

Wolverhampton City Council**OPEN DECISION ITEM**

Committee / Panel	<u>LICENSING COMMITTEE</u>	Date:	<u>30 MAY 2012</u>
Originating Service Group(s)	<u>EDUCATION & ENTERPRISE</u>		
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Title/Subject Matter	<u>SMALL CASINO LICENCE APPLICATION PACK</u>		

Recommendation

Members are requested to:

- (i) consider the responses received, following consultation, to the proposed Small Casino Licence Application Pack ;
- (ii) consider and endorse the comments and amendments proposed to the application pack ,as agreed by the Small Casino Licence Member Reference Group.
- (iii) endorse and recommend to Full Council to adopt the Small Casino Licence Application Pack ,(as amended following consultation - attached at Appendix 1) and launch the Casino licence application process.

SMALL CASINO LICENCE APPLICATION PACK

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to:-

- (i) consider the responses to the consultation and endorse the proposed comments and subsequent amendments to the Small Casino Licence Application Pack.
- (ii) recommend the adoption of the Small Casino Licence Application Pack and approval to launch the Casino licence application process by Full Council on 11 July.

2.0 BACKGROUND

- 2.1 At the 14 October 2011 meeting of the Small Casino Licence Member Reference Group, Members resolved to forward comments on the revisions to the Statement of Gambling Policy to Licensing Committee and to convene a Member and officer workshop to be facilitated by Philip Kolvin QC, which would consider the competition weightings and scoring matrix to be subsequently incorporated into the draft Licence Application Pack.
- 2.2 On 9 November 2011, the proposed revised Statement of Gambling policy was endorsed by Licensing Committee and subsequently presented to Full Council on 21 December 2011 where the policy was fully adopted.
- 2.3 The Member Reference Group workshop took place on 29 November 2011 and the recommendations arising out of the discussions were included in the draft scoring criteria and weightings which forms part of the draft Licence Application Pack as attached at Appendix 1. Philip Kolvin QC was consulted on the draft scoring document and his comments were incorporated.
- 2.4 At the workshop Philip Kolvin recommended that whilst not a statutory requirement it would be best practice to consult on the draft application pack, before the licensing process begins. This is a procedure which a number of other Authorities in the Network have followed.
- 2.5 The consultation process, which lasted for 12 weeks, began on 6 February 2012 and was completed on 30 April 2012. During the consultation period The Council consulted as widely as possible. This included prospective operators that have identified themselves to the Council, as well as existing operators. The draft application pack was also made available to view on the Councils website.
- 2.6 A meeting of the Small Casino Licence Member Reference Group was convened on 14 March 2012 where the contents of the Application Pack were noted and it was agreed that if there were no substantive changes proposed as a result of the consultation exercise, that the application pack be made available to applicants, without returning to the Member Reference Group, following approval by the licensing Committee and Full Council. It was also agreed that any minor changes

proposed be signed off by the Chair of the Member Reference Group. At that meeting members also requested one minor amendment to the application pack, that the wording "a raft of" on page 27 section 4.5 be changed to read "detailed". This has been noted and changed.

- 2.7 As only minor amendments are proposed to the Application Pack, the Chair of the Small Casino Licence Member Reference Group has been consulted and has agreed, on behalf of the Group, to endorse the proposals.

3.0 CONSULTATION RESPONSES

- 3.1 Only one response was received as a consequence of the consultation exercise, from Arena Leisure PLC who own Wolverhampton Racecourse. An extract from their letter is attached and the proposed responses to their comments and recommendations are highlighted.

3.2 Extract of letter from Arena Leisure PLC

Provisional statements

In many locations in the Packs the potential for applicants to apply for either a Premises Licence or, alternatively, a Provisional Statement is correctly stated. However, there are certain instances where the potential to apply for a Provisional Statement appears to have been omitted via reference to a Premises Licence only. We would submit that each of these references is expanded so that equal reference is made consistently throughout the document to applications for a Premises Licence or Provisional Statement.

Also, in a number of cases, it appears expected that an Operating Licence is either held or has been applied for, whereas an applicant for a Provisional Statement is not required to have done either of these.

Specific examples are listed below:

Title page:

This should read: COMPETITION FOR GRANT OF A SMALL CASINO PREMISES LICENCE OR PROVISIONAL STATEMENT

Comment acknowledged and application pack amended accordingly.

Page 3, 3rd paragraph:

This should read: "for this purpose, each competing applicant for the casino Premises Licence or Provisional Statement is an interested party...".

Page 20, sections 6, 8 (a) and 8 (b):

In all three cases, the sentence should start with: "Where relevant..." because it is not necessary to either hold or have applied for an Operating Licence when applying for a Provisional Statement.

Page 25, section 1.1:

The second half of the sentence should start with: "..where relevant..." because again it is not necessary to either hold or have applied for an Operating Licence when applying for a Provisional Statement.

Page 36, title:

In both the first and third elements of the title, it should refer to a: "Small Casino Premises Licence or Provisional Statement".

Page 36, sections 2, 4 (a) and 4 (b):

In all three cases, the sentence should start with: "Where relevant..." because it is not necessary to either hold or have applied for an Operating Licence when applying for a Provisional Statement.

Page 37, sections 6, 8 (a) and 8 (b):

In all three cases, the sentence should start with: "Where relevant..." because there is no need to either hold or have applied for an Operating Licence when applying for a Provisional Statement.

Page 55, 3rd paragraph:

This should read: "At this stage, the Casino Premises Licence or Provisional Statement is to be awarded...".

Page 56, largest paragraph:

This should read: "For this purpose, each competing applicant for the Casino Premises Licence or Provisional Statement is an interested party...".

In response to the above comments, a paragraph has been inserted into the introduction on page 1, which makes clear that where reference is made to a Premises Licence, this also implies a Provisional Statement. In addition, "where relevant" has been added to the appropriate sections and notes of the stage 1 and 2 application forms.

Planning permission

The Council's "Gambling Licensing Policy - Small casino Licence" states in paragraph 7:

"The Licensing Authority does, however, strongly recommend that planning permission be sought prior to submitting an application in order to avoid disappointment."

This recommendation is not currently well reflected in the Packs, for example, on page 7, section 3 (b) and on page 26, section 3.4.

However, it does appear on page 30, section (a) (ix) as one of the factors for assessing the risk of non-delivery of a casino development.

As part of the Small Casino Licence application process the Council are not entitled to take into account whether the proposal is likely to be permitted in accordance with the law relating to planning or building, however, the Council considers that as part of the test of deliverability, it would consider the existence of planning permission as being relevant to how likely the proposal would be delivered. As such it is not proposed to change the wording in the application pack.

Interdependence of developments

Page 26, section 3.4 and page 41, section 27:

These sections require the applicant to state "whether the casino is dependent upon another development". This does not allow for a situation in which a wider development may be dependent upon the grant of the Premises Licence or Provisional Statement for the small casino. This could be rectified by adding words similar to "...or vice versa..." into the sentences.

The focus of this process is to secure a new casino which may be part of a larger regeneration proposal. It is the intension of this statement to gauge whether the casino development is dependent on any wider development being delivered. It is not part of the process to consider whether any wider development proposal would fail should the casino fail to be delivered or the licence not be awarded to that application. As such the wording of this section is proposed to remain unchanged.

Scoring allocation within Main Criteria

Thank you for the guidance provided as to the Main Criteria for making the selection as set out on pages 29-35. However, in our view, the proposed scoring has a strong chance of leading to a sub-optimal decision being made by the Council for the following reasons:

Criterion E:

This criterion is vague in its wording and yet carries the same potential score as, for example, Criterion D in which specific non-gambling facilities and services are set out that will bring great value to the City of Wolverhampton, such as a hotel. It is our view that Criterion E is both vague in its aspirations and carries too much weight and therefore does not appear a reasonable allocation of marks with regard to what Wolverhampton City Council has said is important.

