

## EXECUTIVE

Date: Tuesday 2 November 2021  
Time: 5.30 pm  
Venue: Guildhall, High 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 Mark Devin, Democratic Services Officer on 01392 265477.

Due to social distancing guidance brought about by the Corona Virus outbreak, this meeting is only open to members of the public who have registered to ask questions under Standing order No. 19. For the general public [the live stream can be viewed here](#) at the meeting start time via Facebook.

*Membership -*  
Councillors Bialyk (Chair), Wright (Deputy Chair), Foale, Ghusain, Harvey, Morse, Sutton, Williams and Wood

## 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 approve and sign the minutes of the meeting held on 5 October 2021.

(Pages 5 -  
12)

#### 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

It is considered that the Committee would be unlikely to exclude the press and public during consideration of any of the items on the agenda, but if it should wish to do so, the following resolution should be passed:-

**RECOMMENDED** that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the particular item(s) on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1, Schedule 12A of the Act.

**5 Questions from the Public Under Standing order No. 19**

To receive questions relating to items on the Agenda from members of the public and responses thereto.

Details of questions should be notified to the Corporate Manager Democratic and Civic Support by 10.00am at least three working days prior to the meeting. Further information about speaking at a committee can be found here: [Speaking at a Committee](#)

**6 Requests for Information**

To consider the report of the Chief Executive & Growth Director.

(Pages 13  
- 22)

**7 The Exeter Article 4 Direction: Houses in multiple occupancy - Response to Petition**

To consider the report of the Deputy Chief Executive.

(Pages 23  
- 40)

**8 Draft Statement of Gambling Policy 2021-2023**

To consider the report of the Director Net Zero and City Management.

(Pages 41  
- 98)

The Licensing Committee considered this report on 26 October 2021 and its comments will be reported.

**9 Proposed consultation on varying the Public Spaces Protection Order**

To consider the report of the Director Net Zero Exeter & City Management.

(Pages 99  
- 110)

**10 Representation at Court: Sections 222 and 223 Local Government Act 1972**

In accordance with Section's 222 and 223 of the Local Government Act 1972, authorisation is sought to allow the following officer's to represent the Council at the County and Magistrates' Courts:-

Chris Garlick - Apprentice Solicitor; and  
Max Murphy - Apprentice Solicitor.

**Date of Next Meeting**

The next scheduled meeting of the Executive will be held on **Tuesday 30 November 2021** 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.

**Follow us:**

[Twitter](#)

[Facebook](#)

**Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265275.**

This page is intentionally left blank

## EXECUTIVE

Tuesday 5 October 2021

Present:

Councillor Bialyk (Chair)

Councillors Wright, Foale, Ghusain, Harvey, Morse, Sutton, Williams and Wood

In attendance:

Councillor A. Leadbetter (as an opposition group Leader)

Councillor K. Mitchell (as an opposition group Leader)

Councillor D. Moore (as an opposition group Leader)

Also present:

Chief Executive & Growth Director, Director Net Zero Exeter & City Management, Director Finance, Corporate Manager Democratic and Civic Support and Democratic Services Officer (MD)

In attendance:

Peter Burgess - Devon Wildlife Trust

89

### PETER EDWARDS

The Leader reported that Peter Edwards, the former Leader of the Council, was currently in hospital. He passed on his good wishes, and those of all Members, for his speedy recovery.

90

### MINUTES

The minutes of the meeting held on 07 September 2021, were taken as read, approved and signed by the Chair as a correct record.

91

### DECLARATIONS OF INTEREST

No declarations of disclosable pecuniary interests were made.

92

### QUESTIONS FROM THE PUBLIC UNDER STANDING ORDER NO. 19

No questions from members of the public were received.

93

### NORTHBROOK PARK UPDATE

The Executive received the report which provided an update on the public consultation held on the future of Northbrook Park and to consider the proposed next steps. The Northbrook Park was a strategic location, providing movement of wildlife and a green link between two green spaces, which enabled people to move between parks and traffic free routes into the Quayside, Marsh Barton and the City Centre beyond.

Peter Burgess, the Conservation Director from Devon Wildlife Trust, was in attendance to provide a presentation on the benefits of the partnership working between Devon Wildlife Trust (DWT) and Exeter City Council. Key points raised from the presentation included:-

- that more than 1,000 people had been involved in 40 events held at the valley parks and 12 volunteer Rangers had been inducted;
- the volunteer events programme had planted 400 new trees, wildflower plugs and created new ponds at Northbrook;
- the Ludwell habitats and the Mincinglake access projects were two major schemes that had recently been undertaken;
- the consultation had highlighted the future for the area, new opportunities and identified the needs of residents;
- the Environment Agency were providing additional funding to support the re-naturalising of the Northbrook stream;
- the Northbrook Park consultation had received more than 755 responses which equated to 96% of residents being in support of the vision and of those consulted, 45% had volunteered to help work on at site; and
- DWT would continue to work with its partners and stakeholders to achieve the identified proposals set out in the presentation.

In response to Members' enquiries, Peter Burgess explained:-

- it was the intention to link the walking and cycling routes within the Park to those within the wider Green Circle;
- reflecting on the very positive public response, Crowd Funding could be utilised as a means of raising some funds and other funding streams would also be explored;
- strong connections already existed from Topsham Road to the park and public suggestions for further links would be followed up; and
- whilst the location of the car park had not been widely supported the need to cater for disabled parking was recognised;

Councillor D. Moore, as an opposition leader, enquired on whether carbon emission reduction been calculated to support the enhancement of the project, in line with the 2030 Net Zero target.

Peter Burgess explained that the plans for the Park would be developed in line with the Council's Net Zero 2030 target through encouraging active travel to reduce car use, additional tree planting for carbon sequestration and supporting biodiversity.

Members welcomed the proposals and recognised the public enthusiasm for the project, noting particularly the value of this and other Valley Parks during lockdown. Members highlighted the Council's decision to work in partnership with the Devon Wildlife Trust had proven to have been of great benefit to the city and in conjunction with the Council's declaration of a Climate Emergency in July 2019, the Ecology Emergency in April 2021 and with the Net Zero 2030 target.

The Portfolio Holder for Environment and City Management welcomed the report and presentation and commended the sensible approach being used to deliver the Council's environmental ambitions. He praised the public response to the consultation, noting that there was great enthusiasm for the future plans as well as a strong desire to assist as volunteers and hoped that funds would be available to deliver the upgrades put forward by the public.

The Leader thanked Peter Burgess for his presentation noting that the key messages of the consultation were on the prioritisation of wildlife and the value of peace and tranquillity, which were in line with the Council's' vision.

**RESOLVED** that:-

- (1) the results of the public consultation be noted; and
- (2) the next steps set out in the report for further developing the proposals for North Brook Park be approved in principle, subject to a detailed proposal presented to the Executive Committee at a future date.

94

### **GOVERNMENT CONSULTATION ON GIVING POLICE AND CRIME COMMISSIONERS GREATER POWERS OF COMPETENCE**

The Executive received the report which provided details of the Government's consultation on granting Police and Crime Commissioners greater powers of competence. The Government consultation sought the specific views from Councils and would close on 27 October 2021. The report included draft responses to the Government's prescribed questions.

The Chief Executive & Growth Director, advised that the greater powers being sought would enhance the already excellent relationship between the Council and the Police and Crime Commissioner. The proposals would provide the Police Authority greater latitude beyond the existing functional powers and, in particular, would assist the Council in making efficient use of police assets around the city. The proposals were also likely to present opportunities for innovation and commercialisation.

**RECOMMENDED** that Council approve the response to the Government consultation on granting Police and Crime Commissioners greater powers of competence.

95

### **OVERVIEW OF GENERAL FUND REVENUE BUDGET 2021/22 - QUARTER 1**

The Executive received the report on the overall financial position of the General Fund Revenue Budgets for the 2021/22 financial year after three months and sought Council approval for additional expenditure required during the financial year.

Particular reference was made to:-

- there was a relatively small variation in the General Fund and significant variations could be anticipated during the course of the year which reflected the steps taken as part of the Emergency Budget approved by the Council in July 2020 and the support from Central Government provided to offset losses caused by the Covid Pandemic. The strengthened surpluses would support any continued losses likely to be experienced again in the current financial year as a result of the continuing impact of the Pandemic;
- although the overall movement in the General Fund balance was quite low, and projected car park income was likely to reduce by £2 Million with other reductions for Markets and Halls, the Corn Exchange and other visitor facilities as well as the Leisure Centres, funding had been set aside to address these anticipated losses and the situation would continue to be monitored by officers over the financial year;
- the supplementary budgets requested, were from received Government grants and approval was being sought to use the money; and

- the reduction in the commercial property budget of £22,500 was a result of the conversion of property into offices for the Corn Exchange.

Members noted the report, and the Portfolio Holder for Leisure and Physical Activity, referred to the Council's decision to bring the Leisure contract in house and praised the work of the Leisure staff for their hard work to help minimise the financial impact from the Pandemic.

**RECOMMENDED** that Council notes and approves (where applicable):

- (1) the General Fund forecast financial position for the 2021 financial year;
- (2) the supplementary budgets as detailed in paragraph 8.10 of the report;
- (3) the outstanding Sundry Debt position as at June 2021; and
- (4) the creditors payments performance.

96

### **GENERAL FUND CAPITAL MONITORING STATEMENT - QUARTER 1**

The Executive received the report on the current position of the Council's revised annual capital programme and the anticipated level of deferred expenditure into future years. The report further sought approval to amend the annual capital programme in order to reflect the reported variations.

Particular reference was made to:-

- the revised capital programme for the current financial year was £67.455 million of which £5.046 million had been spent in the first three months of the financial year, equating to 7.48%;
- a spend of £51.936m is forecast for 2021/22 with £15.498 million of the programme being deferred to 2022/23 and beyond. This was a result of delays in the construction industry and it was anticipated, that the Council would be asked to approve additional expenditure for certain schemes as a result of rising prices; and
- the additional budget provision of £50,000 per annum was requested for the purchase of IT equipment to include new iPad's for Councillors.

Councillor D. Moore, as an opposition leader, referred to the increase in anti-social behaviour around the Quayside and expressed concern that there were no proposals to replace Mallison Bridge, which was resulting in excess pedestrian and cyclist traffic. Given the increased development in the area, including restaurants, she felt that continued investment was important.

The Leader responded that the issue of anti-social behaviour would be raised at the next Community Safety Partnership meeting and that discussions would continue with the Exeter Canal and Quay Trust on investment opportunities for the area.

**RECOMMENDED** that Council to approve:

- (1) the overall financial position for the 2021/22 annual capital programme; and
- (2) the amendments and requests for further funding to the Council's annual capital programme for 2021/22.

97

### **HRA BUDGET MONITORING REPORT - QUARTER 1**

The Executive received the report on the financial position of the HRA Revenue and Capital Budgets for the 2021/22 financial year after three months and the reported budgetary over/under-spend. The report further highlighted areas of risk, where certain budgets had been identified as being vulnerable to factors beyond the control of the Council, with potential deviations from budget, which were being monitored by officers.

