

**If you would like any further information or have any special requirements in respect of this Meeting, please contact Lynda Eastwood, Democratic Services Officer on (01507) 613421**

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Date: Friday, 20 September 2024

Dear Councillor,

### **Licensing Act 2003 Committee**

You are invited to attend a Meeting of the **Licensing Act 2003 Committee** to be held at **the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH**, on **Monday, 30th September, 2024 at the rising of the General Licensing Committee**, for the transaction of the business set out in the attached Agenda.

Yours sincerely



Robert Barlow  
Chief Executive

### **Conservative**

Councillors Neil Jones (Vice-Chairman), Richard Avison, Stephen Evans, Carl Macey and Terry Taylor

### **District Independent/Liberal Democrat**

Councillor Sandra Campbell-Wardman (Chairman)

### **Labour**

Councillor Graham Cullen

### **Skegness Urban District Society (SUDS)**

Councillor Billy Brookes

### **East Lindsey Independent Group**

Councillors George Horton, Darren Hobson and Andrew Leonard

**LICENSING ACT 2003 COMMITTEE AGENDA**  
**Monday, 30 September 2024**

<b>Item</b>	<b>Subject</b>	<b>Page No.</b>
<b>1.</b>	<b>APOLOGIES FOR ABSENCE:</b>	
<b>2.</b>	<b>DISCLOSURE OF INTERESTS (IF ANY):</b>	
<b>3.</b>	<b>MINUTES:</b> To confirm the Minutes of the Licensing Act 2003 Meeting held on 3 June 2024 and the Licensing Act 2003 Sub Committee Meeting held on 25 June 2024.	1 - 6
<b>4.</b>	<b>GAMBLING ACT 2005 - REVIEW OF LICENSING POLICY:</b> Report of the Group Manager Public Protection.	7 - 14

Minutes of a Meeting of the Licensing Act 2003 Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Monday, 3rd June, 2024 at the rising of the General Licensing Committee.

PRESENT

Councillors Sandra Campbell-Wardman, Neil Jones, Richard Avison, Stephen Evans, David Hall, George Horton, Carl Macey and Terry Taylor.

OFFICERS IN ATTENDANCE:

Donna Hall	- Group Manager Public Protection
Martha Rees	- Legal Representative
Lynda Eastwood	- Democratic Services Officer
Laura Allen	- Democratic Services Officer

**3. APOLOGIES FOR ABSENCE:**

Apologies for absence were received from Councillors Darren Hobson and Andrew Leonard.

**4. DISCLOSURE OF INTERESTS (IF ANY):**

At this point in the meeting, Members were asked to disclose any relevant interests. The following interests were disclosed:

- Councillor Carl Macey asked it be noted that he was a personal licence holder.

**5. MINUTES:**

The Minutes of the Licensing Act 2003 Meeting held on 22 April 2024 and the Minutes of the Special Meeting held at the rising of the Annual General Meeting held on 22 May 2024 were agreed as a correct record.

The Meeting closed at 3.02pm.

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Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Tuesday, 25th June, 2024 at 10.30am.

PRESENT

Councillors Stephen Evans, Darren Hobson, Neil Jones and Terry Taylor.

Councillor Darren Hobson attended the Meeting as a Substitute.

Officers in Attendance:

Donna Hall	- Group Manager Public Protection
Neil Brooks	- Licensing Compliance Officer
Kim Robertson	- Legal Advisor
Lynda Eastwood	- Democratic Services Officer

Also in Attendance:

Mr Victor Fox	- Director, Europa Fisheries Ltd and The Factory Rock Shop
Mr Ashley Fox	- Review Applicant
Mr Grant Shackleston	- Chattertons Solicitors
Mr Andrew Gooud	- Gateley Smithers Purslow Limited
Mr Taj Bola	- Designated Premises Supervisor (DPS), LA Café
Mr Michael Kheng	- Kurnia Licensing Consultants
Mr Duncan Craig	- Barrister
Ms Kerry Cox	- Barrister's Assistant
Mr Andrew Brown	- ML Consulting Structural Engineers

**9. ELECTION OF CHAIRMAN:**

Councillor Neil Jones was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Neil Jones be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR NEIL JONES IN THE CHAIR

**10. APOLOGIES FOR ABSENCE:**

Those present were noted.

**11. DISCLOSURE OF INTERESTS (IF ANY):**

At this point in the meeting, Members were invited to declare any relevant interests. None were received.

## **12. REVIEW OF A PREMISES LICENCE:**

Donna Hall, Group Manager Public Protection, presented an open report which enabled Members to consider an application by Mr Victor Fox of Europa Fisheries Limited and The Factory Rock Shop, for a review of the premises licence held in respect of LA Café, 1 Grand Parade, Skegness, PE25 2UN.