Criterion E is intended to give applicants the ability to be creative in the addition benefits that they are proposing and is seen as a positive advantage to applicants who can tailor the benefits of the development to their particular proposal. It is not suggested that the wording of this criterion is amended to reflect these comments.

Criterion F:

For all three sections within Criterion F the broad principal that applies is: whoever offers the most, gets the maximum mark and "other applicants will then be scored on a pro rata basis". This has the potential to significantly reward minimal amounts, skewing the decision making process in a sub-optimal way.

By way of example:

Applicant 1 offers an amount of £1 in each of the three sections and Applicant 2 offers nothing. Applicant 1 gets 100 marks and Applicant 2 gets zero. That would not appear to truly reflect the value that the two applicants may be providing. Clearly, the figures used are extreme and are designed to illustrate the issue. Nevertheless, we have a concern that relatively small amounts of money could potentially score as highly as significant and costly infrastructure type projects.

These concerns are noted and this issue was carefully considered during the workshop to establish the weightings and scoring criteria. This method of scoring has been used successfully by other authorities in the Casino Network and it has been endorsed by the Council's independent legal advisor. Wording of criterion F to remain unchanged.

Criterion G:

Criterion G states that: "the Council will consider proposals over and above the social responsibility standards laid down by the Gambling Commission". 100 points - the same as the provision of a hotel - are potentially achievable for exceeding what is the legal requirement. Without, at this stage questioning why the legal standard needs to be exceeded, 100 marks for exceeding it, again feels disproportionate and may potentially result in a sub-optimal decision.

Social responsibility from the successful casino operator has been identified as a key issue in measuring the success of the casino development. Applicants are expected to not only achieve the legal minimum for a casino, but demonstrate in their application pro-active measures they intend to take to mitigate against any potential adverse social impact resulting from the development.

This was discussed in detail at the workshop and in order to ensure that the status of social responsibility as a key determining factor in the application process is not reduced, it is not proposed to make any revisions to criterion G.

Criterion H:

Criterion H also awards up to 100 marks. At this stage of the process, it is difficult to see how anyone can offer anything more than vague promises with regard to use of local suppliers in the construction project; in fact, the Council runs the risk of potential applicants making the same promises. In reality, until a tender process is run for the appointment of the main contractor for a development, it will be difficult for any applicant to say anything for certain.

Again, it would not necessarily appear in the Council's best interests for vague promises to be worth as much as key tangible benefits such as the incorporation of a hotel, or owning a site, or planning permission.

The Council considers the use of local contractors and suppliers to be an important element of and contribution towards the regeneration benefits to the local area. In response, it is possible to specify the use of local businesses in any tender contract and it is therefore not considered appropriate to amend the pack in response to these comments.

Overall:

Whilst we strongly support the aims of the Main Criteria and the early disclosure of a scoring system, we question whether there is the correct balance between the various components.

The scoring matrix and criteria has been developed to directly reflect the main priorities of the Council.

Other matters

1. Paragraph 30 in the Council's "Gambling Licensing Policy - Small casino Licence" states:

"With regard to the Local Authority's preferred location for the Casino, although applicants are able to submit plans for any site within the Borough which will be judged on their own individual merits, applicants should have regard to the Council's Local Development Framework for the area".

However, this does not appear to feature anywhere in the Packs. We suggest regard to Local Development Framework considerations to be referenced as part of Criteria A, C, D and F.

Reference is made in the "Application guidance" section page 29 paragraph 1.3 , to the need to consider all of the Councils corporate policies and the Local Development Framework before submitting the application. A website link is offered for assistance.

2. Paragraph 32 in the Council's 'Gambling Licensing Policy - Small casino Licence' states:

"Applicants must provide an indication of the availability of the site chosen, including any matter that may impact on any time restraint that may affect the delivery of the proposal".

This is key to delivery, and does not appear to feature anywhere in the Packs. We suggest this should specifically feature as part of Criterion A.

Comments noted and accepted. Criterion A (a)(i) page 30 to be amended to read " Availability of site (e.g. site ownership / right to buy / legal commitment)"

3. Paragraph 33 of the Council's "Gambling Licensing Policy - Small casino Licence" states:

"The proposal will assist with the rebranding of the tourism sector towards a new upmarket image and address issues relating to hotels, conference facilities and cinema".

Page 32, Criterion D is closest to this aspiration, yet is much less definitive.

It is considered that the wording of criterion D sufficiently covers this issue and as such no amendment is proposed.

4. Page 58, section (2): This refers to a "Principles and Weighting document", although it is not clear what this document is.

Comments noted and accepted. Wording to be amended to read "A quantitative appraisal against each of the principles in the Application Guidance - guidance for applicants on stage 2 scoring criteria."

4.0 NEXT STEPS

- 4.1 Once the Application Pack has been adopted by Full Council, it is proposed that an invitation to apply for the Licence will be advertised in the industry journals in July and a targeted programme of marketing and promotion be undertaken to ensure as high quality applications as possible are received in order to maximise the potential regeneration benefits. The subsequent launch of the competition will be 1 August.

5.0 LEGAL IMPLICATIONS

- 5.1 The legal implications are included in the main body of the report.
[SH / 16052012 / R]

6.0 FINANCIAL IMPLICATIONS

- 6.1 There are no direct financial implications arising from this report.
- 6.2 The consultation on the draft Casino Licence Application Pack was met from existing approved Licensing revenue budgets. [JJ / 16052012 / L]

7.0 EQUALITIES IMPLICATIONS

- 7.1 As part of the monitoring of the Licence allocation process the Council will be undertaking an equalities impact assessment through the development of a Social and Economic assessment toolkit.

8.0 ENVIRONMENTAL IMPLICATIONS

- 8.1 There are no direct environmental implications arising from this report.

DRAFT

Appendix 1

Wolverhampton
City Council



WOLVERHAMPTON CITY COUNCIL

GAMBLING ACT 2005

**COMPETITION FOR GRANT OF SMALL
CASINO PREMISES LICENCE OR
PROVISIONAL STATEMENT**

APPLICATION PACK

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General Guidance

1 INTRODUCTION

In May 2008 Parliament gave Wolverhampton City Council (“the Authority”) the right to grant a Casino Premises Licence for a small casino under the Gambling Act 2005.¹

Where there is more than one applicant, the Licensing Authority must hold a “competition”.

The purpose of this application pack is to inform potential applicants of the rules of the competition. It is published to conform with the requirements set by Parliament and the Secretary of State² and to ensure a competition process which is both transparent and fair.

For the purposes of clarity, where reference is made throughout the application pack to a Premises Licence, this also implies a Provisional Statement.

2 WHAT IS A SMALL CASINO?

The definition of a small casino is set out in the Gambling Act 2005 and in Regulations. Applicants should take advice as to the detailed statutory requirements. What follows is a general guide.

A small casino is a casino³ in which the combined floor area of those parts of the casino which are used to providing facilities for gambling is at least 500 square metres but less than 1,500 square metres.⁴ The table gaming area itself must be at least 500 square metres, and may comprise a number of separate areas, although no area under 62.4 square metres may be taken into account.⁵

The casino may offer gaming machines of categories B, C or D.⁶ The number of machines must be no more than twice the number of gaming tables used in the casino, and must in any case not exceed 80.

The casino may also make facilities available for betting, and also betting on the outcome of a virtual game, race, competition or other event of process.⁷

There must be one or more non-gambling areas totalling at least 250 square metres. The total area may include, but must not solely comprise, lobby and toilet facilities. Each non-gambling area (other than the lobby and toilet facilities) must offer recreational facilities at all times that gambling facilities are being provided on the premises.⁸

¹ The Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 (SI 2008/1327).

² Gambling Act 2005, Part 8 and Schedule 9; The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 (SI 2008/469); The Code of Practice for Determinations under Paragraphs 4 and 5 of the Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos (“Competition Code of Practice”).

³ The definition of a casino is set out in Section 7 of the Gambling Act 2005.