Particular reference was made to the HRA budget, being on track, but it was likely to face reductions to the balance later in the year.

**RECOMMENDED** that Council to approve (where applicable):-

- (1) the HRA forecast financial position for 2021/22 financial year; and
- (2) the revision of the HRA Capital Programme to reflect the reported variations detailed in Appendix 4 of the report.

98

### **REVIEW OF THE COUNCIL'S GOVERNANCE ARRANGEMENTS**

The Executive considered the report on the review of the Council's Governance Arrangements and the recommendations of the cross party Governance Review Board, following its review of the changes made to the Council's governance arrangements in October 2019. A review of the Governance arrangements had been deferred in 2020 because of the Covid Pandemic.

The Corporate Manager Democratic and Civic Support highlighted the headline features of the report and advised that the Review Board would meet on an annual basis to maintain and review the Council's Governance arrangements.

The Deputy Leader welcomed the recommendations shown in the report and highlighted that all the proposals had been supported by the cross party working group.

**RECOMMENDED** that Council approve the following changes to Exeter City Council's constitution with effect from the 18 October 2021:-

- (1) That Standing Order 44 be amended to state:-
  - (i) A member of the Council shall have the right to attend the meeting of any Committee, Sub-Committee or Executive of which he/she is not a member and may remain during consideration of both the public and private parts of the agenda. He/she may not vote at that meeting and may only speak or ask a question if he/she has given notice in writing (by electronic mail wherever possible) by 10.00 am on the day of the meeting to the Corporate Manager Democratic and Civic Support and has specified in the notice the particular agenda item or items on which he/she wishes to speak or ask a question.
  - (ii) Opposition group leaders shall not be required to give notice under Standing Order No. 44 to speak or ask a question on any items on the Executive agenda.
- (2) That the Petition Scheme be amended to:-
  - (i) request that petition signatories must identify through the tick box facility on the petition form, which of the eligibility criteria for living, working or studying in Exeter, they are relying upon in signing the petition. Any signatories which

do not so indicate, will not be included in those signatures which are accepted; and

- (ii) state that all petition organisers will be given the opportunity to speak for up to five minutes on their petition, when it is considered at any appropriate Council body to which it has been referred. For clarity, this includes the provision for organisers of petitions of over 2,000 signatures, to do so at the appropriate Council body to which it has been referred, as well as the ability to address the full Council when initially submitting the petition.

- (3) That Article 7.05 of the Constitution (The Executive) be amended to include the following paragraph:-

3. Executive Members will, on allocation by the Leader of the Council, assume roles as Portfolio Holder with specific responsibilities. These responsibilities will be listed in Part 3 (b) the Council's Constitution. For clarity, not all Executive members may be allocated a Portfolio holder responsibility by the Leader of the Council.

**RESOLVED** that:-

- (4) the focus of Scrutiny be reinforced to manage the available resources to develop scrutiny training for all Members;
- (5) the maximum use of available resources for Member training and development be continued, including joint training with other authorities as appropriate;
- (6) Deputy Chairs of Scrutiny Committees will provide a leadership role to any Task and Finish Groups or Spotlight Reviews, as and when established;
- (7) The Council's representation on outside bodies be reviewed and an Annual Feedback Form to Members for the Outside Bodies on which they sit be issued, and such information to be presented to the Governance Review Board for consideration; and
- (8) an annual meeting of the Governance Review Board be established to consider any necessary amendments to the Council's governance arrangements, and their findings to be presented to the relevant Council body for consideration and approval.

99

### **AMENDMENTS TO THE SCHEME OF DELEGATION**

The Executive considered the report which set out the proposals to amend the Scheme of Delegation to Officers to match operational arrangements of the Council, to ensure suitable day to day operational decisions could be taken. Deputies were appointed to further ensure matters could be dealt with, even in the absence of the named officers.

The Corporate Manager Democratic and Civic Support, in presenting the report, advised that the Scheme of Delegation was reviewed on an annual basis to ensure that they were up to date and that no additional officer responsibilities had been added to the Scheme on this occasion.

**RECOMMENDED** that Council approve the changes to the Scheme of Delegation to Officers as set out in the Appendix of the report presented to the meeting.

100 **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 the following items on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1,2 and 3 of Part 1, Schedule 12A of the Act.

101 **MEMBERS' TRAINING**

The Executive received the report which provided an update on Members' training and included Members' attendance for the training sessions from June 2021 to present and feedback on sessions attended. The report further sought approval to amend the Council's Articles of Association, to ensure that Members sitting on the Planning, Licensing and Audit and Governance Committees attend the appropriate and relevant training required, before being allowed to take their seat on the Committee and to attend at least one relevant training session run by the Council every six months

Particular reference was made to the work undertaken to further promote the function of Scrutiny and the partnership working with other Local Authorities.

The Deputy Leader welcomed the report, and expressed her thanks to the Democratic Services Team for the work that had been undertaken to support Member Development.

**RESOLVED** that the Executive note the Members Training report.

**RECOMMENDED** that Council approve the amendments to the Council's Article of Association as set out in the appendices of the report.

102 **ACQUISITION OF PROPERTY TO SUPPORT LIVEABLE EXETER**

The Executive received the report which sought approval for a budget of £55 million to attempt to acquire and make enhancements to City Centre property, which would further support the delivery of homes elsewhere in the city, as was part of the Liveable Exeter vision for the City.

Particular reference was made to:-

- purchase and subsequent investment would support the management and regeneration of the City as part of the Liveable Exeter vision and encourage visitors to the city;
- detailed discussions with HM Treasury, following which an agreement had been made, that the purchase would be suitable for the Liveable Exeter vision ; and
- all decisions on the use of the location and available options would be presented to Members for approval.

Members commented on the proposal and acknowledged that there was risk involved, but recognised that there was a unique opportunity to purchase key property in the city centre, which would have long term benefits for the wider city and support the aspirations and success of the Liveable Exeter vision.

**RECOMMENDED** that Council approves:-

- (1) a budget of £55 million to enable the Council to enter negotiations to purchase property within the Liveable Exeter programme and provide a budget for enhancements to the property; and
- (2) the appointment of an additional member of staff within Corporate Property to assist with the management of the portfolio.

(The meeting commenced at 5.30 pm and closed at 7.32 pm)

Chair

**The decisions indicated will normally come into force 5 working days after publication of the Statement of Decisions unless called in by a Scrutiny Committee. Where the matter in question is urgent, the decision will come into force immediately. Decisions regarding the policy framework or corporate objectives or otherwise outside the remit of the Executive will be considered by Council on 18 October 2021.**

DRAFT

## **REPORT TO EXECUTIVE**

Date of Meeting: 2 November 2021

## **REPORT TO COUNCIL**

Date of Meeting: 14 December 2021

Report of: Chief Executive and Growth Director

Title: Requests for Information

### **Is this a Key Decision?**

No

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

Council

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

The report explains the options available for accessing information held by the Council, including use of the Freedom of Information Act. It summarises the number of requests that have been received in the last three years, the nature of those requests, how they are handled, and the resource implications.

#### **2. Recommendations**

That Executive and Council note the report.

#### **3. Reasons for the recommendation**

To ensure members are appraised of the volume of work involved in dealing with requests for information.

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

As set out in section 5 of the reported. There are no additional resource implications at this point.

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

There are no financial implications for Council to consider contained in this report.

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

None identified

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

This is a report is for members information and as such I have no comments to make.

#### **8. Report details**

##### **8.1 Options for accessing information**

8.1.1 The Freedom of Information Act 2000 provides public access to information held by public authorities. The Act covers any recorded information that is held which includes emails, photographs and sound or video recordings.

8.1.2 The Environmental Information Regulations 2004 provides public access to environmental information held by public authorities. The Regulations cover all recorded information as outlined above.

8.1.3 The Data Protection Act 2018 gives individuals access to their own personal information. Individuals requesting information about themselves should make a data protection subject access request.

8.1.4 In addition, the Local Audit and Accountability Act 2014 provides for the public right to inspect the accounts of a local authority.

## **8.2 Numbers of Freedom of Information / Environmental Information Regulations requests**

8.2.1 The access to information legislation has become more widely publicised and quoted in the media, which has meant the number of requests and their complexity have increased over the years.

8.2.2 The table at Annex A details the number of requests received each month since 1 October 2018, whether the information was disclosed and whether an internal review was carried out (where applicants were dissatisfied with the Council's initial response). In summary:

Between October 2018 and September 2021 a total of 2246 requests have been handled

There were 792 requests in 2019, 738 requests in 2020 and, to date, 545 requests in 2021

26 requests involved an internal review

8.2.3 When comparing each months data year on year, the numbers have generally increased. However, the increases vary considerably as the following demonstrates:

June 2019: 54 requests	June 2021: 57 requests	Increase of 6%
May 2019: 54 requests	May 2021: 64 requests	Increase of 19%
Feb 2019: 56 requests	Feb 2021: 70 requests	Increase of 25%

8.2.4 It is thought the numbers decreased slightly between March 2020 – August 2020 and December 2020 – February 2021 due to the pandemic. From the data recorded, it is not possible to see a consistent pattern in the increased numbers, which may be partly due to the pandemic.

## **8.3 Types of request**

8.3.1 Having reviewed the requests received over the last year, information on the following subjects has been frequently requested:

- ICT

- Business rates (some of this information is withheld as it is already accessible on the Council's website)
- Deceased no next of kin (the majority of this is withheld)
- Homelessness / temporary accommodation / housing advice
- HR – furlough, recruitment, staff numbers
- Planning
- Grants (the majority relate to the coronavirus grants, which is partly published on the Council's website)
- HMOs
- Licensing
- Contracts
- Parking (some relate to Devon County Council issues and the applicant is directed to them)
- Noise / nuisance complaints / ASB
- Burials (now accessible on the Council's website)
- Recycling / waste
- Property related environmental health issues / private rental sector
- S106
- Benefits / supported living / welfare scheme
- Officer / service contact details
- Arrears / debt collection
- Information governance / digital services
- Council tax
- General housing
- Play areas / playing fields
- Electric vehicles / charging points
- Trees
- Statues
- Toilets
- New homes completion / affordable homes and
- Grass verges / weed control.

8.3.2 It is very rare that two requests are the same. However, where the same information is frequently requested, the Council has proactively made the information available on its website. Examples are burial numbers and business rates information. The information is then exempt from disclosure.

8.3.3 Requests vary in complexity, from a simple request for information that can be turned around relatively quickly, to requests that progress to an internal review and a decision by the Information Commissioner's Office. These cases can take many months.

8.3.4 The complexity of requests is rising significantly as individuals are increasingly using the legislation to access information relating to an issue affecting them personally or topical issues both in the media and locally.