The Group Manager Public Protection outlined the background information along with a summary of the previous hearings held on 2<sup>nd</sup> February 2024 and 5<sup>th</sup> April 2024.

Members were referred to Appendices A, B & C, pages 9 to 18 of the report refer. Members were further referred to Appendix D, a copy of the Application for the Review, pages 19 to 26 of the report refer together with supporting information from the representatives of the applicant and the premises licence holder.

The Group Manager Public Protection also reminded Members of the recommendations available to them, page 2 of the report refers.

At this point in the meeting, Mr Duncan Craig, Barrister for the premises licence holder addressed the Sub-Committee and invited them to reject the review on the grounds of being vexatious, under Section 52.4 of the Licensing Act. Mr Craig advised Members that the review should be a collaborative process, however, Mr Ashley Fox had stated he had no intention of withdrawing from any action as set out in his email to Mr Michael Kheng of Kurnia Licensing Consultants on 3rd June 2024.

Mr Craig also referred to additional emails sent from Mr Kheng to Mr Fox which were contained in the supporting documentation, along with correspondence from David Gibbs, Building Control Surveyor, and David Dodds, Environmental Health Service Manager, dated June 2024. The documentation further outlined a Planning Permission from 20th June 2001 showing that the balcony area had been lawfully permitted to have members of the public on it over the last 23 years.

Mr Craig also explained that Environmental Health had withdrawn their objections and were now content with the situation.

Members were then referred to two reports provided by Mr David Brown, an experienced structural engineer who had visited the premises and inspected the balconies. He was of the opinion that the balcony was safe.

In relation to an email from Chris Mager dated 1st June 2024 which outlined the history of the balcony and its intended use, a Member queried who Mr Mager was and his connection to the review. Mr Grant Shackleton informed Members that he was an architect who was familiar with the building when it was built in the 1970s and who has had concerns regarding the safety of the balcony for a number of years. Mr Craig

commented that the correspondence from Mr Mager was hearsay and had no bearing on the proceedings.

Mr Craig then referred Members to a letter in the Premises Licence Holders Evidence Bundle 03 from Mr David Dodds to Mr Singh dated 21<sup>st</sup> June 2024, which highlighted three recommendations.

Mr Craig commented that the review process was one that should be given a due level of respect and given the evidential landscape and manifest and a lack of desire from the Applicant to engage in communication, proportionate and proper steps were needed.

Mr Craig advised that his client had taken steps to establish that the building was not unsafe and asked the Sub-Committee to reject the review on the grounds of it being vexatious and to conclude the proceedings.

Following which, Mr Grant Shackleston, solicitor for the applicant, addressed Members and informed them that he believed it was not a vexatious hearing and that it was an issue of public safety.

Mr Shackleston reminded Members that Mr Singh had agreed to have the balconies tested after the hearing on 2<sup>nd</sup> February 2024 but had failed to do so. Instead, Mr Singh relied on other evidence that the balconies were safe. Following which, Mr Shackleston's client now had no trust in Mr Singh and was not willing to withdraw the application whilst there was a real risk that the balconies were unsafe.

Mr Shackleston referred Members to correspondence from August 2023 addressed to Mr Singh and his legal representatives relating to the balconies and asking them to demonstrate that they were safe, or to arrange for testing to be carried out in the interest of public safety.

Mr Shackleston informed Members that there was evidence of water ingress on the balconies which would undermine the structure's stability as reported by Mr Andrew Goud of Gateley Smithers Purslow.

With regards to the planning situation, Mr Shackleston explained that building control were not able to produce any evidence that any structural testing was provided and they were not aware of a change of use application for the balconies.

Mr Shackleston expressed his disappointment in the withdrawal of the objections by Environmental Health but was pleased that Andy Goud was present at the hearing to give evidence as an expert in these matters.

Mr Shackleston reported that David Gibbs and David Dodds had both considered that the structure was not dangerous under the Building Act which meant that the balcony would need to be in a serious state of disrepair before Building Control would act upon it. Mr Shackleston stated

that the balcony was not designed to hold a large number of people and there was a real risk that the balcony was unsafe.

Mr Shackleston concluded by commenting that the balconies should be tested and, if unsafe, needed to be rectified. He further considered that the hearing was the appropriate forum to deal with the matter and would ask the Sub-Committee to reject the vexatious application and continue with the review.

N.B. The Sub-Committee retired for their deliberation at 11:02am and the Meeting re-convened at 11:47am.

N.B. The Applicant for Review plus his party and Premises Licence Holder plus his party left the room at 11:47am to have a discussion and re-joined the Meeting at 12:13pm.