⁴ The Categories of Casinos Regulations 2008 (SI 2008/1330).

⁵ Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409).

⁶ Section 172 Gambling Act 2005, The Categories of Gaming Machines Regulations 2007 (SI 2007/2158).

⁷ Sections 172, 174 Gambling Act 2005.

⁸ Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409); Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SI 2007/266).

3 THE TWO STAGE APPLICATION PROCESS

Parliament has provided for a two-stage application process.⁹

At Stage 1 applicants must apply for a Casino Premises Licence or Provisional Statement. Their applications will be judged in the same way as for all other Premises Licences under the Gambling Act 2005, according to the principles in Section 153.

If there is only one successful applicant, the Casino Premises Licence (or, as the case may be, the Provisional Statement) will be awarded to that applicant.

If there is more than one successful applicant, Stage 2 of the competition will be activated. The Casino Premises Licence (or Provisional Statement) will then be awarded to the application which would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area.

Further detail of the procedure, including the rules of the competition, are set out below.

4 STAGE 1

The procedure at Stage 1 is set out briefly below. Applicants should take legal advice on these provisions, if further detail is required.

An application for a Casino Premises Licence or a Provisional Statement must be made to the Licensing Authority in the form and manner prescribed by the Gambling Act 2005 (Premises Licence and Provisional Statements) Regulations 2007¹⁰ ("the Application Regulations") and must be accompanied by the prescribed fee.¹¹ The application must be made by the "closing date" as set out below.

An application for a Casino Premises Licence may only be made by a person who:

- (i) holds a Casino Operating Licence or has made an application for such an Operating Licence which has not yet been determined; and
- (ii) has a right to occupy the premises to which the application relates.¹²

If the applicant cannot satisfy these requirements, he may nevertheless apply for a Provisional Statement.¹³

Following the making of the application, the applicant must give notice to the Responsible Authorities, advertise the application and display a site notice, all in accordance with the Application Regulations.¹⁴

⁹ Schedule 9 Gambling Act 2005.

¹⁰ SI 2007/459.

¹¹ The prescribed fees are set out in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (SI 2007/479).

¹² Section 159 Gambling Act 2005.

¹³ Section 204 Gambling Act 2005.

¹⁴ Sections 159-160 Gambling Act 2005.

It is important to note than an application made before the closing date is to be treated as if it were made on the closing date.¹⁵ Therefore, the period for representations specified in notices to Responsible Authorities, advertisements and site notices must be calculated from the closing date and not the date when the application was in fact made. Furthermore, in calculating the period within which notice of the application has to be given to Responsible Authorities, the period within which the application must be advertised, and the period during which site notices have to be displayed, the closing date must again be submitted for the date when the application was actually made.

The effect of this is as follows. The applicant is required to;

- issue notice of the application to responsible authorities within 7 days of the closing date for stage 1 applications.
- advertise the application in a local newspaper within 10 working days following the closing date for stage 1 applications.
- display a notice at the premises or on site for at least 28 consecutive days beginning on the closing date.
- the last date for representations to be specified in notices to responsible authorities, advertisements and site notices is 28 days after the closing date.

Representations may be made on the application by Responsible Authorities and interested parties, as defined by the Act.¹⁶ For this purpose, each competing applicant for the Casino Premises Licence is an interested party and so can make representations in relation to each of the competing applications.¹⁷ The period for representations is 28 days beginning on the closing date as stated above. If the Authority considers a representation to be vexatious, frivolous or certainly not such as to influence its determination of the application, it will disregard it.¹⁸

Unless the applicant and also interested parties or Responsible Authorities consent to a determination without a hearing, the Authority must hold a hearing to consider each application if:-

- (a) there remain live representations from interested parties or responsible authorities;
- (b) the Authority proposes to attach an individual condition to the premises licence;
- (c) the Authority proposes to exclude a default condition from the licence.¹⁹

In considering the merits of the application at Stage 1, the Authority will apply the test set out in section 153 of the Gambling Act 2005. In particular, the Authority will aim to permit the use of premises for gambling in so far as the Authority think it:-

¹⁵ Regulation 7(3), Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008.

¹⁶ Sections 157, 158, 161 Gambling Act 2005.

¹⁷ Schedule 9 paragraph 4, Gambling Act 2005.

¹⁸ Section 162 Gambling Act 2005.

¹⁹ Section 162 Gambling Act 2005.

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;²⁰
- (b) In accordance with any relevant Guidance issued by the Gambling Commission.²¹
- (c) reasonably consistent with the licensing objectives²² (subject to paragraphs (a) and (b)), and
- (d) in accordance with the statement published by the Authority under section 349²³ (subject to paragraphs (a) - (c)).

In making its determination, the Authority must disregard:

- (1) the expected demand for the proposed facilities;²⁴
- (2) whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building.²⁵

The determination at Stage 1 will be made by the Authority's Licensing Committee. Any hearing will be conducted in accordance with the appropriate hearings regulations.²⁶ Details of the membership of the Licensing Committee can be found on www.wolverhampton.gov.uk. If any objection is taken to these Members, the substance of the objection should be stated prior to submission of the Stage 1 application, so that the objection may be considered and any necessary action taken.

Following the Stage 1 procedure, if there is only one successful applicant, a Casino Premises Licence (or Provisional Statement as the case may be) will be awarded to that applicant. If there is more than one successful applicant, then all of the successful applicants will be invited to participate in Stage 2 of the competition.²⁷

There is a right of appeal against the Authority's decision at Stage 1 of the process. Pending completion of the appeal, Stage 2 of the competition will be suspended.²⁸

Extraneous information or material

It is important to note that the only information the Authority can take into account at Stage 1 is information material to the judgement it has to make under section 153 of the Gambling Act 2005. Therefore:

²⁰ Under section 24 of the Gambling Act 2005. The current codes of practice are obtainable from the Commission's website: www.gamblingcommission.gov.uk.

²¹ Under section 25 of the Gambling Act 2005. The current Guidance is obtainable from the Commission's website: www.gamblingcommission.gov.uk

²² The licensing objectives are: (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, (b) ensuring that gambling is conducted in a fair and open way, and (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

²³ The Authority's Statement of Licensing Policy is obtainable from the Authority's website: www.wolverhampton.gov.uk.

²⁴ Section 153 Gambling Act 2005.

²⁵ Section 210 Gambling Act 2005.

²⁶ Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (SI 2007/173).

²⁷ Schedule 9, Gambling Act 2005.

²⁸ Schedule 9, Gambling Act 2005.

- (1) No information, other than information required by the Application Regulations, may be included in or submitted with an application.²⁹
- (2) In making its determination at Stage 1, the Authority will not take into account any information which is relevant to a determination at Stage 2, unless that information is also relevant to the determination at Stage 1.³⁰
- (3) If extraneous information or material is included with the application, the Authority will disregard it and, if possible, return it to the applicant.³¹
- (4) The Authority will not have regard to whether any of the competing applications is more deserving of being granted.³²

5 STAGE 2

At Stage 2 of the process, the Authority will decide which of the remaining applications would be likely, in its opinion, to result in the greatest benefit to the Authority's area. To ensure delivery of benefits, the Authority may enter into an agreement with the applicant, (under Schedule 9 of the Gambling Act 2005), whether as to the provision of services or otherwise, may attach conditions to any licence so as to give effect to the agreement, and may take the agreement into account in evaluating the competing applications at Stage 2 of the process. A Casino Premises Licence (or Provisional Statement, as the case may be) will be awarded to the successful applicant.³³

The decision will be made by the Licensing committee.

In general, the procedure will follow the Competition Code of Practice.³⁴ However, the Code leaves individual authorities to determine the detail of their own procedure. The procedure that follows has been determined by the Authority to ensure fairness, equality between applicants and transparency; and also to secure maximum benefits from this process for the area of the Authority.

At the beginning of Stage 2, applicants will be invited to complete a form demonstrating how their application, if granted, would be likely to result in the greatest benefit to the Authority's area.