#### **8.4 Who is requesting the information?**

8.4.1 Applicants do not have to provide a postal address or state whether they are acting on behalf of an organisation, therefore there is little evidence to validate this, but the majority of requests appear to be from:

- Organisations wanting to either work with the Council or use the information to gain an advantage in their trade, for example information relating to business rates, contracts/procurement information, officer/service contact details.
- Organisations who annually request information for their research, for example information on dangerous wild animals, homelessness data.
- Journalists requesting information for a story, for example information on furloughed staff, numbers of toilets/playgrounds closed, number of electric charging points, overcrowding in houses.
- Local journalists requesting information on topical issues for example the Liveable Exeter Place Board, Leisure Services contracts, Exeter Development Fund.
- Individuals with personal issues, for example relating to hedge boundaries, noise complaints, property related problems with their landlord, parking related matters.
- Local residents requesting information on topical issues for example the removal of statues.

## **8.5 Handling requests**

8.5.1 Each request has to be assessed individually under the relevant legislation. Under the Freedom of Information Act 2000, requests can be refused if it would take longer than 18 hours to deal with the request. The Council must provide advice and assistance to the applicant to enable them to submit a refined request. Requests can also be refused if it is felt the request is vexatious. Indicators which may suggest a request is vexatious include: unreasonable persistence, abusive/aggressive language, personal grudges, burden on the Council, deliberate intention to cause annoyance, disproportionate effort. The Council does not have to comply with vexatious requests and there is no requirement to carry out a public interest test.

8.5.2 Under the Environmental Information Regulations 2004, requests can be refused if the request is manifestly unreasonable on the grounds that the request is vexatious or on the grounds of costs or diversion of resources. If the request is to be refused on the grounds that it is vexatious, the Council should consider the public interest test (which is not required under the FOIA). If a request is to be refused on the grounds of cost, the Council should provide the requester with appropriate advice and assistance which would usually involve setting out the costs involved in answering the request and explaining how it might be refined to make it more manageable. The Council also has to consider the public interest test and there should be a presumption in favour of disclosure.

## **8.6 The Publication Scheme**

8.6.1 As well as responding to requests for information, the Council must proactively publish information. The Freedom of Information Act 2000 requires every public authority to have a publication scheme, approved by the Information Commissioner's Office, and to publish information covered by the scheme.

8.6.2 The scheme sets out the Council's commitment to make certain classes of information routinely available, for example, minutes of meetings, policies, annual reports and financial information.

8.6.3 The Council has adopted the Information Commissioners model publication scheme and it is available on the Council's website under '[The Publication Scheme](#)'. Information requested under the scheme should be made available quickly and easily.

8.6.4 The information the Council releases in accordance with its publication scheme represents the minimum which must be disclosed. The Council is committed to making information available under the following classes:

- Who we are and what we do - Organisational information, locations and contacts, constitutional and legal governance.
- What we spend and how we spend it - Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.
- What our priorities are and how we are doing - Strategy and performance information, plans, assessments, inspections and reviews.
- How we make decisions - Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.
- Our policies and procedures - Current written protocols for delivering our functions and responsibilities.
- Lists and registers - Information held in registers required by law and other lists and registers relating to the functions of the authority.
- The services we offer - Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

## **8.7 Impact on resources**

8.7.1 As the complexity of the requests has increased it has meant more time is being spent on gathering the information, consulting third parties, reviewing the exemptions / exceptions, redacting information and applying the public interest test when necessary. The complexity of the requests has meant more officers from all services have had to gather information and draft responses. Over the last year, Legal Services have increasingly had to be consulted on access to information matters in order to provide guidance on the application of the law and redact contracts.

8.7.2 Time spent by officers dealing with requests is not recorded. Currently there is only one dedicated FOI officer responsible for coordinating and responding to requests for information, which includes requests made under the Data Protection Act 2018 and the Audit and Accountability Act 2014.

8.7.3 The Council has a strong track record of responding to all requests effectively and efficiently in line with its legal obligations. This involves significant input by officers at all levels across the authority, which inevitably diverts resources from other priorities. Whilst the costs of dealing with each response are not recorded, the following example is indicative of the time and hourly costs (with on costs) involved in dealing with a request:

- FOI officer – processing request, liaising with legal colleagues, redacting documents - 5 hours @ £25 per hour;

- Legal officer – provision of legal advice, reviewing information and reviewing response – 3 hours @ £41 per hour
- Middle manager – collating and reviewing information - 5 hours @ £31 per hour
- Director – collating and reviewing information, agreeing response - 1 hour @ £58 per hour

**Total estimated resources in dealing with request: 14 hours, £461**

8.7.4 It is also of interest to note that several officers spent many weeks collating, copying, reviewing and redacting documents in response to a request under the Local Audit and Accountability Act 2014 to inspect the 2019-20 accounts and subsequently the 2020-21 accounts. The legislation allows any taxpayer or journalist to inspect records in respect of any information contained within the Statement of Accounts during a specified 30 day period and can therefore involve significant levels of detail.

## **8.8 Managing the burden**

8.8.1 Under the Freedom of Information and Environmental Information Regulations there is a general presumption in favour of disclosing information, which is also promoted by the Information Commissioner's Office. Annex A illustrates the high proportion of information that we disclose in response to requests. As part of our commitment to openness and transparency a significant amount of information is published on our website and, specifically, on the Council Data pages.

8.8.2 The bespoke and very specific nature of many information requests means that even full publication will not reduce the workload. It is not feasible to publish all emails, letters, confidential reports requiring redaction, transcripts etc. without manual intervention.

8.8.3 We will, however, continue to review and update our working practices, which will include:

- Reviewing our Publication Scheme in 2022
- Working with all officers to publish information
- Improve information and document management and effective email storage exploiting the opportunities offered by Microsoft 365, which will be implemented in 2022

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

9.1 Effective and efficient compliance with access to information regulations is essential for a Well-Run and open and transparent Council.

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

10.1 The impact on officers' workloads across the Council is set out in the report. This is kept under constant review alongside the proposals set out in section 8.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because the report is for information only.

## **12. Carbon Footprint (Environmental) Implications:**

No direct carbon/environmental impacts arising from the recommendations.

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

As set out in section 8 of the report.

**Director: Chief Executive and Growth Director**

Author: Bruce Luxton, Corporate Manager Executive Support

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

Background papers used in compiling this report:-

None

Contact for enquires:  
Democratic Services (Committees)  
Room 4.36  
01392 265275

This page is intentionally left blank

## Freedom of Information / Environmental Information Regulations requests Oct 2018 to Sep 2021

Month	No. of requests	Granted in full	Information not held	Part not held	Part withheld	Part withheld / part not held	Part released / withheld / not held	Information withheld	No. of internal reviews
Oct 2018 <sup>1</sup>	61	32	8	8	6	0	0	5	0
Nov 2018 <sup>1</sup>	69	34	15	10	3	0	1	5	0
Dec 2018 <sup>1</sup>	41	21	9	2	3	0	0	3	0
Jan 2019 <sup>2</sup>	99	51	26	12	1	0	2	2	1
Feb 2019 <sup>2</sup>	56	24	12	9	2	1	0	6	1
Mar 2019 <sup>2</sup>	70	29	15	15	2	0	0	9	0
Apr 2019 <sup>3</sup>	62	32	7	11	2	1	1	7	0
May 2019 <sup>3</sup>	54	26	12	6	0	0	0	9	0
Jun 2019 <sup>3</sup>	54	17	8	3	1	0	0	7	0
Jul 2019 <sup>4</sup>	91	45	16	9	4	0	0	13	0
Aug 2019 <sup>4</sup>	70	25	20	10	4	0	2	5	0
Sep 2019 <sup>4</sup>	63	8	9	3	4	0	0	9	1
Oct 2019 <sup>5</sup>	66	20	14	14	6	0	0	7	1
Nov 2019 <sup>5</sup>	64	28	15	7	6	1	0	6	0
Dec 2019 <sup>6</sup>	43	11	9	4	1	2	0	3	0
Jan 2020 <sup>7</sup>	79	36	12	16	5	0	1	7	0
Feb 2020 <sup>7</sup>	81	32	22	10	6	0	0	6	0
Mar 2020 <sup>7</sup>	47	18	7	6	0	1	0	6	0
Apr 2020 <sup>8</sup>	46	20	9	5	0	1	0	5	0
May 2020 <sup>8</sup>	42	10	9	4	5	1	0	6	0
Jun 2020 <sup>8</sup>	46	15	8	3	6	0	0	4	0
July 2020 <sup>9</sup>	62	30	8	7	3	0	0	6	2

Month	No. of requests	Granted in full	Information not held	Part not held	Part withheld	Part withheld / part not held	Part released / withheld / not held	Information withheld	No. of internal reviews
Aug 2020 <sup>9</sup>	68	37	12	8	4	0	0	3	0
Sept 2020 <sup>9</sup>	72	28	4	8	3	0	0	5	1
Oct 2020 <sup>10</sup>	80	40	19	9	6	0	1	3	1
Nov 2020 <sup>10</sup>	66	31	13	7	3	0	1	5	0
Dec 2020 <sup>10</sup>	49	20	8	3	1	0	0	5	1
Jan 2021 <sup>11</sup>	71	35	13	13	3	0	1	3	1
Feb 2021 <sup>11</sup>	70	39	15	7	3	0	0	2	1
Mar 2021 <sup>11</sup>	63	32	10	5	3	0	0	5	1
Apr 2021 <sup>12</sup>	48	24	11	6	2	0	0	3	0
May 2021 <sup>12</sup>	64	21	15	13	7	0	0	6	2
Jun 2021 <sup>12</sup>	57	23	6	2	3	0	0	3	2
Jul 2021 <sup>13</sup>	54	21	10	7	3	0	0	6	0
Aug 2021 <sup>13</sup>	69	36	12	8	3	0	0	10	7
Sept 2021 <sup>13</sup>	49	14	13	5	3	0	0	1	3

<sup>1</sup> = Information correct as at 13 February 2019; <sup>2</sup> = Information correct as at 22 May 2019; <sup>3</sup> = Information correct as at 3 July 2019; <sup>4</sup> = Information correct as at 1 October 2019; <sup>5</sup> = Information correct as at 8 January 2020; <sup>6</sup> = Information correct as at 9 January 2020; <sup>7</sup> = Information correct as at 12 May 2020; <sup>8</sup> = Information correct as at 10 July 2020; <sup>9</sup> = Information correct as at 13 October 2020; <sup>10</sup> = Information correct as at 18 January 2021; <sup>11</sup> = Information correct as at 5 May 2021; <sup>12</sup> = Information correct as at 6 July 2021; <sup>13</sup> = Information correct as at 7 October 2021.

## REPORT TO EXECUTIVE

Date of Meeting: 2 November 2021

## REPORT TO COUNCIL

Date of Meeting: 14 December 2021

Report of: Deputy Chief Executive

Title: The Exeter Article 4 Direction: Houses in multiple occupancy. Response to a recent petition

### Is this a Key Decision?

No

### Is this an Executive or Council Function?

Council

### 1. What is the report about?

1.1. At the Council meeting on 21 July 2021, the Lord Mayor confirmed receipt of a petition with 48 signatures requesting the extension of the Article 4 restrictions on Houses in Multiple Occupation (HMOs) to include the rest of Sylvan Road, Sylvan Avenue and Moorview Close. Following Council on 21 July 2021, additional signatures were received, making the total number of signatures as 98. This has been referred to the Executive for further consideration.

