY are:

1. Be Generous – be of a giving nature
2. Be Social – connect with others
3. Stay Active – take care of yourself
4. Keep Learning – keep your mind keen
5. Take Notice – look around you.

8.10. The campaign elements are shown in the museum, highlighting opportunities and activities offered by the museum to develop these skills. This campaign gives a different insight into the value of RAMM, not just as a museum space, but a service which also delivers well being benefits to individuals and the community.

8.11. Through this campaign we will highlight donations boxes and the need to donate, as well as activities available in the museum including volunteering opportunities and ticketed events.

8.12. Museum staff will have been briefed to explain the need for donations within the context of museums. A Frequently Asked Questions (FAQs) paper – see appendix 1 provides answers to anticipated questions relating to temporary exhibitions.

## **9. How does the decision contribute to the Council's Corporate Plan?**

9.1. These proposals are based on the findings of 'Stronger Exeter', a public consultation exercise described in the Council's Corporate Plan 2014/15 update. The plan recognised that 'in order to meet the challenge over the next three years fundamental changes to the services in Exeter will be needed'. The introduction of exhibition charges is part of the changes necessary to meet the wider financial challenges.

## **10. What risks are there and how can they be reduced?**

10.1. There is likely to be some public concern about the introduction of a charge for a service that was previously free. This will need careful communication and planning within the context of the wider funding challenges facing local government and the precedent established by other museums/galleries charging for similar services elsewhere. The City Council's continuing commitment to cultural investment delivering quality of life benefits for residents, tourists and inward investment should be stressed.

## **11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

11.1. There will be no admission charge to the museum and large parts of RAMM will remain free entry (i.e. permanent collections; other temporary exhibitions, cafe etc). Concessionary rates will be offered to holders of the X-card. RAMM will continue to make a positive contribution to these social issues affecting individuals and communities. The donations campaign 'framed' around health and wellbeing will underscore the benefits the museum as a whole (and not just temporary exhibitions) is able to offer to individuals and the wider community.

## **12. Are there any other options?**

12.1. Temporary exhibitions are important drivers of museum visitor numbers which are a key performance indicator for RAMM's funders (City Council; Arts Council, England and other trusts and foundations). These exhibitions are a key component of RAMM's active programme and these proposals will help defray some of their associated costs.



The option to continue a policy of free admission remains open to Members but closes a income generating route which has already been established in other UK towns and cities.

**Camilla Hampshire**  
**Museums Manager & Cultural Lead**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

None

Contact for enquires:  
Democratic Services (Committees)  
Room 2.3  
01392 265275

## **Appendices 1**

### **FAQ's**

#### **Why do I have to pay for this exhibition?**

A survey carried out by Exeter City Council showed that people would be prepared to pay for temporary exhibitions at RAMM and that they would prefer this method of charging to an entrance fee for the museum.

#### **I didn't see that survey**

The survey, called Stronger Exeter, was carried out by Exeter City Council in autumn 2014. It was in the Express and Echo and was delivered to residencies in the city.

#### **Why does RAMM need donations?**

City Council budgets are tight – that's why people were asked for their thoughts about how money should be spent. Additional funding is also very limited so the museum needs to generate some funds through its activities.

#### **I've already paid for RAMM once in my council tax. Why do I have to pay again to see this exhibition?**

The money allocated to RAMM through the Council tax pays for the upkeep of the museum and safeguards its collections. We don't have the additional funds to bring exhibitions like this without generating some income from them.

#### **The museum has always been free before. Why are you charging now?**

In the past, we've had enough funding through Exeter City Council and other organisations. All the organisations who give us public funding have had their budgets cut, so there is less money available for RAMM. This is why we're looking at other ways to generate funds to keep the museum going and to continue to bring high quality exhibitions such as this to Exeter.

#### **I don't think this is high quality. It wasn't worth paying for. Can I have my money back?**

This exhibition is a touring exhibition put together by professional curators. We're not able to give refunds to people who've seen the exhibition, but we're very keen to hear your feedback which we'll take into account in our future planning.

#### **Now that I've paid for this exhibition, where does the money go?**

The funds generated by ticketed exhibitions go towards future exhibitions taking place within the museum, for conservation, acquisitions, activities and events.

#### **Why do I have to pay for this exhibition when the rest of the museum is free?**

A survey carried out by Exeter City Council showed that people would be prepared to pay for temporary exhibitions at RAMM and that they would prefer this method of charging to an entrance fee for the museum. That's why we're charging for some of our temporary exhibitions.