A copy of the form is included in this Application Pack, together with Guidance.

Applicants will be required to submit a raft of information together with their form, to enable applications to be thoroughly evaluated.

Attached to the form is a pro forma Schedule 9 agreement, which is intended to secure provision of the benefits offered by the applicant and to ensure that applications are judged on an equal basis. Applicants are invited to complete the annexes to the agreement with the benefits they are offering should they be awarded the Casino Premises Licence, together with the compensation they are offering should the casino development be delayed or the benefits fail to materialise or cease. The agreement is likely to be made a condition of the licence, so that any

²⁹ Regulation 6, the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 (SI 2008/469) ("the Invitation Regulations).

³⁰ Ibid.

³¹ Paragraph 4, Competition Code of Practice, see note 2 above.

³² Schedule 9, Gambling Act 2005.

³³ Schedule 9, Gambling Act 2005.

³⁴ See above.

breach of the agreement will also be subject to remedies under the Gambling Act 2005. While it is not obligatory for applicants to offer to enter into the agreement, this is likely to affect the Authority's evaluation of the benefit arising from the application.

The form will need to be returned to the Authority by the closing date for stage 2 applications.

In determining which application is likely to result in the greatest benefit to the area, the applications will be considered:-

- (a) against the heads of benefit, and according to the weighting, set out in the *Application Guidance – Guidance for Applicants on Stage 2 Scoring Criteria*;
- (b) against the deliverability of the scheme.

As to (a), applicants are encouraged to provide as much detail as they can as to the benefit which is proposed under each heading in *Scoring Criteria Guidance*.

As to (b), the Authority will also pay special attention to the question of delivery. In particular it will wish to consider what legal assurances there are that the proposed development will be delivered in time, and that the promised benefits will both materialise and be maintained. Relevant factors may include (but will not be limited to) the applicant's financial standing, track record of delivery, the terms offered in the legal agreement and any third party guarantees. Applicants are asked to give close consideration to these issues in the preparation of their bid.

The Evaluation Panel

The Authority has constituted a non-statutory Panel named the Evaluation Panel.

The attached document "Terms of Reference for the Evaluation Panel and Licensing Committee" sets out the constitution of the Panel. The membership of the Panel will be announced prior to the commencement of stage 2. If any objection is taken to the membership of the Evaluation Panel, the substance of the objection should be stated prior to submission of the Stage 2 application, so that the objection may be considered, and any necessary action taken.

The function of the Evaluation panel is to evaluate the applications for the benefit of the Licensing Committee. The Evaluation Panel is not a decision-making body, and whilst the Licensing Committee may taken the Panel's evaluations into account, it is not bound to follow them.

All Stage 2 applications will be placed before the Evaluation Panel.

The Panel may request officers of the Authority to engage in discussions or negotiations with each Stage 2 applicant with a view to the particulars of their application being refined, supplemented or otherwise altered to as to maximise the benefits to the Authority's area, should the application be granted. If the discussions are with a view to particulars of the application being improved or altered (rather than merely clarified or particularised), the same invitation will be offered to all other applicants to ensure equal treatment. Wherever possible, such discussions will take place in writing to ensure transparency. Where oral discussions occur, these will be fully minuted.

The applicant will be invited to amend his bid documentation to reflect any clarifications or alterations to the bid arising from the above process. At this stage, any suggested changes going beyond clarifications or amendments which have been agreed will be disregarded.

Following completion of the bid documentation, the Evaluation Panel will evaluate each bid.

The evaluation will consist of:-

- (1) A qualitative appraisal of the bid.
- (2) A quantitative appraisal against each of the heads of benefit as set out in the *Scoring Criteria Guidance* document. For each head of benefit, the Panel will make an assessment as to which of the following bands the application should be placed within and, if it wishes, the broad positioning within the band:-

91 - 100	Outstanding
81 - 90	Excellent
71 - 80	Very good
61 - 70	Good
51 - 60	Average
41 - 50	Below average
31 - 40	Poor
21 - 30	Very poor
11 - 20	Extremely poor
0 - 10	No significant response

- (3) An appraisal of the deliverability of the scheme, which will take into consideration all relevant factors including but not limited to the practicability of the scheme, the applicant's financial standing, track record of delivery, the terms offered in the legal agreement and any third party guarantees.

The Panel will disregard;

- (a) the expected demand for the proposed casino
- (b) whether or not the premises licence or provisional statement is likely to be permitted in accordance with the law relating to planning or building
- (c) any pre-existing contract, arrangement or other relationship between the Authority and any person. This includes a contract for the sale or lease of land and a Section 106 agreement except in so far as the grant of the licence would unlock a benefit to the area arising from such agreement.

The Panel will supply its draft evaluation to the relevant applicant to enable the relevant applicant to correct factual errors or to make representations as to the scoring or qualitative evaluation. No new information will be accepted at this stage. Following any reply by the applicant, the Panel will complete its assessment and forward it together with the applicant's representations to

the Licensing Committee for final determination. A copy of the Panel's assessment will also be sent to the applicant. Further representations are not encouraged at this stage, and representations which duplicate previous representations, amount to a merits-based challenge to the Panel's evaluations or provide new information will be rejected.

The Final Determination

The final decision will be made by the Licensing Committee. Details of the membership of the Licensing Committee can be found on www.wolverhampton.gov.uk. If any objection is taken to these Members, the substance of the objection should be stated prior to submission of the Stage 2 application, so that the objection may be considered, and any necessary action taken.

The overriding test for the Licensing Committee is that it should determine which of the competing applications would, in its opinion, be likely, if granted, to result in the greatest benefit to the area.

In each case, the Licensing Committee will be provided with this Application Pack, the Stage 1 decision, the Stage 2 Application Form and associated documents (with any amendments), all correspondence and minutes, and the Evaluation Panel's draft and final evaluations together with the applicant's representations.

For clarification the Panel's evaluations do not bind the Licensing Committee, however, the Committee may take it into account to the extent that it considers it useful to do so.

The Licensing Committee will evaluate the respective merits of the applications against the *Scoring Criteria Guidance* document. If it considers it necessary, the Licensing Committee may seek clarification from the Panel on any point in its report or evaluations.

The Licensing Committee is unlikely to interview applicants or seek further evidence or representations. If, in an exceptional case, it decides to do so, the same facility will be offered to all applicants to ensure equality of treatment. It will take any legal advice it requires. The legal adviser will play no part in evaluating the applications or making the decision.

For clarification the Stage 2 determination meeting by the Licensing Committee will be held in private, it will not be a hearing or public meeting.

The offer of the winning casino premises licence or provisional statement will be subject to completion of any Agreement under Schedule 9 of the Gambling Act 2005. If the agreement is not completed, the Licensing Committee reserves the right to award the licence or provisional statement to the next ranking applicant, provided that, in the circumstances, the applicant's proposals would be likely to result in the greatest benefit to the area.

6 CONFIDENTIALITY

All information submitted to the Authority at any time during Stage 2, including in the form itself and associated documents, will be treated as confidential. The Authority has put in place a protocol governing the storage of such confidential

information so as to maintain confidentiality. The Authority will not, during the second stage, discuss the details of a person's application with competing applicants without the person's permission.

7 PRE-EXISTING CONTRACTS, ARRANGEMENTS AND RELATIONSHIPS

The Authority will ensure that any pre-existing contract, arrangement or other relationship with any person does not affect the procedure so as to make it unfair, or appear unfair, to any applicant. Accordingly:-

- (1) In determining the principles which it proposes to apply at Stage 2, the Authority has disregarded any such contract, arrangement or relationship.
- (2) Before publishing the invitation to apply for the casino licence, it put in place procedures to ensure that any such contract, arrangement or relationship did not (actually or apparently) prejudice its ability to conduct the procedure fairly.
- (3) After the last date for applications, but before considering any application, it will prepare a register of interests disclosing its interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant.³⁵ A copy of the information in the register of interests will be provided free of charge to each applicant and to any other person who requests it.