### 2. Recommendations:

That the Executive recommend to Council to:

2.1 Note the content of the petition and appreciate the concerns raised regarding the potential impacts of Houses in Multiple Occupation on the local community;

2.2 Maintain the prioritisation of work to prepare the new Local Plan above a revision to the Article 4 Direction; and

2.3 Approve revisiting the Article 4 Direction following the adoption of the new Local Plan.

### 3. Reasons for the recommendation:

3.1 The issues raised within the petition and the associated concerns of the local community are understood. However, a review of the Article 4 area has to go through a statutory process as it effectively alters the way in which planning legislation regarding permitted development is applied. This would require significant work which would mean any changes would take some time to come into force.

3.2 The housing market and higher education sector are currently going through a volatile period brought about by Brexit and the ongoing Covid-19 pandemic. As such, this is not

an appropriate time to undertake a review of the Article 4 Direction and associated designated area.

3.3 Current national planning policy is clear on the need to limit the scope and geography of Article 4 Directions and an extension would not fit with that policy position.

3.4 Finally, there is a need to focus limited resources carefully on the corporate priorities of the Council. In terms of planning policy, this means the work on the new Local Plan as opposed to a review of the Article 4 Direction.

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

The report recommends that, at this stage, no further action is taken to extend the boundaries of the current Article 4 area. On this basis, specific further work is not proposed and therefore the recommendations made in this report do not result in any direct additional resource implications.

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

5.1. There are no financial implications contained in this report.

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

6.1 The Council has already made an Article 4 direction for a designated area around the main campus of the University of Exeter through the General Permitted Development Order. This restricts Class C4 Permitted Development rights in this area meaning that a change of use from 'regular' C3 class residential development to create houses in multiple occupation now requires planning permission. In establishing this position, the necessary processes in accordance with Article 4 of the General Permitted Development Order were undertaken.

6.2 The Council is not currently proposing to undertake a review of the Article 4 direction or the area to which it relates, and there are no specific legal requirements to require the Council to do so. The Council's priority focus in terms of planning policy work remains the preparation of the new Local Plan. This is a statutory duty.

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

This report raises no issues for the Monitoring Officer.

#### **8. Report details:**

##### Background

8.1 The Council values the vital role that the University of Exeter plays in the life of the city. The University brings world-class education to our young people, provides economic benefits through job creation and investment, brings prestige and adds to the vitality of our city. However, the success of the University can lead to issues associated with the growing student population. In some cases, this can cause tensions between students and other local residents, including regarding the impact of houses in multiple occupation.

8.2 On 21 July 2021, the Lord Mayor confirmed receipt of a petition with 48 signatures requesting the extension of the Article 4 restrictions on Houses in Multiple Occupation

(HMOs) to include the rest of Sylvan Road, Sylvan Avenue and Moorview Close. This report addresses the requests within the petition.

8.3 The City Council has an Article 4 Direction in place for areas in the St James, St David's, Newtown, Polsloe and Pennsylvania areas. This restricts owners' permitted development rights to use their properties as houses in multiple occupation. It was most recently updated in 2014. This system aims to check the continued growth of student houses in areas where this leads to imbalanced communities and local impacts. Currently, the northern part of Sylvan Road, the vast majority of Sylvan Avenue and Moorview Close are outside the Article 4 area.

#### The current position regarding student accommodation

8.4 The Council closely monitors the numbers of students studying at the University of Exeter and has a close dialogue with University staff. In the last twenty years, the monitoring has demonstrated the large increases in numbers of students studying at the University.

8.5 Since 2006/07, the number of students studying at the University has increased from 11,170 to 23,661 in 2020/21. Taking account of part time students and those living at home (both groups who are considered less likely to require student accommodation), the numbers likely to require specific accommodation has risen from 10,267 in 2006/07 to 21,760 in 2020/21. This equates to an increase of 11,493.

8.6 Looking forward, the University has plans to increase the numbers of students studying the city from 23,661 in 2020/21 to 24,679 in 2025/26. Again, taking account of part time students and those living at home, the number of students requiring accommodation is likely to increase from 21,760 in 2020/21 to 22,696 in 2025/26, an increase of 936 students.

8.7 The Council has recognised the need to consider the impacts of this growth. The Council's approach to managing the potential impact of student growth has been to work closely with the University and to implement two planning policy responses:

- To make an Article 4 Direction that restricts home owners' permitted development rights to use their properties as houses in multiple occupation (HMOs) within Class C4 of the Use Classes Order. This means planning consent is required to change the use of a regular house to a house in multiple occupation.
- To include a strategy in the adopted Core Strategy which aims to accommodate 75% or more of additional student numbers in purpose built student housing. This housing is planned to be located on, or close to, the University Campuses, at sustainable locations at or near to major transport routes, or in the City Centre. Greater detail relating to this approach is included in the Exeter HMO (Use Class C4) Supplementary Planning Document.

8.8 These two joined-up approaches aim to ensure that there is an appropriate number of houses in multiple occupation in the city and that they do not create imbalanced neighbourhoods.

8.9 These two approaches have been relatively successful in accommodating the additional student growth in purpose-built student accommodation. Since 2006/07, there has been a cumulative increase of 11,493 University of Exeter students in need of accommodation. This compares to an increase of just over 8,100 PBSA bed spaces over the same period. These figures indicate that, since 2006/07, 71% of additional students in need of accommodation have been housed in PBSA – just short of the Core Strategy target of 75. This relative success is also supported by the decreases in numbers of Council Tax exemption N properties in the general housing stock which represent HMOs.

Houses in multiple occupation and associated issues in Pennsylvania

8.10 In spite of the impact that the Council and University policies have had, it is acknowledged that in some areas and on some occasions, there can be issues associated with the numbers of houses in multiple occupation.

8.11 As a result of different lifestyles and routines of students and other residents there can be reports of noise and other anti-social behaviour. These issues are taken seriously by both the Council and the University and both organisations work together to manage concerns.

8.12 A key concern behind the petition is that, outside of the Article 4 area, numbers of HMOs are increasing. Some have gone further and would argue that the numbers of HMOs outside the Article 4 area are increasing because the Article 4 direction is causing the demand for HMOs to jump outside of the designated area.

8.13 Specifically in relation to the petition, these concerns have led to calls for the Article 4 area to be extended to include all of Sylvan Road, Sylvan Avenue and Moorview Close.

8.14 Following receipt of the petition, some further analysis of the situation in the three roads mentioned in the petition has been undertaken. This has focused on Council Tax records. For Council Tax purposes, exemption ‘N’ properties are those entirely occupied by full time equivalent students. The location of these properties are therefore an indicator of the distribution of the student population.

8.15 Table 1 details the numbers of HMOs in each of Sylvan Road, Sylvan Close and Moorview Close since 2015.

Street	Number of Class N properties	
	April 2015	February 2021
Sylvan Road	16	20
Sylvan Avenue	0	1
Moorview Close	0	0

**Table1 : Changes in the numbers of Class N properties between 2015 and 2021**

8.16 This data demonstrates that there has been limited change in the number of Class N properties in the three roads in the last six years. On this basis, it is reasonable to conclude that the numbers of HMOs is relatively stable and therefore there is insufficient evidence to justify a review of the Article 4 area at this stage.

The current impacts of Covid-19

8.17 Some residents have suggested that Covid-19 has resulted in an increase in the demand for student housing and HMOs. Currently, the Council has not had sight of robust evidence which identifies that this is the case. Indeed, anecdotally, the demand could potentially have reduced due to the significant move to online lectures and the ease with which students can study remotely. This may have led to reduced short-term demand for students to live full time in the city.

8.18 More widely, we are aware of commentary which suggests that smaller cities such as Exeter are seeing greater interest in terms of general house moves from the larger metropolitan areas.

8.19 These two arguments demonstrate the complexities of analysing current conditions and the causes of potential trends. Given the breadth of housing market issues caused by Covid-19 and the potential for patterns to be short term in nature, care needs to be taken in considering when and how to respond. The Council needs to ensure that it plans for longer-term patterns, as opposed to more short term changes. On this basis, it is currently not considered to be the appropriate time to undertake a revision of the Article 4 Direction.

#### Article 4 Directions and the relationship with the new Local Plan

8.20 An Article 4 Direction is made under planning legislation (Article 4 of the General Permitted Development Order) which enables the local planning authority to withdraw specified permitted development rights across a defined area. In this case, the change of use is from regular residential development (Class C3) to houses in multiple occupation (Class C4).

8.21 Changes to the Exeter Article 4 Direction would have to be undertaken in accordance with the formal requirements of the legislation. These include:

- Compiling evidence regarding the need to revise the Article 4 Direction;
- Legal drafting of the Article 4 Direction itself;
- Completing a period of consultation on the proposed changes;
- Analysing responses;
- Reviewing the Article 4 Direction;
- Securing Council approvals; and
- Providing notice of the work to the Secretary of State.

8.22 It is anticipated that the process would take approximately 8 months.

8.23 The legislative requirements of reviewing the Article 4 Direction have been considered alongside those of preparing the new Local Plan. This exercise has considered whether the ongoing Local Plan work could encompass the review of the Article 4 Direction. It is however clear that the legislative requirements of the two areas of work are distinct; the Local Plan is progressed in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. A review of the Article 4 Direction would need to be undertaken in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015.

8.24 This means that separate processes would be required. Although undertaking work on a review of the Article 4 Direction area would not be insurmountable in itself, it would add to the significant workload of the newly formed Local Plans team. The workload of the team includes the corporate priority of the new Local Plan which is being prepared to an ambitious timetable to enable adoption in 2024. There is no spare officer capacity to undertake additional work without causing a delay to the Local Plan.

8.25 The new Local Plan will have wide-ranging and citywide benefits. As a result, it is considered that continued focus should be given to the Local Plan as opposed to a review of the Article 4 Direction and its designated area. Such work, although potentially beneficial and understandably favoured by some residents including those signing the petition, would have a much narrower focus and therefore would have more limited benefits in terms of the area and population affected.

8.26 Although it is not currently proposed to review the Article 4 Direction, it is suggested that the Council keeps this under review and undertakes ongoing monitoring to ensure that a robust evidence base is compiled. This will enable the issue to be revisited following the adoption of the Local Plan. In the meantime, it will be vital to ensure that emerging planning policies to be incorporated into the new Local Plan clearly address the potential impact of houses in multiple occupation.

#### National planning policy

8.27 The consideration of the relatively narrow geographic scope and focus of an Article 4 Direction review is relevant in the context of national planning policy. A revised version of the National Planning Policy Framework was published in July 2021. Paragraph 53 specifically considers the application of Article 4 Directions. It states:

*'The use of Article 4 directions to remove national permitted development rights should:*

- Where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre);*
- In other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities); and*
- In all cases, be based on robust evidence, and apply to the smallest geographical area possible.*

8.28 The NPPF clearly states that Article 4 Directions can be used to protect local amenity which is the rationale for the existing policy position in Exeter. However, the reference to robust evidence and applying the Direction to the smallest geographic area possible is pertinent; when Exeter's existing Article 4 area already covers a significant area around the main University campus, it is difficult to justify the need to extend it without the necessary clear evidence.