#### **Will you be charging for all exhibitions in future?**

The museum will remain free to enter. We are currently trialling ticketing for temporary exhibitions and we will take a view as to the success of the trial using feedback from visitors and evaluating income generated. It is envisaged that there will be a small number of paid for exhibitions per year with the vast majority of the museum space being free to access

#### **I can't afford £4**

We have a concession rate of £2 for people who have an X-card which supports people who are on lower incomes, are unemployed or have disabilities. Full details of the card, including eligibility and other offers and discounts is available at [www.exeter.gov.uk/X-card](http://www.exeter.gov.uk/X-card). The card is only available to Exeter residents. We also offer the concession rate to Friends of RAMM. Students with a valid NUS card and children are free.

NB – this list will be updated to respond to visitor queries.

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## REPORT TO SCRUTINY COMMITTEE ECONOMY and EXECUTIVE

Date of Meetings: 12 November 2015 and 17 November 2015

Report of: Assistant Director Public Realm

Title: Topsham Flood Alleviation Measures

### Is this a Key Decision?

No

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

### Is this an Executive or Council Function?

#### Council

#### 1. What is the report about?

- 1.1 Consideration of the provision of funding towards the cost of flood alleviation and protection measures for up to 120 properties in Ferry Road Topsham, north of St Margaret's Church, at particular risk from tidal flooding.
- 1.2 Consideration of further funding to underwrite an additional scheme to provide enhanced protection to around 50 further properties to the south of the scheme above, at the lower end of Ferry Road and The Strand.

#### 2. Recommendations:

That Scrutiny Committee - Economy requests Council to approve the following:-

- 2.1 That the Council makes a capital contribution of £20,000, towards Scheme 1 Ferry Road North, described in paragraph 8.2 below, conditional upon the community being able to raise the balance of the shortfall between grants and project cost, estimated at £80,000;
- 2.2 That the Council writes to Hugo Squire MP to establish whether there are any other funds available to meet the shortfall between grants and the project cost of Scheme 1, estimated at £80,000;
- 2.3 That the Council continues to work with community groups and with other agencies to identify external funding for Scheme 1. In addition we will work with the beneficiaries of the scheme with a view to them raising the shortfall between the cost and the grants available; and
- 2.4 That the Council underwrites up to £15,000 of the cost of Scheme 2: Ferry Road South, described in paragraph 8.4 below to enable the works to be commenced during the current financial year. This amount will be conditional upon suitable guarantees from the Topsham Emergency Group being in place for the repayment of the money.

#### 3. Reasons for the recommendation:

- 3.1 Funding for the two flood alleviation schemes outlined in this report is not available within existing budgets. The City Council has no direct responsibility for the impact of flooding except where it is the riparian owner of affected land and where it has responsibilities within the Civil Contingencies Act 2004.

**4. What are the resource implications including non financial resources.**

- 4.1 Scheme 1 requires a capital contribution of £20,000 subject to community funding being found. There is no budget allocation for this work at present.
- 4.2 Scheme 2 requires £15,000 funding to underwrite the unconfirmed contribution from Topsham Emergency Group. This would be an unbudgeted capital contribution if it was eventually drawn upon.
- 4.3 The additional funding that the Council has received in terms of New Homes Bonus attributable to new housing developments has freed up funds that the Council can use to provide the funding requested.
- 4.4 Staff resources would be absorbed within existing resources to undertake the administration and coordination of funding of the schemes. Similarly, work will be required to ensure that community contributions emerge and this will require significant community engagement if the finances of the scheme are to be found.

**5. Section 151 Officer comments:**

- 5.1 The schemes if approved will be added to the current capital programme. This remains affordable to the Council.

**6. What are the legal aspects?**

- 6.1 Legal advice regarding the content of this report has not been sought from legal services.

**7. Monitoring Officer's comments:**

- 7.1 The Council is being asked to part fund a scheme for which it has no statutory responsibility. In addition it would appear that the extent of the match funding available from the local community/ householder is yet to be quantified.

**8. Report details:**

- 8.1 The Council has been asked to contribute to two flood alleviation and prevention schemes in Topsham, which is receiving greater Government priority for funding following the damage experienced in the storms of Winter 2014.