8 COMMUNICATIONS

In order to ensure a proper record of communications, there will be a single point of contact for applicants wishing to communicate with the Authority. This is:-

Ruth Taylor

Regeneration
Education and Enterprise
Civic Centre
St Peter's Square
Wolverhampton
WV1 1RP
ruth.taylor@wolverhampton.gov.uk

All communications between the Authority and the applicant during the competition process must be channelled in writing through the single point of contact. Oral communication from the applicant will be rejected. Where, in accordance with the above procedure, it is necessary for a meeting to take place, this will be arranged by the authority in advance and will be fully minuted.

9 TIMETABLE

The closing date for applications is 31 October 2012.

Following that, the provisional timetable is as follows:-

21 December 2012: Decision at Stage 1.

³⁵ For the meaning of "connected" and "associated", see Competition Code, paragraph 3.5.

- 30 January 2013: Notification of commencement of Stage 2.
- 30 April 2013: Closing date for submission of Stage 2 applications.
- 31 July 2013: Final assessment of Evaluation Panel.
- 30 September 2013: Decision of Authority at Stage 2 and award of casino licence/provisional statement.

The Council has the right to vary this timetable at any time during the application process. All applicants will be notified in good time of any variations to this timetable.

10 TERMS OF REFERENCE OF LICENSING COMMITTEE AND EVALUATION PANEL

A copy of the Terms of Reference for the Evaluation Panel and the Licensing Committee is attached. Any query as to the Terms of Reference or the proposed procedure, including any query as to its validity, should be directed to the Authority prior to the commencement of the competition so as to resolve the same prior to commencement.

11 Fees

Gambling Act 2005 – Schedule of Fees 2012-2013

Category of Premises Licence	Application Fee in Respect of Conversion of Provisional Statement	Application Fee in Respect of New Premises Licence	Annual Fee Year 2	Fee for Application to Vary Licence	Fee for Application to Transfer a Licence	Fee for Application for Reinstatement for a Licence	Fee for Application for Provisional Statement	Fee for Notification of a Change of Circumstance (Statutory Fee)	Fee for Application for Copy of Licence (Statutory Fee)	Fee for Giving Notification of a TUN (max £500)	Fee for Requesting a Copy of a TUN (max £25)
New small casino premises	£3,000	£8,000	£5,000	£4,000	£1,800	£1,800	£8,000	£50	£25	£440	£23

Wolverhampton City Council



Application for a premises licence under the Gambling Act 2005 (standard form)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

Where the application is—

- In respect of a vessel, or
- To convert an authorisation granted under the Betting, Gaming and Lotteries Act 1963 or the Gaming Act 1968,

the application should be made on the relevant form for that type of premises or application.

Part 1 – Type of premises licence applied for

Regional casino Large casino Small casino

Bingo Adult gaming centre Family entertainment centre

Betting (Track) Betting (Other)

Do you hold a provisional statement in respect of the premises? Yes No

If the answer is “yes”, please give the unique reference number for the provisional statement (as set out at the top of the first page of the statement):

.....

Part 2 – Applicant details

If you are an individual, please fill in section A. If the application is being made on behalf of an organisation (such as a company or partnership), please fill in Section B.

Section A Individual applicant

1. Title: Mr Mrs Miss Ms Dr Other (please specify)

.....

2. Surname: Other name(s): *[Use the names given in the applicant’s operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence]*

3. Applicant’s address (home or business *[delete as appropriate]*):

.....

.....

.....Postcode:.....

4(a) The number of the applicant’s operating licence (as set out in the operating licence):

.....

4(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

.....

5. Tick the box if the application is being made by more than one person.

[Where there are further applicants, the information required in questions 1 to 4 should be included on additional sheets attached to this form, and those sheets should be clearly marked “Details of further applicants”.]

**Section B
Application on behalf of an organisation**

6. Name of applicant business or organisation:

..... *[Use the names given in the applicant’s operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence.]*

7. The applicant's registered or principal address:

.....
.....
.....Postcode:

8(a) The number of the applicant's operating licence (as given in the operating licence):

.....

8(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

.....

9. Tick the box if the application is being made by more than one organisation.

[Where there are further applicants, the information required in questions 6 to 8 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Part 3 – Premises Details

10. Proposed trading name to be used at the premises (if known):

.....

11. Address of the premises (or, if none, give a description of the premises and their location):

.....
.....
.....
.....
.....
.....Postcode:

12. Telephone number at premises (if known):.....

13. If the premises are in only a part of a building, please describe the nature of the building (for example, a shopping centre or office block). The description should include the number of floors within the building and the floor(s) on which the premises are located.

.....
.....
.....
.....
.....

14(a) Are the premises situated in more than one licensing authority area? **Yes/No***[delete as appropriate]*

14(b) If the answer to question 14(a) is yes, please give the names of all the licensing authorities within whose area the premises are partly located, **other than the licensing authority to which this application is made.**

.....
.....

Part 4 – Times of operation

15(a) Do you want the licensing authority to exclude a default condition so that the premises may be used for longer periods than would otherwise be the case? **Yes/ No** *[delete as appropriate]* *[Where the relevant kind of premises licence is not subject to any default conditions, the answer to this question will be no.]*

15(b) If the answer to question 15(a) is yes, please complete the table below to indicate the times when you want the premises to be available for use under the premises licence

	<i>Start</i>	<i>Finish</i>	<i>Details of any seasonal variation</i>
Mon			
Tues			
Wed			
Thurs			
Fri			
Sat			
Sun			

16 If you wish to apply for a premises licence with a condition restricting gambling to specific periods in a year, please state the periods below using calendar dates:

.....

Part 5 – Miscellaneous

17. Proposed commencement date for licence (leave blank if you want the licence to commence as soon as it is issued):

...../...../.....(dd/mm/yyyy)

18(a) Does the application relate to premises which are part of a track or other sporting venue which already has a premises licence? **Yes/ No** [*delete as appropriate*]

18(b) If the answer to question 18(a) is yes, please confirm by ticking the box that an application to vary the main track premises licence has been submitted with this application.

19(a) Do you hold any other premises licences that have been issued by this licensing authority? **Yes/ No** [*delete as appropriate*]

19(b) If the answer to question 19(a) is yes, please provide full details:

.....
.....
.....

20. Please set out any other matters which you consider to be relevant to your application:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Part 6 – Declarations and Checklist (Please tick)

I/ We confirm that, to the best of my/ our knowledge, the information contained in this application is true. I/ We understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading in, or in relation to, this application.

I/ We confirm that the applicant(s) have the right to occupy the premises.

Checklist:

- **Payment of the appropriate fee has been made/is enclosed**
- **A plan of the premises is enclosed**
- **I/ we understand that if the above requirements are not complied with the application may be rejected**
- **I/ we understand that it is now necessary to advertise the application and give the appropriate notice to the responsible authorities**

Part 7 – Signatures

21. Signature of applicant or applicant's solicitor or other duly authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:

Date: Capacity:.....

22. For joint applications, signature of 2nd applicant, or 2nd applicant's solicitor or other authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:

Date: Capacity:.....

[Where there are more than two applicants, please use an additional sheet clearly marked "Signature(s) of further applicant(s)". The sheet should include all the information requested in paragraphs 21 and 22.]

[Where the application is to be submitted in an electronic form, the signature should be generated electronically and should be a copy of the person's written signature.]

Part 8 – Contact Details

23(a) Please give the name of a person who can be contacted about the application:

.....

23(b) Please give one or more telephone numbers at which the person identified in question 23(a) can be contacted:

.....

24. Postal address for correspondence associated with this application:

.....

.....

..... Postcode:.....

25. If you are happy for correspondence in relation to your application to be sent via e-mail, please give the e-mail address to which you would like correspondence to be sent:

.....