#### The wider activities of the Council

8.29 It should be noted that planning is just one of the various responsibilities of the Council. There are other activities which the Council undertakes in order to manage issues associated with houses in multiple occupation.

8.30 There is regular and ongoing liaison between the Council and the University to highlight the need for the student population to respect the local area and other residents. During specific periods when there can be issues relating to anti-social behaviour, the environmental health team works with colleagues from the University and the police to respond to complaints. This work also extends to speaking with local residents and students in order to manage particular incidents.

8.31 This work will continue and will be monitored to consider any changes to local circumstances.

### Summary

8.32 Following receipt of the petition, the Council has reviewed the request to extend the Article 4 area into the rest of Sylvan Road, Sylvan Avenue and Moorview Close. In undertaking this work, the Council recognises the concerns of the local community regarding the potential impacts of houses in multiple occupation.

8.33 However, having reviewed the position it is not recommended to revise the Article Direction at this time because:

- There have been only limited increases in the numbers of HMOs in Sylvan Road and Sylvan Avenue and none in Moorview Close since 2015. This suggests there is insufficient evidence to justify a review at this time;
- The current conditions in the housing market and in the delivery of higher education, both of which would affect the potential for impact of HMOs, are currently subject to ongoing volatility and therefore basing policy changes on current conditions would be inappropriate;
- Focusing officer resources on a review of the Article 4 Direction would divert the focus away from the preparation of the Local Plan – a key corporate priority with city-wide impact; and
- National planning policy is clear about the limited application and geographic scope of Article 4 Directions.

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

9.1 The decision not to undertake a review of the Article 4 direction at this stage enables focus to be maintained on the preparation of the new Local Plan. This is a statutory duty and will be critical to ensure the delivery of three corporate objectives set out in the Council's Corporate Plan:

- Delivering Net Zero Exeter 2030;
- Promoting active and healthy lifestyles; and
- Building great neighbourhoods.

The Local Plan will also play a central role in tackling congestion and accessibility, the focus of one of the three strategic programmes that addresses the current major challenges facing the city.

9.2 Focusing on the Local Plan reflects the Council needing to prioritise resources efficiently in order to provide value-for-money services - a key part of the corporate plan.

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

10.1 There are no statutory requirements to review the Article 4 Direction. On this basis, there are minimal legislative risks for the Council.

10.2 There would be a greater risk in reviewing the Article 4 Direction now due to the volatility of the housing market and potential uncertainties about the way in which higher education is delivered going forward. The potential that prevailing conditions are short term could mean that if a review were undertaken now, further work could be required in the not too distant future to reflect housing markets and education delivery patterns which are longer term.

10.3 Furthermore, work to review the Article 4 Direction would lead to a delay in the timetable of the Local Plan which would have various risks for the city. This would include the loss of local planning controls.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- Eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- Advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- Foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty, authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In making the recommendations in this report, no potential negative impact has been identified on people with protected characteristics as determined because no specific action is being proposed. This position may have a more significant impact on the areas just outside the current designated area of the Article 4 direction, but this would not have any specific impacts on those groups with protected characteristics.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 There are no direct carbon/environmental impacts arising from the recommendations because no specific action is being proposed. If a review of the Article 4 Direction was implemented now it would provide limitations to HMOs in larger areas around the

University which could potentially result in students seeking accommodation further away from the main campuses. This could increase car use which would have a negative impact in terms of carbon emissions.

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

13.1 The Council does have the option of an immediate review of the Article 4 Direction. Currently this is not considered to be an appropriate course of action because of the reasons detailed in the report.

**Deputy Chief Executive, Bindu Arjoon**

Author: George Marshall – Assistant Service Lead: Local Plan

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

Background papers used in compiling this report:-

None

Contact for enquires:  
Democratic Services (Committees)  
Room 4.36  
01392 265275

This page is intentionally left blank



---

6 July 2021

Roger Clotworthy  
Assistant Service Lead (Planning)  
City Development  
Exeter City Council  
Civic Centre  
Paris Street  
Exeter  
EX1 1JN

Dear Roger,

Thank you for your email received today advising us that you will make sure that our petition is considered by the Council following the usual protocols.

Further to our emails regarding the issue of conversion of single-occupancy properties into HMOs in Sylvan Road, Moorview Close and Sylvan Avenue, please find enclosed a petition containing 48 signatures of residents in these roads. The petition requests that Article 4 restrictions (currently applied to other roads in the neighbourhood) be extended to cover the rest of Sylvan Road, Moorview Close and Sylvan Avenue.

Please advise us if any other information is required and if a meeting with Council officers would be an appropriate way to discuss the issues involved.

Many thanks.

Yours sincerely,

This page is intentionally left blank

## Equality Impact Assessment: The Exeter Article 4 Direction: Houses in multiple occupancy. Response to a recent petition

The Equality Act 2010 includes a general duty which requires public authorities, in the exercise of their functions, to have due regard to the need to:

- **Eliminate discrimination**, harassment and victimisation and any other conduct that is prohibited by or under the Act.
- **Advance equality of opportunity** between people who share a relevant protected characteristic and people who do not share it.
- **Foster good relations** between people who share a relevant protected characteristic and those who do not

In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

Authorities which fail to carry out equality impact assessments risk making poor and unfair decisions which may discriminate against particular groups and worsen inequality.

<b>Committee name and date:</b>	<b>Report Title</b>	<b>Decisions being recommended:</b>	<b>People with protected characteristics potentially impacted by the decisions to be made:</b>
Executive. 02.11.2021	The Exeter Article 4 Direction: Houses in multiple occupancy. Response to a recent petition	1. Notes the content of the petition and appreciates the concerns raised regarding the potential impacts of Houses in Multiple Occupation on the local community.	The impact of the recommendations could have an impact in two ways:  - Relating to recommendations 1 and 3: On the wider community in those areas within, and close to, the

Committee name and date:	Report Title	Decisions being recommended:	People with protected characteristics potentially impacted by the decisions to be made:
		2. Maintains the prioritisation of work to prepare the new Local Plan above a revision to the Article 4 Direction.  3. Approves revisiting the Article 4 Direction following the adoption of the new Local Plan.	current Article 4 area  - Relating to recommendation 2: On the city as a whole through the suggested prioritisation of work on the Local Plan.

**Factors to consider in the assessment:** For each of the groups below, an assessment has been made on whether the proposed decision will have a **positive, negative or neutral impact**. This must be noted in the table below alongside brief details of why this conclusion has been reached and notes of any mitigation proposed. Where the impact is negative, a **high, medium or low assessment** is given. The assessment rates the impact of the policy based on the current situation (i.e. disregarding any actions planned to be carried out in future).

**High impact** – a significant potential impact, risk of exposure, history of complaints, no mitigating measures in place etc.

**Medium impact** – some potential impact exists, some mitigating measures are in place, poor evidence

**Low impact** – almost no relevancy to the process, e.g. an area that is very much legislation led and where the Council has very little discretion

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
Race and ethnicity (including Gypsies and Travellers; migrant workers; asylum seekers).	Positive	Low impact	The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
			<p>will have potential benefits for the whole community including groups with protected characteristics.</p> <p>The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.</p>
<p><b>Disability:</b> as defined by the Equality Act – a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse impact on their ability to carry out normal day-to-day activities.</p>	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p> <p>The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.</p>
<p><b>Sex/Gender</b></p>	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p>
<p><b>Gender reassignment</b></p>	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p> <p>The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.</p>
<p><b>Religion and belief</b> (includes no belief, some philosophical beliefs such</p>	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local</p>

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
as Buddhism and sects within religions).			<p>Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p> <p>The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.</p>
<b>Sexual orientation</b> (including heterosexual, lesbian, gay, bisexual).	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p> <p>The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.</p>
<b>Age</b> (children and young people aged 0-24; adults aged 25-50; younger older people aged 51-75/80; older people 81+; frail older people; people living with age related conditions. The age categories are for illustration only as overriding consideration should be given to needs).	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p> <p>The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.</p>
<b>Pregnancy and maternity</b> including new and breast feeding mothers	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p>

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
			The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.
<b>Marriage and civil partnership status</b>	Positive	Low impact	<p>The key recommendations are to prioritise the work on the Local Plan and revisit the Article 4 Direction following the adoption of the Local Plan. This would enable the Council to focus planning policy resources on a project which will have city and community-wide impacts. This work will have potential benefits for the whole community including groups with protected characteristics.</p> <p>The Council's responsibilities under the Act will be revisited through ongoing planning policy preparation.</p>

**Actions identified that will mitigate any negative impacts and/or promote inclusion**

Work on the Local Plan itself will help to address issues of inclusivity.

**Officer:** George Marshall

**Date:** 11.10.2021

This page is intentionally left blank

## **REPORT TO LICENSING COMMITTEE**

Date of Meeting: 26 October 2021

## **REPORT TO EXECUTIVE COMMITTEE**

Date of Meeting: 2 November 2021

## **REPORT TO COUNCIL**

Date of Meeting: 14 December 2021

Report of: Director Net Zero and City Management.

Title: Draft Statement of Gambling Policy 2021-2023

### **Is this a Key Decision?**

No

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

Council.

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

1.1 This report details the responses to the consultation undertaken into the proposed updated Gambling Act 2005 Statement of Licensing Policy which was presented to the committee at the meeting on 14<sup>th</sup> September 2021. A consultation with the interested parties, including those specifically listed in Section 349(3) of the Gambling Act 2005, has been undertaken between 20<sup>th</sup> September and 20<sup>th</sup> October 2021. The Licensing Committee is constituted with formulating new statements of licensing policy with the final policy going to Full Council for adoption.

### **2. Recommendations:**

2.1 The Licensing Committee are requested to approve the updated Gambling Act 2005 Statement of Licensing Policy in order that it can be progressed through to full Council for adoption in January 2022.

2.2 That Executive supports the introduction of the updated Gambling Act 2005 Statement of Licensing Policy.

2.2 That Council formally adopts the updated Gambling Act 2005 Statement of Licensing Policy.

### **3. Reasons for the recommendation:**

3.1 Exeter City Council's current Statement of Licensing policy was written in 2018 and came into effect in January 2019. There is a legal requirement to review the gambling policy statement every three years. The current policy must be reviewed by 31 January 2022. The draft policy attached to this report has been updated to reflect changes in national guidance, and feedback from the Gambling Commission.

3.2 The Licensing Committee resolved on 14th September 2021 that a consultation with interested parties should begin on the proposed new policy. Following the Licensing Committee's decision, the Licensing Team undertook a consultation with a wide range of stakeholders who may have an interest in this policy, including existing licence holders, gambling support providers, and statutory consultees. The list of those contacted is attached as Appendix B

3.3 The authority received comments back in relation to the consultation exercise, which are reproduced in full in Appendix C.