**8.2 Scheme 1: Ferry Road North**

At a total cost of £300,000, this scheme will offer flood alleviation and protection measures for up to 120 properties in Ferry Road Topsham, north of St Margaret's Church, at particular risk from tidal flooding. The maximum Government grant available is in the region of £180,000 (60%), leaving a shortfall of £120,000 to be made up by equal contributions from local authority and private funding. Devon County Council has pledged £20,000 towards this and the ability of householders to provide the money themselves is as yet unknown. As a result, in order to secure the Government grant, a shortfall of £100,000 must be secured. The contribution recommended within this report will leave some £80,000 of community/householder contributions required. The Council has no existing budget to support this scheme. There would be a modest saving in terms of the cost of emergency tidal flood

defences under normal circumstances. However the exceptional tidal events in 2014 that caused considerable damage and cost overall somewhere in the region of £320,000 was recovered from Government/ Local Levy grants.

8.3 Meetings have progressed with the Topsham Community Association and the Topsham Emergency Group however neither organisation is able to commit to a financial contribution towards the scheme.

#### 8.4 **Scheme 2: Ferry Road South**

At a total cost of £130,000, this scheme will offer flood alleviation and protection measures for around 50 properties at the lower end of Ferry Road and The Strand. £100,000 is available from the Environment Agency through the Local Levy. Devon County Council has agreed a contribution of £15,000 and Topsham Emergency Group is confident that they can raise the remaining £15,000 locally. Exeter City Council has been requested by the Environment Agency to underwrite this local contribution. The Council has no existing budget to support this scheme but revenue budgets would be used should underwriting be necessary given that the risks to the council are small and the benefits to the community significant.

8.5 Both schemes will provide greatly enhanced flood resilience, the northern area being larger but less prone to onshore wave effect. Neither scheme is dependent upon the other, each having a distinct benefit to a particular area. A map is attached at Appendix A.

### 9. **How does the decision contribute to the Council's Corporate Plan?**

- 9.1
- Keep my environment safe & healthy
  - Maintain our property assets
  - Help me run a successful business

### 10. **What risks are there and how can they be reduced?**

- 10.1 Properties along the river will continue to flood without flood resilience measures being put in place. Climate change suggests that the regularity of this will increase. The works directly benefit individual properties and if the householders and community groups are able to make a contribution to these schemes they will realise substantial benefits.
- 10.2 There is a risk that the DEFRA grant for Scheme 1 is not guaranteed and may not be allocated in 2016. This is considered to be a small risk.
- 10.3 There is a risk that the community funding for Scheme 1 will not be raised and the scheme may not be able to proceed. This is considered a significant risk.
- 10.4 There is a risk that the £15K required from local contributions for Scheme 2 may not be raised and this will be an unbudgeted call upon the Council's resources. This is considered to be a small risk.
- 10.5 There is a reputational risk in that if the council does not support the schemes the funding may be lost to the community.

### 11. **What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults,**

**community safety and the environment?**

11.1 None.

**12. Are there any other options?**

12.1 The City Council could chose to make a capital contribution of £100,000 to Scheme 1 to guarantee the DEFRA funding in 2015. However, there is no budget allocation for this. The Council could also choose not to make any funding available for either scheme. The City Council is not the Flood Authority and has therefore no direct responsibility to finance such schemes.

**Sarah Ward**  
**Assistant Director Public Realm**

Local Government (Access to Information) Act 1972 (as amended)  
Background papers used in compiling this report:-  
None

Contact for enquires:  
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01392 265275



Areas shown are indicative only. The proposed schemes follow the boundaries of land in our ownership and breaches in the tidal enclosure.



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Public Realm, Civic Centre, Exeter. EX1 1JN.

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**REPORT TO SCRUTINY COMMITTEE ECONOMY and EXECUTIVE**  
**Date of Meetings: 12 November 2015 and 17 November 2015**  
**Report of: ASSISTANT DIRECTOR PUBLIC REALM**  
**Title: MARITIME COASTGUARD AGENCY AUDIT 2015**

**Is this a Key Decision?**

No

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

**Is this an Executive or Council Function?**

**Executive**

**1. What is the report about?**

1.1 To advise Members of the outcome of the recent Maritime Coastguard Agency audit of the Port of Exeter.

**2. Recommendations:**

2.1 That Scrutiny Committee Economy notes and the Executive resolves to :  
A. Note the outcome of the Audit and  
B. Support compliance with the Port Marine Safety Code.