Wolverhampton City Council



Application for a provisional statement under the Gambling Act 2005 (standard form)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

Where the application is in respect of a vessel the application should be made on the relevant form for that type of premises

Part 1 – Type of premises to which the application relates

Regional casino	<input type="checkbox"/>	Large casino	<input type="checkbox"/>	Small casino	<input type="checkbox"/>
Bingo	<input type="checkbox"/>	Adult gaming centre	<input type="checkbox"/>	Family entertainment centre	<input type="checkbox"/>
Betting (Track)	<input type="checkbox"/>	Betting (Other)	<input type="checkbox"/>		

Part 2 – Applicant details

If you are an individual, please fill in section A. If the application is being made on behalf of an organisation (such as a company or partnership), please fill in Section B.

Section A Individual applicant

1. Title: Mr Mrs Miss Ms Dr Other (please specify)

2. Surname: Other name(s):
[Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence]

3. Applicant's address (home or business – [delete as appropriate])

.....
.....
..... Postcode:.....

4(a) The number of the applicant's operating licence (as set out in the operating licence):

.....

4(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

.....

5. Tick the box if the application is being made by more than one person.

[Where there are further applicants, the information required in questions 1 to 4 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Section B Application on behalf of an organisation

6. Name of applicant business or organisation:

..... *[Where relevant, use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence]*

7. The applicant's registered or principal address:

.....
.....
..... Postcode:

8(a) Where relevant, the number of the applicant's operating licence (as given in the operating licence):

.....

8(b) Where relevant, if the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

.....

9. Tick the box if the application is being made by more than one organisation.

[Where there are further applicants, the information required in questions 6 to 8 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Part 3 – Premises Details

10. Proposed trading name to be used at the premises (if known):

.....

11. Address of the premises (or, if none, give a description of the premises or proposed premises and their location):

.....

.....

.....

.....

.....Postcode:

12. Telephone number at premises (if known):.....

13. If the premises are in only a part of a building, please describe the nature of the building (for example, a shopping centre or office block). The description should include the number of floors within the building and the floor(s) on which the premises are located.

.....

.....

.....

.....

.....

14(a) Are the premises or proposed premises situated in more than one licensing authority area?

Yes/No

[delete as appropriate]

14(b) If the answer to question 14(a) is yes, please give the names of all the licensing authorities within whose area the premises or proposed premises are partly located, **other than the licensing authority to which this application is made.**

.....

.....

Part 4 – Times of operation

15(a) Do you want the licensing authority to exclude a default condition so that the premises may be used for longer periods than would otherwise be the case? **Yes/ No** [*delete as appropriate*]

[Where the relevant kind of premises licence is not subject to any default conditions, the answer to this question will be no.]

15(b) If the answer to question 15(a) is yes, please complete the table below to indicate the times when you want the premises to be available for use under the premises licence

	<i>Start</i>	<i>Finish</i>	<i>Details of any seasonal variation</i>
Mon			
Tues			
Wed			
Thurs			
Fri			
Sat			
Sun			

16. If you want the premises licence to have a condition restricting gambling to specific periods in a year, please state the periods below using calendar dates:

.....

Part 5 – Miscellaneous

17(a) Does the application relate to premises or proposed premises which are part of a track or other sporting venue which already has a premises licence: **Yes/ No** [*delete as appropriate*]

17(b) If the answer to question 17(a) is yes, please confirm by ticking the box that an application to vary the main track premises licence has been submitted with this application.

Part 7 – Signatures

20. Signature of applicant or applicant’s solicitor or other duly authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:

Date: Capacity:.....

21. For joint applications, signature of 2nd applicant, or 2nd applicant’s solicitor or other authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:

Date: Capacity:.....

[Where there are more than two applicants, please use an additional sheet clearly marked “Signature(s) of further applicant(s)”. The sheet should include all the information requested in paragraphs 20 and 21.]

[Where the application is to be submitted in an electronic form, the signature should be generated electronically and should be a copy of the person’s written signature.]

Part 8 – Contact Details

22(a) Please give the name of a person who can be contacted about the application:

.....

22(b) Please give one or more telephone numbers at which the person identified in question 22(a) can be contacted:

.....

23. Postal address for correspondence associated with this application:

.....

.....

..... Postcode:.....

24. If you are happy for correspondence in relation to your application to be sent via e-mail, please give the e-mail address to which you would like correspondence to be sent:

.....



Wolverhampton City Council

Stage 2 application form - notes for guidance

Please note, the applicant is required to lodge:

- 12 sets of the form and all plans and attachments. Each complete set should be filled in and indexed, tabbed lever arch file. All printing should be double-sided.
- A CD containing a complete set of the documentation.
- Applications must be security packaged and clearly marked "*Private and Confidential*".
- Applications should be submitted to the following address:-

Licensing Services
Regeneration
Education and Enterprise
Wolverhampton City Council
Civic Centre
St Peter's Square
Wolverhampton
WV1 1DA

Part 1 - Applicant Details

- 1.1 The name given must be the same name given at Stage 1 of the competition, and where relevant, in the applicant's operating licence or application for such a licence.

Part 2 - Premises Details

- 2.1 The applicant should give the title and number of each plan submitted as part of the application. This should include and conform to the plans submitted at Stage 1.
- 2.2 It is recommended that the plans should be as full as possible so as to provide sufficient detail of the development to enable a judgement to be made regarding likely benefits to the area.
- 2.3 Floor plans should include (where relevant) table gaming areas with indicative table layouts, machine areas, card rooms, tuition areas, cooling off/self help areas, bar and restaurant areas, non-gaming lounge or other recreation areas, entertainment areas or stages, events facilities, disabled facilities (including consideration given to counter heights and level changes), kitchen areas, staff changing, hygiene and recreation areas.
- 2.4 Elevation plans should demonstrate the quality of the elevational treatment, and whether gaming facilities will be visible from the external of the building.

- 2.5 Site plans should show the extent and quality of car parking, taxi waiting areas, provision for non-motorised and public transport, walking links from other developments, together with off-site security provision for customers (e.g. lighting and CCTV).
- 2.6 Where the proposed casino is part of a wider development, the plans should demonstrate the overall development.
- 2.7 The Authority will generally wish to include plans in the premises licence by condition, so as to ensure that the casino development proposed is delivered. If the applicant is offering the plans as illustrations only, and therefore not to be included in the premises licence, the applicant should explain its reasons.

Part 3 - Summary Information

- 3.1 Part 3 requires summary information of key facts as detailed. Applicants are given the opportunity to expand on this information in Part 4 it is therefore intended that answers provided to questions in Part 3 are specific and succinct.
- 3.2 The form asks a number of questions regarding the gaming provision on site. The applicant may submit an operating plan describing the style and nature of the casino in greater detail, should it so wish. In addition to the matters set out in the form, the applicant may describe its proposals as to minimum staking levels, so as to permit low stakes gambling in the casino. If there is a proposal to offer a low or no-stakes gambling, the applicant should give details of the provision, including the times and numbers of tables involved, and state whether it is prepared to submit to a condition to require such provision, and suggest the drafting of such a condition.
- 3.3 The applicant should describe its non-gambling facilities. The Licensing Authority wishes to see lasting, tangible and visible public benefits arising from a casino development. It wishes to guard against a proposal for non-gambling facilities, which results in only token provision. The applicant should therefore describe its proposals in summary detail in Part 3 and provide further detail in Part 4.
- 3.4 The applicant is asked to state whether the casino is part of a wider development. Where it is, the applicant should state whether the casino is dependent on this development, giving the timetable for the development, and indicating any constraints on delivery. Please note that the authority is not entitled to take into account whether the proposal is likely to be permitted in accordance with the law relating to planning or building.

Part 4 - Evaluation Framework

- 4.1 In this section the applicant is invited to state how deliverable the scheme is and what benefits it will realise.
- 4.2 The applicant should clearly structure its submissions around the criteria in the attached document "*guidance for applicants on Stage 2 Scoring Criteria*" since these will form the focus of the Authority's consideration. The suggested information requirements set out in Part 4 are provided as a guide

and applicants may provide additional information to illustrate their case as they see fit.