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

4.1 The proposed changes to policy do not give rise to any additional resource implications or have any revenue impact.

4.2 Any future costs in relation to the production of the policy will be met by income from fees.

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

The report raises no issues for the Section 151 officer on the basis that the policy does not give rise to any additional resources or have any revenue implications.

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

6.1 In accordance with the provisions of the Gambling Act 2005, the Licensing Authority is required to prepare and publish a statement of licensing principles. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate before each successive three-year period.

6.2 Before determining such a policy, Section 349(3) of the Gambling Act 2005 places a statutory duty on the Authority to consult with the listed interested parties. Where revisions are made the authority must publish a statement of the revisions or the revised licensing statement.

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

7.1 Provided that the Licensing Authority has carried out the review of its statement of licensing principles in accordance with the provisions of the Gambling Act 2005, this report raises no issues for the Monitoring Officer.

#### **8. Report details:**

8.1 This proposed policy sets out the general principles that the Council will follow in relation to the enforcement of gambling legislation.

8.2 The proposed policy and the conditions included represent guidance on details of the service provided and the general principles that the Council follows in relation to the enforcement of gambling legislation and the discretionary functions it undertakes.

8.3 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.

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

9.1 The proposed Statement of Licensing Policy will contribute to improvements in gambling regulation, help promote 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 with interested parties has taken place.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 There are no direct carbon/environmental impacts arising from the recommendations.

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

13.1 Members of the Committee may reject the proposed policy on the grounds that the policy requires amendment.

**Director Net Zero and City Management, David Bartram**

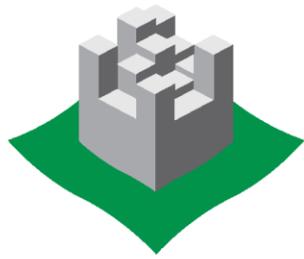
Author: Simon Lane, Service Lead – Environmental Health and Community Safety

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

Background papers used in compiling this report:-

- Draft Statement of Licensing Policy
- Gambling Commission Guidance to Local Authorities 2021
- Gambling Commission Licence Conditions and Code of Practise 2020

Contact for enquires:  
Democratic Services (Committees)  
Room 4.36  
01392 265275



**Exeter**  
City Council

## THE GAMBLING ACT 2005

### Draft Statement of Gambling Policy 2022 - 2025

Environmental Health and Community Safety  
Civic Centre  
Paris Street  
Exeter  
EX1 1RQ

 01392 265702  
 [licensing@exeter.gov.uk](mailto:licensing@exeter.gov.uk)  
 [www.exeter.gov.uk/licensing](http://www.exeter.gov.uk/licensing)

Draft Issue Date: 18 August 2021

Proposed Commencement: 31<sup>st</sup> January 2022

## CONTENTS

<b><u>Section</u></b>		<b><u>Page No</u></b>
1. Introduction		3
2. Profile of Exeter		5
3. Consultation		8
4. Declaration		10
5. Responsible Authorities and Interested Parties		11
6. Exchange of Information		13
7. Enforcement		14
8. Licensing Authority Functions		15
9. Premises Licences		16
10. Permits and Temporary and Occasional Use Notices		24
11. Small Society Lotteries		29
 <b><u>APPENDICES</u></b>		
Appendix A	Glossary of Terms	31
Appendix B	Delegation of Functions	35
Appendix C	Categories of Gaming Machines	36
Appendix D	Useful Contacts	37
Appendix E	Responsible Authorities	38
Appendix F	Pool of Conditions	40

## Section 1 - Introduction

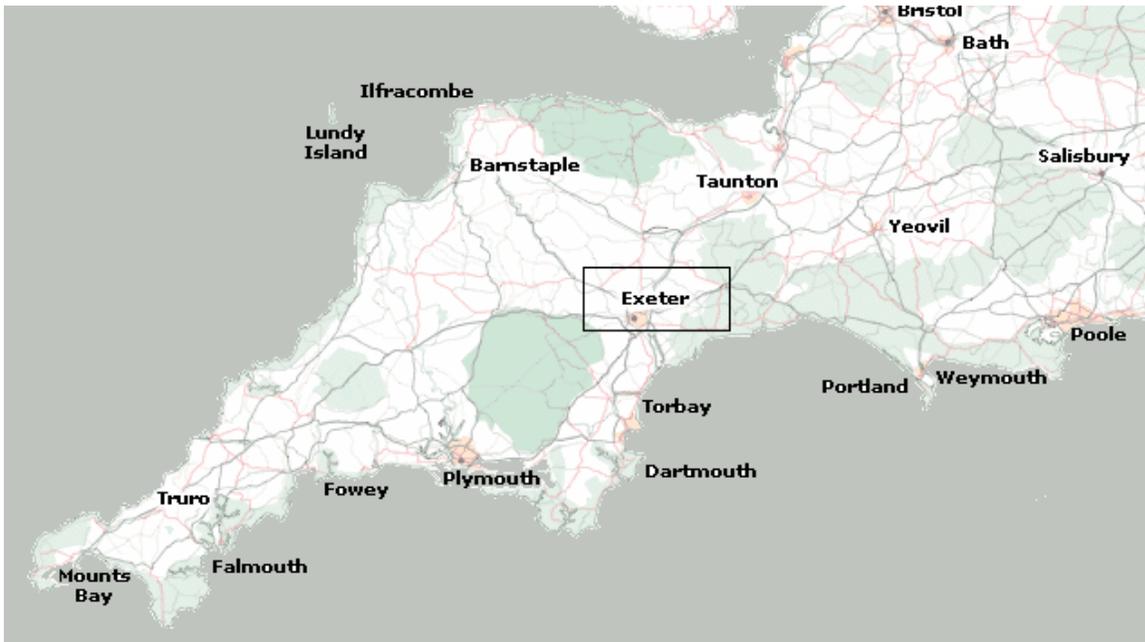
- 1.1 Exeter City Council (the Council) is the Licensing Authority (the Authority) under the Gambling Act 2005 (the Act). Section 349 of the Act requires that all Licensing Authorities prepare, consult and publish a Statement of Licensing Policy which will be used when exercising its licensing functions 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 fifth triennial review and is for the period 31<sup>st</sup> January 2022 – 31<sup>st</sup> January 2025.
- 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 133,333 [2020 Devon County Council]. This figure includes the student population.
- 2.6 There are six Lower Super Output Areas (LSOAs) within the city which represent some of the most deprived areas in England (very low deprivation), affected by unemployment, low education, skills and training, low income and poor health and disability (Devon County Council Analysis of the Indices of Deprivation 2019).

- 2.7 All six of the above LSOAs fall within the 20% of most deprived areas in England, with the 'Sidwell Street' 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 Licensing 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.'
- 2.12 Residents of the wards listed above are therefore potentially more vulnerable to gambling related harm, and specific consideration should therefore be given to future applications for gambling premises located in these areas in order to effectively mitigate these additional risks.



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

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office (c) Crown copyright.  
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or Civil proceedings.



## 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.
- 3.1.1 Following a review of all current Gambling Commission Guidance, only minor cosmetic changes have been made to this updated document as the 2019 Statement remained up to date and in-line with current National Guidance and research. As a result a formal consultation has not been undertaken on this occasion but was previously.
- 3.2 Before publishing the 2019 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 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.
  - 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 The 2019 Statement consultation took place between 30 May and 22 August 2018 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 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 General Data Protection Regulation 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
  - Local risk assessment documentation
  - Training undertaken by staff
  - Entries in the refusal book
  - Records of any relevant incidents in or outside the premises
  - Signage displayed
  - Approach to customer self exclusion and multi operator self exclusion
  - Involvement in local and national schemes
  - Customer interaction records
- 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 inspection 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 licensing 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. The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed)
- 9.4 Clearly, there will be specific issues that the Licensing Authority will 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 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 “Licence Conditions and Code of Practice” published by the Gambling Commission. 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 scaled 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 premises 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 in the area of the proposed premises
  - 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 for example the provision SIA doorstaff in areas identified as having high levels of crime and disorder, or assessing staffing levels when a local college closes. These controls should reflect the level of risk within your particular area, which will be determined by local circumstances
  - 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, clear segregation of areas (for example physical segregation via walls or barriers), 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 Digital, 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 entrance
  - Notices/signage
  - Specific opening hours
  - Self-exclusion 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, and awareness of safeguarding/ child sexual exploitation
- 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. In particular, The Authority will expect any application proposing the use of customer privacy screens, to clearly identify how these areas can be adequately supervised. The Authority will look at those applications sympathetically where there are no concerns that the Licensing Objectives will be adversely affected. However, where proposed changes have the potential to adversely affect any of the licensing objectives, then the Authority may view the amendments as a material change which warrants a variation application under S187 of the Gambling Act.

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 an unlicensed Family Entertainment Centre (FEC) permit may be granted only if the licensing authority is satisfied that the premises will be an area wholly or mainly for making gaming machines available for use, 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, and awareness of safeguarding/ child sexual exploitation. 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 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.
- 10.8 Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3) to the Gambling Act 2005)
- 10.9 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”.
- 10.10 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.

10.11 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.

10.12 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.

10.13 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).

10.14 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.

10.15 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.

10.16 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.

10.17 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.

#### 10.18 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. Restrictions on temporary use notices include:

- it can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both
- gambling under a TUN may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises
- it can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner

- gaming machines may not be made available under a TUN.

10.19 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.

#### 10.20 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 (for example point to point races). 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. The Gambling Commission have provided further advice on the use of occasional use notices:

[http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Part-15-Occasional-use-notices.aspx#DynamicJumpMenuManager\\_1\\_Anchor\\_1](http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Part-15-Occasional-use-notices.aspx#DynamicJumpMenuManager_1_Anchor_1)

## 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)  
Returns should be submitted no later than 3 months from the draw date.

- 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>Default Conditions</b>	Conditions that will apply through Statute 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>Casino Premises Licence Categories</b>	a) Regional Casino Premises Licence b) Large Casino Premises Licence c) Small Casino Premises Licence d) Casinos permitted under transitional arrangements.
<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>

**Temporary Use Notice** 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.

**Vehicles** 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

Matter to be dealt with	Full Council	Licensing Sub-Committee	Officers
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

The Gambling Commission have provided details of gaming machine categories and stakes/ prices and a link is provided below:

[Appendix B: Summary of gaming machine categories and entitlements - Gambling Commission](#)

## 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:

Service Lead Environmental Health and Community Safety  
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 Digital, 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**

Excise Processing Team  
HM Revenue & Customs  
BX9 1GL  
United Kingdom

Tel: 0300 322 7072 Option 7.

### **Environmental Health & Licensing Manager**

(For Environmental Protection/Health & Safety)

Service Lead Environmental Health and Community Safety  
Exeter City Council  
Civic Centre  
Paris Street  
EXETER  
EX1 1RQ

Tel: 01392 265193  
Fax: 01392 265852

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

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 copy of the local risk assessment shall be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police. All staff

authorised to verify the age of customers should be made aware of the contents of the local risk assessment, including any additional control measures identified in the assessment.