**3. Reasons for the recommendation:**

3.1 The Port Marine Safety Code (PMSC) supports the legislation governing the operation of the Port of Exeter. Compliance is not a statutory requirement however failure to comply would be taken into consideration should the Council be found responsible for an incident including loss, damage or personal injury sustained within the Port.

**4. What are the resource implications including non financial resources.**

4.1 Hitherto compliance with the PMSC has been an aspiration. Although, over the past several years, work has been undertaken to move to a position where our procedures are compliant, there are still a number of critical administrative processes to resolve. A robust Marine Safety Management system and further work on risk mitigation is a priority.

4.2 A report will go to the Greater Exeter Visioning Board which it is intended will lead to a collaborative approach between the three Authorities to the funding and management of the waterways.

4.3 The current provision of a Harbour Patrol was highlighted as of concern and a further report may well follow on this issue, subject to discussions at the Greater Exeter Visioning Board Officer Working Group.

**5. Section 151 Officer comments:**

5.1 There are no additional financial implications contained in this report. Any future funding agreement, which requires additional resources, would require full Council approval.

**6. What are the legal aspects?**

6.1 Compliance with the Port Marine Safety Code will assist the City Council to demonstrate that it has taken reasonable steps to comply with its statutory duties as the Harbour Authority.

**7. Monitoring Officer's comments:**

7.1 This report raises no issues for the Monitoring officer.

**8. Report details:**

8.1 Senior representatives of the Maritime Coastguard Agency visited the council between the 7<sup>th</sup> and 9<sup>th</sup> September 2015 to conduct an audit to assess the degree of our compliance the Port Marine Safety Code.

8.2 Compliance with the Code is not in itself a legal requirement however reference to the council's compliance with the Code is likely in the event of any incident or accident within the Port's jurisdiction.

8.3 Exeter is a municipal harbour authority with statutory responsibilities covering an area from Blackaller Weir to, at its furthest point, approximately 1.4 miles offshore at Exmouth.

8.4 The PMSC focuses on the safe operation of the Port and the diverse use of the Estuary, in particular, represents a significant challenge. Large commercial vessels share water space with high speed powered craft, wind powered boats and kayaks/canoes.

8.5 The Inspectors made a number of recommendations:

- To identify and appoint a Duty Holder who is accountable on behalf of the harbour authority for its compliance with the PMSC. It may be appropriate to consider forming a harbour board or similar governing body to fulfil this function
- Develop and publish a MSMS (*marine safety management system*) for Exeter Harbour Authority
- A designated person should be appointed to provide the duty holder with independent assurance directly to the duty holder that the MSMS is working effectively
- The current database of hazards considers 18 hazards with 24 accompanying control measures. This risk assessment should be reviewed, particularly the control measures, with involvement from as many harbour users or staff who actually use the canal or river as possible. The council should also consider formalising who is responsible for maintaining the database and if any appropriate training needs to be provided. The frequency of when hazards need to be reviewed also needs to be formally clarified ensuring that they are kept ALARP (*as low as reasonable practicable*). All these detail regarding risk assessment should eventually be referred to in the above mentioned MSMS, including any specific risk assessment procedures and policies.

8.6 Inspectors further recommended that within the MSMS the following issues should be considered:

- The council should consider what appropriate licensing or regulation arrangements may need to be introduced for some of the unlicensed domestic passenger or ferry boats which are currently trading within the harbour
- The Harbour Authority should consider how it could best develop and maintain an



appropriate level of maritime expertise in order to discharge and manage some of its port marine related activities

- Consideration should be given to the harbour launch crew training requirement and their specific roles and responsibilities with particular reference to any envisaged regulatory or enforcement functions.

**9. How does the decision contribute to the Council's Corporate Plan?**

- 9.1
- Keep me/my environment safe and healthy
  - Run the council well
  - Provide great things for me to see and do

**10. What risks are there and how can they be reduced?**

- 10.1
- The risk to life and the environment.  
The risk of litigation.  
Failing in our duty of care as a harbour authority.  
Compliance with the Code mitigates these risks

**11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

- 11.1
- Compliance with the Code will ensure that we have done everything reasonably practicable to make the use of our water ways safe and attractive to all age groups in an environmentally responsible way.

**12. Are there any other options?**

- 12.1
- We are not directly legally bound to comply with the Code. Compliance demonstrates that we are a responsible and competent authority.

**Sarah Ward**  
**Assistant Director Public Realm**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

None

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