- 4.3 The Authority considers that “benefit” includes avoidance of disbenefit. Further, the authority is concerned with net benefit, so that if there are benefits, which are likely to arise even if the application is not granted, the applicant may wish to focus on the added value, which a 2005 Act casino licence would bring.
- 4.4 It is important that the Authority is satisfied that promised benefits will be delivered in the time stated and maintained thereafter.
- 4.5 The applicant is invited to deliver detailed information to provide assurance that it has the financial standing and intention to deliver the scheme. If the applicant or an associated company has been granted casino licences previously, which it has not developed, or has closed or disposed of, the applicant is invited to explain the circumstances so as to satisfy the Authority that there is no such intention in this case.
- 4.6 Applicants are invited to contract with the Authority for provision of the benefits and to state what compensation will be offered if the benefits are not delivered. A draft Schedule 9 agreement is attached to the form, for completion by the applicant. Compliance with the agreement will be made a Licence condition, if granted. Applicants are invited to state whether they agree to such a condition.
- 4.7 Measurable benefits for inclusion in the contract can take any form. They may include (for example) the delivery of the scheme of which the casino forms part, jobs, training, financial or other contributions to local services (such as transportation, training or gambling addiction programmes), or percentages of gross machine yield or other gaming revenue. The pro forma agreement allows the applicant to include whatever benefits the applicant wishes the Authority to take into account.
- 4.8 The Authority wishes to guard against granting a licence to a scheme which is not then delivered on time or at all, or which then closes or otherwise changes so as no longer to deliver promised benefits. The applicant should consider and include in the agreement its proposals for compensation by way of liquidated and ascertained damages should the promised benefits not be delivered or maintained.
- 4.9 Where the applicant is unable to demonstrate the financial standing to build and operate the casino over a long period, it should consider offering a guarantor to secure its obligations.
- 4.10 The applicant is not obliged to submit the Stage 2 application in the format of the Application form. The Authority is keen to encourage imaginative and interesting proposals for maximum benefit, and so leaves it to applicants to make their applications and the supporting material as they wish subject to it being in accordance with the procedures set down in the Procedure Note to this Application Pack.

Part 5 - Contact Details

- 5.1 Any contact in relation to this application will be between the person nominated in this section and the single point of contact at the Authority, so as to ensure a proper record of communications. The person nominated should therefore have authority to act for the applicant and sufficient knowledge to be able to communicate efficiently with the Authority. This can be, but does not have to be, the applicant's solicitor.

Part 6 - Declaration and Signature

- 6.1 The form should be signed by a person who is authorised by the applicant, and who takes personal responsibility for the accuracy of the content of the form and attachments.

APPLICATION GUIDANCE

GUIDANCE FOR APPLICANTS ON STAGE 2 SCORING CRITERIA

1. Introduction

- 1.1 This guidance outlines the criteria which will be used by the Council to assess applications received for a small casino licence. The criteria include general guidance and specific principles, which will be taken into account by the Council in judging the merits of applications. It also provides further detail in respect of the evaluation methodology and weighting schedule.
- 1.2 The guidance aims to advise applicants as to what the Council seeks both in relation to positive impacts in terms of economic, physical and social regeneration and in relation to measures proposed to mitigate and minimise any adverse or negative social impact.
- 1.3 The Council wishes to maximise, harness or capture the economic benefits of a casino in the public interest. This is an exciting time for casino operators to consider investing in Wolverhampton because of the major changes which are taking place in the city with increasing investor confidence and major public and privately funded development projects underway which are significantly changing the face of the city. Therefore, the Council requires the applicant to understand the physical, social and economic issues in the city and develop the casino in a way which addresses local problems and opportunities. Applicants are strongly recommended to view the Council's current Regeneration, Planning Policy and Local Development Framework documents which can be accessed at www.wolverhampton.gov.uk.
- 1.4 The guidance provides an indication of local priorities and which features are likely to be assessed as providing the greatest benefit to the area.
- 1.5 Whilst this guidance sets out the evaluation criteria, it is not intended to be prescriptive as to the design or content of schemes and applicants are encouraged to examine the opportunities currently presented by the city and apply their own expertise and creativity in compiling their licence application.
- 1.6 The Council wishes to see lasting, tangible and visible public benefits arising from a casino development. Facilities or capital or revenue should not impose future costs on the community or the Council that is not shown to be capable of being funded by the casino operator.

2. Main Criteria

- 2.1 **The following are the main criteria that the Licensing Authority will consider in assessing which casino submission provides the greatest benefit to the area.**

MAIN CRITERIA

At Stage 2 of the competition, each of the main criteria has been allocated a total number of marks. Applicants will be scored up to a maximum for each criterion depending on the benefits offered within that criterion. In some criterion those marks will be represented as a percentage of the total marks on a pro rata basis. Details of this are explained in the following guidance.

It is possible that in some cases the evidence provided (or not provided) will be relevant to the evaluation of more than one criteria. Each criterion will, however, be marked separately based on the evidence provided.

Criterion A : Deliverability and Risk : Total Marks 225

At stage 2 the Council will assess the deliverability of the proposed scheme and the risk that the scheme will not be delivered as a whole or at all.

In assessing the criterion the Council will take into account what legal and financial assurances there are that the proposed development will be delivered within 5 years, and that the promised benefits will both materialise and be maintained. Firm evidence is required that all benefits and development proposed can be funded.

The Council will take into account contractual promises to deliver the scheme in the Schedule 9 agreement, the nature and quality of any guarantees of such promises and whether substantial penalties for non delivery are proposed. The Council will also consider the specific factors set out below.

(a) Factors to be considered when assessing risk of non delivery

Applicants should indicate a reasonable time frame for delivery of the casino development. The risk associated with delivery will be assessed using the following information as reference:

- (i) availability of land (eg. site ownership / right to buy / legal commitment)
- (ii) barriers to development delivery eg. infrastructure needs / land contamination
- (iii) funding and security - conditional or unconditional commitment to funding and the nature of any conditions
- (iv) control of applicant over the development of independent elements of the scheme
- (v) guarantors
- (vi) assets of applicant
- (vii) track record of delivery
- (viii) viability of scheme
- (ix) existence of planning permission and other necessary consents.

(b) Damages for non delivery

The Local Authority is eager to ensure that the regeneration and employment benefits anticipated from the new casino can be realised as soon as possible. As such applicants should indicate the date by which they intend for the casino to become operational and identify what financial assurances they are willing to give that they will adhere to these timescales. This should be on a sliding scale of payment relevant to the period of time which has elapsed after the agreed completion date.

(c) Schedule 9 Agreement

The application pack will include a template agreement under paragraph 5(3)(b) of Schedule 9 to the 2005 Act (“a schedule 9 agreement”). Such an agreement will be negotiated with the applicants during the stage 2 evaluation process. This agreement will include a list of the benefits proposed, along with delivery targets and details of the penalties for non-delivery. Applications where the benefits, including delivery of the development itself, are made subject of contractual obligations as opposed to merely damages for non-delivery, are likely to receive greater weight in the evaluation process.

The Council is aware that the casino application may form part of a wider development proposal. The stage 2 evaluation is only likely to attach significant weight to parts of a development that the applicant is willing to make a firm contractual commitment to deliver within a set timescale. Any benefits not supported by a contractual commitment in the schedule 9 agreement along with meaningful proposed penalties for non-delivery or delay and without proof of ability to fund the development will receive little if any weight. In particular development outside of the control of the applicant where no contractual assurances of delivery are offered, are likely to receive negligible weight.