- F13 Test purchase results shall be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F14 All staff shall wear ID badges or other measures so that customers can easily identify them for assistance, guidance or gambling advice.
- F15 Officers shall expect to be able to interview employees who can confidently define and clearly understand which are 'Gaming Machines' and which are not (e.g. only 'Skill Machines'). Employees need to be fully conversant with the Gambling Act 2005 and familiar with their own 'Local Risk Assessment'.
- F16 Staff training records shall be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F17 Staff training shall include various topics including a section on 'truanting youngsters'.
- F18 Social Responsibility Stickers/notices shall be clearly displayed in a prominent position on all gaming machines at the point of play, to include category stickers/notices and also 'gamcare' stickers/notices.
- F19 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.

This page is intentionally left blank

## **Consultees contacted on 17 September 2021.**

- Poppleston Allen (For Paddy Power);
- William Hill;
- Coral;
- Ladbrokes;
- Mecca;
- Bet Fred;
- Citizens Advice Bureau;
- Gamblers Anonymous;
- NSPCC;
- Gamcare;
- Mencap;
- Child Protection Team;
- Gambling Commission;
- Trading Standards;
- HM Revenue and Customs;
- Chief Constable for Devon and Cornwall Police;
- Planning;
- Devon Partnership Trust;
- Office of the Police and Crime Commissioner;
- Fire Authority;
- Public Health Board;
- Dorset, Devon and Cornwall Rehabilitation Company;
- Exeter CVS;
- Exeter Youth Offending Team;
- Environmental Health;
- Exeter Chamber of Commerce;
- Multi-Agency Safeguarding Hub;
- Chief Officer for Children's Services;
- Chief Officer for Public Health; and
- Chief Officer for Adult Social Care.

This page is intentionally left blank

**By email to:**

[Licensing.team@exeter.gov.uk](mailto:Licensing.team@exeter.gov.uk)

Simon Lane  
Service Lead Environmental Health and  
Community Safety  
Exeter City Council  
Licensing Team  
Civic Centre  
Paris Street  
Exeter EX1 1RQ

County Hall  
Topsham Road  
Exeter  
EX2 4QD

Tel: 01392 383000

[publichealth-mailbox@devon.gov.uk](mailto:publichealth-mailbox@devon.gov.uk)

11<sup>th</sup> October 2021

Dear Simon

**Consultation on the revision of Exeter City Council's Statement of policy of the  
Gambling Act 2005**

Further to your letter dated 20<sup>th</sup> September 2021, I confirm that I have no comments to make in relation to the revision of the Statement of policy of the Gambling Act 2005.

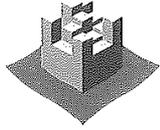
Please note that following Dr Virginia Pearson's retirement last November, I am now Director of Public Health for Devon; please could you update your records accordingly.

Yours sincerely



**Steve Brown**  
Director of Public Health Devon  
Devon County Council

[www.devon.gov.uk](http://www.devon.gov.uk)



**Exeter**  
City Council

Dr V Pearson  
Chief Officer for Communities, Public Health,  
Environment and Prosperity.  
Devon County Council  
County Hall  
Topsham Road  
EXETER  
EX2 4QD

**Civic Centre, Paris Street, Exeter, EX1 1JN**  
**[www.exeter.gov.uk](http://www.exeter.gov.uk)**

**Please ask for:** Licensing Team  
**Direct Dial:** 01392 265702  
**Email:** [Licensing.team@exeter.gov.uk](mailto:Licensing.team@exeter.gov.uk)  
**Our ref:**  
**Your ref:**  
**Date:** 20 September 2021

Dear Dr Pearson

**Consultation on the revision of Exeter City Council's Statement of policy of the Gambling Act 2005**

The Council is required to review its policy every 3 years, the current policy commenced 31 January 2019.

Having regard to changes in legislation and guidance including the proposed changes in the Commission's Guidance to Local Authorities and the recently approved Licensing Conditions and Codes of Practice issued by the Gambling Commission, Exeter City Council has redrafted its policy statement with the intention to approve it for commencement on the 31 January 2022.

You have been identified as a stakeholder in the gambling industry, regulation or an interested party and we are therefore asking you to review the enclosed draft policy and make any comments.

Any comments must be made in writing to reach the licensing team no later than 20 October 2021.

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

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

Thank you for taking the time to help inform this very important consultation.

Yours sincerely

Simon Lane  
Service Lead Environmental Health and Community Safety

Dear Lee

Thank you for the consultation regarding your gambling policy. I can confirm that we have no comments regarding this issue

Kind regards

Nick



**Protection Lead For Plymouth & Torquay  
Devon & Somerset Fire & Rescue Service**  
w. [www.dsfire.gov.uk](http://www.dsfire.gov.uk)

This page is intentionally left blank

Good Morning

As one of the responsible authorities quoted in your appendices I thought I should let you know our postal contact address is now:-

HM Revenue and Customs  
Excise Processing Teams  
BX9 1GL  
United Kingdom

Our contact telephone number is now 0300 322 7072 Option 7.

Our email address remain the same, [NRUBetting&Gaming@hmrc.gsi.gov.uk](mailto:NRUBetting&Gaming@hmrc.gsi.gov.uk)

Excise Processing Team  
HM Revenue & Customs  
BX9 1GL  
United Kingdom

OFFICIAL

**From:** Lee Staples

**Sent:** 20 September 2021 16:29

**Subject:** Consultation on Exeter City Council Draft Statement of Gambling Policy

Dear Consultee

Please find attached a letter informing you of our consultation on our draft Statement of Gambling Policy, and inviting you to contact us with any comments you may have in relation to the attached draft policy document (changes tracked from the previous policy).

Kind regards

**Lee Staples**

Environmental Health Officer  
Exeter City Council  
Tel: 01392 265434

*Please note that I do not work on a Tuesday or Wednesday. If you have an enquiry that is urgent then please call my colleagues in Environmental Health and Licensing on 01392 265147.*

See our [privacy notice](#) for details on how we manage personal information.

Disclaimer: <http://www.exeter.gov.uk/disclaimer>

The information in this e-mail and any attachments is confidential and may be subject to legal professional privilege. Unless you are the intended recipient or his/her representative you are

not authorised to, and must not, read, copy, distribute, use or retain this message or any part of it. If you are not the intended recipient, please notify the sender immediately.

HM Revenue & Customs computer systems will be monitored and communications carried on them recorded, to secure the effective operation of the system and for lawful purposes.

The Commissioners for HM Revenue and Customs are not liable for any personal views of the sender.

This e-mail may have been intercepted and its information altered.

**Dated: 20 September 2021**

Thank you for contacting GamCare.

**Please note that this inbox is checked intermittently. If your enquiry is urgent please call 020 7801 7000.**

We are the leading provider of information, advice and support for anyone affected by gambling harms across Great Britain.

If you or a loved one need support, the National Gambling Helpline is available 24 hours a day on Freephone 0808 80 20 133 or via live chat at [www.GamCare.org.uk](http://www.GamCare.org.uk)

Our Advisers will also be able to connect you to local services.

- For information on blocking software, please see [www.gamcare.org.uk/self-help/blocking-software/](http://www.gamcare.org.uk/self-help/blocking-software/)
- For information on self-exclusion schemes please see [www.gamcare.org.uk/self-help/self-exclusion/](http://www.gamcare.org.uk/self-help/self-exclusion/)
- For enquiries about the GamCare Forum please email [forum.admin@gamcare.org.uk](mailto:forum.admin@gamcare.org.uk)

For enquiries regarding a specific gambling business:

We are not affiliated to any gambling businesses and will not be able to assist you with account queries.

Please note that GamCare is not a regulator and is therefore unable to intervene in licensing matters, account disputes or disputes over terms and conditions. In any of the above cases, we recommend that you contact the gambling venue or website operator in the first instance.

Commercial gambling in Great Britain is regulated by the Gambling Commission - find more information at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

This page is intentionally left blank

## REPORT TO EXECUTIVE

Date of Meeting: 2 November 2021

Report of: Director Net Zero Exeter & City Management

Title: Proposed consultation on varying the Public Spaces Protection Order

### Is this a Key Decision?

No

### Is this an Executive or Council Function?

Executive for agreement of the consultation

Council for implementation of the Order following consultation

### 1. What is the report about?

1.1 The current Public Spaces Protection Order 2017 (“PSPO”) is due to expire on the 20 June 2022. This report seeks approval from Executive to enter into consultation with the public and relevant stakeholders on the draft proposals for varying Prohibition E of the Public Spaces Protection Order.

1.2 This is a particularly good time to undertake a public consultation on the future use of the PSPO as one of several complimentary approaches being considered as a result of the strategic partnership work launched by the Leader in 2020 through the Urban Anti-Social Behaviour Summit.

1.3 Following consultation, a report will be brought back to Executive and Council with recommendations regarding the Public Spaces Protection Order when the current order lapses on 20 June 2022.

### 2. Recommendations:

2.1 That the Executive approves:

- 1) the contents of the proposed variation of Prohibition E (contained in Appendix A);
- 2) that consultation takes place between 2 November and 31 December 2021 which seeks the views of the public and other stakeholders; and
- 3) that a report making recommendations on the whether to amend or seek continuance of the current Public Spaces Protection Order is presented to Executive on 8 February 2022 and Council on 22 February 2022.

### 3. Reasons for the recommendation:

3.1 There is continued justification for the Order based using data and intelligence from Devon & Cornwall Police, the Council, and the Exeter Community Safety Partnership, together with information from complaints made by the public to the Council. From this information it is clear that whilst the PSPO has had an impact since its introduction in

2017, the prevalence of persistent and problematic anti-social behaviour continues to be relatively high in the area of the Order.

3.2 Data from Police logs and from the Exeter Business Against Crime Partnership provides evidence that anti-social behaviour complaints are of such a volume that they continue to have or are likely to have a detrimental effect on the quality of life of those in the locality, i.e. residents, workers and visitors within the PSPO area. These anti-social activities are continuing at a level that is unreasonable and justifies the continuing restrictions of the Order.

3.3 Under the PSPO control measures are used which address the anti-social behaviour without necessarily criminalising a perpetrator in breach of the Order. This could not be easily achieved without the PSPO and there are no known alternative or more effective control measures currently available. Since the introduction of the PSPO in 2017 the order has been applied in conjunction with other interventions, so it can be used to engender positive behaviour change by offering the option of a restorative or positive alternative to a penalty fine such as an Acceptable Behaviour Contract (ABC).

3.4 Where the PSPO control measures fail to improve behaviour it is used to demonstrate to the courts that every opportunity has been given to modify behaviour before resorting to other tools under the Anti-Social Behaviour, Crime and Policing Act 2014 such as Injunctions and Criminal Behaviour Orders.

3.5 When the PSPO was originally adopted it was originally anticipated that dispersal powers would only be needed where there were groups of two or more people behaving in a manner that has caused or is likely to cause a member of the public to suffer harassment, alarm or distress by that behaviour.