Upon resuming the meeting, the Chairman advised everyone that the Sub-Committee had made a decision to reject the argument of a vexatious application.

Following which, Mr Shackleston advised the Sub-Committee that the two parties had engaged in a constructive discussion and had come to a pragmatic solution. This was to recommend the use of a load testing with scaffolding underneath the concrete slab and would not affect the local businesses. It was agreed that the two experts, Mr David Brown & Mr Andrew Gooud would obtain 3 quotations and both parties would equally fund the cost of the testing which would confirm whether the balcony was safe. He advised that testing would also be carried out on the balustrade and if the test results were satisfactory Mr Fox's application would be withdrawn.

Mr Shackleston confirmed the above agreement and reiterated that no licensing activities would be carried out on the balcony until testing had taken place and it was deemed safe.

Following which, Mr Grant requested an adjournment to enable the testing to take place which the Sub-Committee agreed to.

Following which it was,

RESOLVED

That the Application for Review of a Premises Licence for the premises known as LA Café, 1 Grand Parade, Skegness be adjourned to a date to be determined.

The Meeting closed at 12.21pm.





**Report To:** Licensing Act 2003 Committee

**Date:** 30 September 2024

**Subject:** Gambling Act 2005 – Review of Gambling Licensing Policy (Statement of Licensing Principles)

**Purpose:** To undertake the required statutory three-yearly review of the Council’s (Licensing Authority’s) Statement of Licensing Principles (Gambling Policy).

**Key Decision:** N/A

**Portfolio Holder:** Councillor Thomas Kemp – Portfolio Holder for Finance.

**Report Of:** Donna Hall - Group Manager Public Protection.

**Report Author:** Adrian Twiddy – Ast. Licensing Officer.

**Ward(s) Affected:** ALL

**Exempt Report:** NO

**Summary**

To consider the Gambling Policy (Statement of Principles) in light of the recent consultation exercise and to recommend the revised Policy to Council for adoption. The closing date for the submission of consultation responses was 02 September 2024.

This Authority’s current policy statement took effect in January 2022 and so the required statutory review process must be completed by the end of 2024 – with the updated policy to come into effect in January 2025.

**Recommendations**

That the Committee recommend to the Council that there be no amendment to the Gambling Policy (Statement of Principles), apart from the section of the policy document that summarises the number of gambling authorisation currently in force. The new summary, for insertion into the revised policy document, can found at **Appendix 1** of this Report.

## **Reasons for Recommendations**

The Council is under a legal duty to keep its Gambling Policy under review. In line with the statutory requirements this review of the policy must be completed by January 2025.

The policy review must take place every 3-years.

## **Other Options Considered**

There are no other options for consideration – it is a statutory requirement that the Council reviews the policy on a three-yearly basis.

## **1. Background**

- 1.1 Section 349 of the Gambling Act 2005 requires the Council (the Licensing Authority) to prepare and publish a Statement of the Principles (Gambling Policy) that it proposes to apply in exercising its licensing functions. The statement will last for a maximum period of three years - but can be reviewed and revised by the Authority at any time. This Authority's current statement took effect in January 2022 and so the required review process must be completed by the end of 2024 – with the updated policy to come into effect on 03 January 2025.
- 1.2 A copy of the current policy document can be viewed on the Council's website at:  
<https://www.e-lindsey.gov.uk/article/5432/Gambling>
- 1.3 On 22 April 2024 the Committee considered current the policy document and agreed the details of the consultation process. The subsequent consultation took place between 15 July 2024 and 02 September 2024.

## **2. Report**

- 2.1 The Gambling Act 2005 places the responsibility for the licensing of gambling premises and the issuing of gambling permits with Local Authorities. Amongst other matters the 2005 Act deals with the licensing of:
  - Casinos.
  - Betting shops.
  - Bingo halls.
  - Amusement arcades.
  - Gaming machines.
  - Society lotteries.
- 2.2 The Act requires Licensing Authorities to prepare, consult on and publish a Statement of Licensing Principles (Gambling Policy) that they propose to apply in exercising their functions under the Act during the 3-year period to which the policy applies.

2.3 Core to the Gambling Act are the licensing objectives. These are:

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

2.4 Section 154 of the 2005 Act indicates that adoption of the Statement of Principles (Gambling Policy) cannot be delegated to the Licensing Committee. Therefore, full Council must adopt the final document. This is different to the granting of premises licences, which the Act automatically delegates to the Licensing Committee.

2.5 The existing policy document has been reviewed in light of experience in dealing with the 2005 Act over the last three years. Experience has shown that there is nothing which needs changing in the main body of the policy document – apart from updating the summary of licence and permit numbers currently in force in the East Lindsey District. The new summary, for insertion into the revised policy document, can found at **Appendix 1** of this Report.