3.6 Over the last 18 months, it has become increasingly apparent that there has been a significant increase in individuals acting in such a way that has caused or is likely to cause a member of public to suffer harassment, alarm or distress by that behaviour. However authorised officers have been hampered in using the dispersal powers contained within prohibition E of the current order because the individual is not acting in a group. It is felt that amending the current order to enable authorised officers to use dispersal tools on individuals breaching Prohibition D, would be an effective tool in tackling anti-social behaviour.

3.7 The current prohibition order allows for an authorised officer to disperse for up to 6 hours from all or part of the Public Spaces Protection Order. Whilst this has proved an effective time period for some cases, there have been a significant number of cases where 6 hours has unfortunately not been effective and subsequent breaches have occurred. The consultation seeks the views on whether the time period should be extended to 24 hours.

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

4.1 The consultation will be met from existing resources.

4.2 Should the Council decide to amend the Public Spaces Protection Order on 22 February 2022 following consultation, then there would be additional financial resource needed in meeting the legal requirements set down under the Anti-Social Behaviour,

Crime and Policing Act 2014. These costs would include the necessary legal steps in sealing an order, the removal and replacement of all signage in the PSPO area and the amendment of necessary paperwork used in the dispersal process. This cost is estimated to be around £5,000 to £6,000, however more detailed costs will be presented following consultation.

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

This specific report seeks no additional funding and therefore has no financial implications for Council to consider. Members should however be mindful of a small potential additional cost subject to the outcome of the consultation. This would require an additional report to Council unless it can be found from existing, approved budgets.

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

6.1 The provisions relating to PSPO powers fall under the Anti-Social Behaviour, Crime and Policing Act 2014.

6.2 Section 61 of the Act provides that where a public spaces protection order is in force, the local authority that made the order may vary it by altering or removing a prohibition or requirement included in the order, or adding a new one.

6.3 Section 61 also states that a local authority may make a variation that makes a prohibition or requirement more extensive, or adds a new one, only if the prohibitions and requirements imposed by the order as varied are ones:

- a) to prevent the detrimental effect from continuing, occurring or recurring, or
- b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

6.4 Where an order is varied, the order as varied must be published in accordance with regulations made by the Secretary of State.

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

7.1 This report raises no issues for the Monitoring Officer.

## **8. Report details:**

8.1 The Anti-Social Behaviour, Crime and Policing Act 2014 introduced powers to tackle anti-social behaviour, including Public Spaces Protection Orders. Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

8.2. These orders are flexible and can be applied to a much broader range of issues, with local authorities having the ability to design and implement their own prohibitions or requirements where certain conditions are met. These conditions centre on the impact to the quality of life in the locality, persistence, and whether the impact makes the problem behaviour unreasonable.

8.3 The Exeter PSPO was introduced in from 20 June 2017, with one year extensions being granted in 2020 and 2021.

8.4 Exeter, much like other towns and cities nationally, has a persistent and recurring issue of anti-social behaviour in the City centre, particularly in the summer months.

8.5 Under the Act, in deciding upon the making, varying or extending of a PSPO the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention under section 21(1) of the Human Rights Act 1998. In terms of the joint protocol on enforcement and positive/restorative pathways for the PSPO, and the training that takes place, the importance of these two freedoms is made explicit. In addition, both the protocol and training have regard to Article 1 of the First Protocol of the Human Rights Act 1998 (protection of property) in relation to the surrendering of intoxicants to authorised persons, contained within the PSPO.

8.7 In practical terms, this means that the application of the PSPO is not used to restrict a lawful Trade Union picket, an organised peaceful protest, a religious assembly, or someone preaching in a public space. Nor is it used to confiscate alcohol from someone who had just made a purchase from an off-licence with the intention of taking that purchase home for consumption.

8.7 The consultation is only seeking the views on varying Prohibition E with respect to dispersal powers.

8.8 The current prohibition states:

**Persons within this area who breach Prohibition D while in a group shall when ordered to do so by an authorised person disperse either immediately or by such time as may be specified and in such a manner as may be specified.**

*The manner specified by the authorised person may include a requirement not to re-enter a defined zone within the PSPO area until a certain time, which shall be no later than 6 hours from the time that an authorised person orders persons in a group to disperse.*

8.9 The consultation seek views on varying the prohibition to state

**Persons within this area who breach Prohibition D shall when ordered to do so by an authorised person disperse either immediately or by such time as may be specified and in such a manner as may be specified.**

*The manner specified by the authorised person may include a requirement not to re-enter a defined zone within the PSPO area until a certain time, which shall be no later than 24 hours from the time that an authorised person orders a person to disperse.*

8.10 Those wishing to participate in the consultation may do so in writing between 2 November and 31 December 2021 either by email at [community.safety@exeter.gov.uk](mailto:community.safety@exeter.gov.uk) or via by post addressed to Environmental Health and Community Safety, Civic Centre, Paris Street, Exeter EX1 1RQ. Any responses we receive after this date will not be included in the analysis.

8.11 We will not be responding individually to responses. After the consultation has closed we will include a summary of the responses received as part of our report to be present to Executive and Council in February 2022. We will not publish names of individuals who respond but we may publish the name of the organisation for those responses made on behalf of organisations.

8.12 In accordance with the Freedom of Information Act 2000, we may be required to publish response to this consultation, but will not include any personal information. Even if an individual has requested for a response to be kept confidential, we may still be required to provide a summary of it.

8.13 Information regarding the consultation will be available on the Council's website in line with the Council's Consultation Policy.

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

9.1 The main contribution of the designation of a PSPO is to reduce problematic anti-social behaviour in the City Centre, and in so doing it supports the corporate priorities of 'promoting active and healthy lifestyles' and 'building great neighbourhoods'.

9.2 In achieving this, it is necessary to work with partners who make up the Community Safety Partnership to ensure that any Order is effectively implemented alongside other interventions.

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

10.1 Any legal challenge presents a risk to the Authority. The legislation supporting implementation of the new Orders states that "interested persons" may challenge the validity of any Order in the High Court. This means that the Council could face a challenge against its decision to make the Order. An application of this nature must be made within six weeks beginning on the day the Order is made or varied. The grounds upon which a challenge could be made are:

- that the local authority did not have the power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
- that a requirement under this part of the legislation was not complied with in relation to the order or variation.

The High Court has the power to suspend, quash, amend or uphold the order.

10.2 This risk has been mitigated by the Council adhering to the provisions of the Act with regard to the formulation, consultation and implementation process of an order, in response to evidence of continuing and unreasonable anti-social behaviours occurring in the City Centre area encapsulated within the proposed PSPO boundary.

10.3 There is also a risk that public expectations will be raised by this Order that agency resources cannot fully meet; the Order is unlikely to remove the issues in total, but can act to support and augment other initiatives. The inclusion of a positive/restorative option in the crafting of a fixed penalty notice will be an innovative use of the legislation by the

Council in helping to change negative behaviours, reduce re-offending and help readily engage the support of partner agencies.

10.4 Continuation of this Order could lead to problem-displacement. Officers from the Council, Police, and other agencies have continually reviewed this and believe that the area of the proposed Order is sufficiently large to minimise any acute problems arising from any displacement.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act and an Equalities Impact Assessment has been included in the background papers for Member's attention.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 No direct carbon/environmental impacts arising from the recommendations.

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

13.1 Not renewing the current PSPO – the current PSPO could be left unchanged for a period ending 20 June 2022.

13.2 Renewing the current PSPO prohibitions for a period of up to 3 years and not consulting on revising Prohibition E.

**Director Net Zero Exeter & City Management, David Bartram**

Author: Simon Lane - Service Lead – Environmental Health and Community Safety

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

Background papers used in compiling this report:-

- 1) Highways Act 1980
- 2) Anti-Social Behaviour, Crime & Policing Act 2014

Contact for enquires:  
Democratic Services (Committees)  
Room 4.36  
01392 265275

This page is intentionally left blank

## **Appendix A – Proposed variation of Prohibition E**

Persons within this area who breach Prohibition D shall when ordered to do so by an authorised person disperse either immediately or by such time as may be specified and in such a manner as may be specified.

*The manner specified by the authorised person may include a requirement not to re-enter a defined zone within the PSPO area until a certain time, which shall be no later than 24 hours from the time that an authorised person orders a person to disperse.*

This page is intentionally left blank

## Appendix B – Proposed website wording

### Public Space Protection Order (PSPO) Consultation

#### What is this about?

Public Spaces Protection Orders (PSPO's) were introduced as part of the Anti-social Behaviour, Crime and Policing Act 2014. PSPOs can be used to control behaviours which are having, or are likely to have a detrimental effect on the quality of life of those in the locality. PSPOs impose conditions or restrictions on people using that area.

An order under s.59 of the Anti-Social Behaviour, Crime and Policing Act 2014 was made by Exeter City Council on 20 April 2017. The order came into effect on the 1 June 2017.

The order was made following the Council's public consultation on a proposed Public Spaces Protection Order that ended on 29 February 2016, with around 1250 having been considered. In light of the responses received as part of the consultation some of the restrictions were revised when considered through the committee process.

The revised proposals were considered at Place Scrutiny Committee on 12 January 2017 and Executive Committee on 14 February 2017 before going before Full Council on 21 February 2017 where it was decided to adopt the proposed PSPO.

The period for which this Public Spaces Protection order remains effective was extended until the 31 May 2021 by this Council's decision (made in accordance with section 60 of the Anti-Social Behaviour Crime and Disorder Act 2014) on the 25 February 2020

The period for which this Public Spaces Protection was extended again until the 31 May 2022 by this Council's decision (made in accordance with section 60 of the Anti-Social Behaviour Crime and Disorder Act 2014) on the 23rd February 2021.

The order has resulted in the Police and Council being able to deal with unacceptable behaviour in the city centre. Information regarding the current PSPO can be found at [Exeter Community Safety Partnership](#)

The Council is seek views on varying Prohibition E of the order so that individual who behaves in a manner that has caused or is likely to cause a member of the public to suffer harassment, alarm or distress by that behaviour can be dispersed. At present this prohibition can only be applied to individuals whilst in a group.

The consultation is also seeking views on varying the time that a dispersal may last. The proposal is to increase this to no later than 24 hours from the time that an authorised person orders a person to disperse.

This is an opportunity for you to offer your feedback relating to this proposal. Those wishing to participate in the consultation may do so in writing between 2 November and 31 December 2021 either by email at [community.safety@exeter.gov.uk](mailto:community.safety@exeter.gov.uk) or via by post addressed to Environmental Health and Community Safety, Civic Centre, Paris Street, Exeter EX1 1RQ. Any responses we receive after this date will not be included in the analysis.

We will not be responding individually to responses. After the consultation has closed we will include a summary of the responses received as part of our report to be present to Executive

and Council in February 2022. We will not publish names of individuals who respond but we may publish the name of the organisation for those responses made on behalf of organisations.

In accordance with the Freedom of Information Act 2000, we may be required to publish response to this consultation, but will not include any personal information. Even if an individual has requested for a response to be kept confidential, we may still be required to provide a summary of it.