2.6 There has been one significant change to the licence numbers in the District since the previous policy adoption in 2022. The number of bingo premises has increased from 13 to 21 – with the majority of these new bingo premises being within holiday park sites on the coastal strip of the East Lindsey District.

2.7 One response was received to the policy consultation document. The response was from Hough & Bolland Licensing Consultants – who indicated that they had no comments or concerns with regard to the proposal to make no changes to the main body of the policy document.

2.8 **Casino Licensing** - The Council's small casino licensing process (competition) is currently on hold. At present we do not have a specific date when the process will resume. This policy review does not propose any changes to the proposed casino licensing process.

### 3. Conclusion

3.1. It is a statutory requirement that the Council reviews the gambling policy on a three-yearly basis.

3.2. Experience has shown that there is nothing of significance that currently needs changing in the policy document and so the consultation was issued on that basis (i.e. the proposal is to make no changes to the policy – apart from updating the section showing the number of licences and permits currently in force).

### Implications

#### South and East Lincolnshire Councils Partnership

Each Council within the Partnership will need to undergo a similar review of its Statement of Licensing Principles (Gambling Policy).

## **Corporate Priorities**

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the district's residents, visitors, and business community.

Effective implementation of an appropriate licensing regime should help to promote the local economy.

## **Staffing**

None.

## **Workforce Capacity Implications**

None.

## **Constitutional and Legal Implications**

The policy document must comply with the requirements of the Gambling Act 2005 and the Gambling Commission's Guidance to Licensing Authorities. It must also comply with the Code of Practice in relation to casino premises licensing.

## **Data Protection**

None.

## **Financial**

None.

## **Risk Management**

There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the policy is found not to comply with the requirements of the Gambling Act 2005 and associated legislation, regulations and guidance.

## **Stakeholder / Consultation / Timescales**

The consultation, regarding the policy document, took place between 15 July 2024 and 02 September 2024. The consultation document was issued to a wide range of interested parties, including Lincolnshire Police, Lincolnshire Trading Standards, Lincolnshire Fire and Rescue, the Gambling Commission, Licensing Solicitors & Consultants, Town Councils, BACTA, etc. In addition, a copy of the consultation document was placed on the Council's website.

## **Reputation**

Having a robust licensing scheme protects public safety and commands the confidence of the public.

## **Contracts**

None,

## **Crime and Disorder**

Core to the Gambling Act 2005 are the licensing objectives, which are detailed in Paragraph 2.3 of this Report. The licensing objectives have been considered throughout this policy review and in relation to the Authority's Section 17 requirements.

## **Equality and Diversity / Human Rights / Safeguarding**

**Equality & Diversity:** There are no equality or diversity implications arising from the recommendations of this Report.

**Human Rights:** The Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action / policy proportionate to what it wishes to achieve, or, colloquially does the end justify the means.

**Safeguarding:** The Gambling Act 2005 includes the licensing objective of 'protecting children and other vulnerable persons from being harmed or exploited by gambling'. This licensing objective has been considered throughout this policy review.

## **Health and Wellbeing**

None.

## **Climate Change and Environmental Implications**

None.

## **Acronyms**

BACTA      British Amusement Catering Trade Association

## **Appendices**

Appendices are listed below and attached to the back of the report:

**Appendix 1**                      Number of Gambling Authorisations - September 2024

## **Background Papers**

Background papers used in the production of this report are listed below: -

**Document title**                      **Where the document can be viewed.**

The Gambling Commission's Guidance to Licensing Authorities:

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

## **Chronological History of this Report**

<b>Name of Body</b>	<b>Date</b>
Licensing Act 2003 Committee	22 04 24

### **Report Approval**

Report author:	Adrian Twiddy – Ast. Licensing Officer adrian.twiddy@e-lindsey.gov.uk
Signed off by:	Donna Hall - Group Manager Public Protection donna.hall@sholland.gov.uk
Approved for publication:	N/A

**APPENDIX 1****East Lindsey District Council****Number of Gambling Authorisations - Current Figures (September 2024)**

Betting Premises Licences	9
Bingo Premises Licences	21
Adult Gaming Centre (AGC) Premises Licences	34
Family Entertainment Centre (FEC) Premises Licences	12
Family Entertainment Centre Permits (uFEC)	73
Alcohol Licensed Premises Providing	
- two or less gaming machines	143
- three or more gaming machines	43
Club Gaming Permits	9
Club Machine Permits	8
Prize Gaming Permits	6
Society Lottery Registrations	118

Number of Occasional Use Notices (OUN) Received During 2023/24 = 1

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