Criterion B : Employment : Total Marks 175

The Council wishes to see training and employment opportunities maximised for local residents with staff training within the Wolverhampton area. Proposals should include opportunities that will be created for local employment including:

- (a) the number of jobs created during construction of the casino;
- (b) the number and types of jobs directly created within the new casino;
- (c) training to be provided for staff, including recognised accredited qualifications;
- (d) the number and types of jobs created in ancillary, non-casino activities;
- (e) in both cases job ‘types’ should include indication of pay levels, and levels of qualification required;
- (f) proposals to maximise local recruitment to jobs;
- (g) proposals to maximise local training opportunities;
- (h) investment in local training provision/infrastructure to enhance capacity to deliver training opportunities.
- (i) proposals to maximise job opportunities for the long term unemployed, young people and people with disabilities.

Criterion C : Regeneration Benefits (Physical Development) : Total Marks 100

What benefits the proposal will give the area in terms of its physical impact including:

- (a) the capital value of the proposed development;
- (b) the quality of the proposed design;
- (c) the impact of the proposal on the immediate surrounding area/environment, including other investment attracted due to the casino;
- (d) the impact on Wolverhampton's image through additional high quality development;
- (e) the environment/carbon reduction quality of the proposals;
- (f) proposals for access, public transport and parking and any additional benefits these provide other than for immediate casino use/access;
- (g) any other benefits or added value which will accrue to the area from the proposal/location of the casino.

Criterion D : Regeneration Benefits (Additional Facilities) : Total Marks 100

What additional benefits will be delivered in terms of non-gaming facilities / services including:

- (a) associated on-site leisure facilities/services including restaurants and bars (including destination quality restaurant), retail, performance space, etc included in proposals;
- (b) hotel development supported by the casino (either off-site or on-site) including hotel star rating and associated hotel facilities such as conference, health-spa, etc;
- (c) overall impact/contribution of the proposed casino to Wolverhampton in terms of:
 - its night-time economy offer;
 - its cultural offer;
 - its retail offer;
 - its overall city-regional role;
 - the image and perception of Wolverhampton.

Criterion E : Regeneration Benefits (Community Regeneration) : Total Marks 100

In addition to the benefits already outlined, any other benefits of the proposal to the community. The Council invites applicants to take an imaginative approach to this criterion, so as to offer benefits, which may be pecuniary, physical or otherwise; which will amount to a genuine benefit to the area of Wolverhampton.

Criterion F : Financial Contributions : Total Marks 100

Within Criteria F, financial contributions, applicants will be able to obtain up to 100 marks at Stage 2 of the competition. The areas for which marks will be allocated and the total marks available for each area are detailed below:-

**(a) Advance Financial Contribution on Grant of Premises Licence/
Provisional Statement : 30 Marks**

Up to 30 marks are available within this sub criterion. Applicants will be allocated marks relative to other applicants offers. The offer which provides the greatest benefit to the area will receive full marks for this sub criterion, other applicants will then be scored on a pro rata basis.

(b) Minimum Annual Payment : 30 Marks

This amount is not included in the GGR payment. Up to 30 marks are available within this sub-criterion. Applicants are expected to nominate the date from which minimum annual payments are offered, and to increase the minimum annual payment thereafter in line with the increase in the Retail Prices Index.

Payments are expected to continue in perpetuity.

In evaluating the offer, the Council will assess the net present value of the proposed annual payments over a period of 15 years. Where the first payment is delayed, this is likely to affect the total value of the offer significantly.

The highest net present value will be awarded 30 marks. Other applicants will then be scored on a pro rata basis.

(c) % of GGR (Gross Gambling Revenue) : 40 Marks

Information required from applicants in order to assess this sub criterion are:

- base percentage of GGR;
- gambling activities proposed to be included in GGR ;
- start date of contributions;
- payment arrangements;
- likely outcome/projected GGR;
- credibility/viability of projected amounts proposed;
- mechanism to increase GGR % paid to the Authority if the casino's revenue is greater than expected.

A total of 40 marks is available for this sub criterion.

Applicants are expected to offer a fixed percentage of GGR in perpetuity.

The highest offer will not necessarily receive the highest marks under this sub-criterion, because of the number of variables set out above, including the credibility of the projected amounts proposed.

However, the offer which is judged to be likely to result in the highest payments to the Council will be awarded 40 marks. The Council will judge what marks are to be awarded to the remaining applicants having regard to the factors set out above.

Criterion G : Social Responsibility : Total Marks 100

Prior to the issuing of any premises licences operators will have reached the required standards in social responsibility laid down by the Gambling Commission via the application process for operating and personal licences.

At Stage 2 the Council will consider proposals over and above the social responsibility standards laid down by the Gambling Commission, which in the Licensing Authority's view will confer the greatest levels of benefit to the area while minimising potential harm, including:

- (a) proposals for preventing gambling from becoming a source of crime and disorder, being associated with crime and disorder, (including any association with drugs or excessive consumption of alcohol) or being used to support crime;
- (b) proposals to identify and mitigate problem gambling including policies on access restrictions, provision of safe practice zones etc;
- (c) financial contributions that will be made by the casino operator to support the provision of services locally to support those suffering from problem gambling, over and above payments currently provided via the RIGT levy.

Criterion H : Local Business Benefits : Total Marks 100

Opportunities that will be available to local businesses to compete for work related to the construction and operation of the casino, including:

- (a) proposals for local contractors/sub-contractors/suppliers to be involved in the construction phase;
- (b) proposals for local contractors/sub-contractors/suppliers to be involved in the casino and associated activities.

MAIN CRITERIA

		Total Marks	Applicant 1	Applicant 2	Applicant 3	Applicant 4
CRITERIA A	Deliverability and Risk	225				
CRITERIA B	Employment	175				
CRITERIA C	Regeneration Benefits (Physical Development)	100				
CRITERIA D	Regeneration Benefits (Additional Facilities)	100				
CRITERIA E	Regeneration Benefits (Community Regeneration)	100				
CRITERIA F	Financial Contributions	100				
CRITERIA G	Social Responsibility	100				
CRITERIA H	Local Business Benefits	100				

**Gambling Act 2005
Stage 2 Application Form for a Small
Casino Premises Licence or Provisional Statement**

Wolverhampton City Council

**Application for a Small Casino Premises Licence or Provisional Statement
to be Granted
Under the Gambling Act 2005**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing the form please refer to the attached Guidance Notes.

If you are completing this form by hand, please write legibly in block capitals using black ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

Part 1 - Applicant details

If you are an individual, please fill in Section A. If the application is being made on behalf of an organisation (such as a company or partnership), please fill in Section B. All applicants must complete Section C.

**Section A
Applicant Details**

1. Title: Mr Mrs Miss Ms Dr

Other (please specify

2. Surname Other names

[Where relevant, use the names given in the applicant's Operating Licence or if the applicant does not hold an Operating Licence, as given in any application for an Operating Licence]*

3. Applicant's address (home or business [delete as appropriate])

.....
.....
..... Post Code :

4(a) Where relevant, the number of the applicant's Operating Licence (as set out in the Operating Licence):

.....

4(b) Where relevant, if the applicant does not hold an Operating Licence but is in the process of applying for one, give the date on which the application was made:

.....

¹ Casino Operating Licence is a separate Licence, which is issued by the Gambling Commission (see www.gamblingcommission.gov.uk)

5. Tick the box if the application is being made by more than one person:

[Where there are further applicants, the information required in questions 1 to 4 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Section B

Application on behalf of an organisation:

6. Name of applicant business or organisation:

.....
[Where relevant, use the names given in the applicant's Operating Licence or if the applicant does not hold an Operating Licence, as given in any application for an Operating Licence]

7. The applicant's registered address:

.....
.....
.....

Company Registration Number

Company VAT Number

8(a) Where relevant, the number of the applicant's Operating Licence* (as given in the Operating Licence):

.....

8(b) Where relevant, if the applicant does not hold an Operating Licence but is in the process of applying for one, give the date on which the application was made:

.....

9. Tick the box if the application is being made by more than one organisation.

Where there are further applicants, the information required in questions 6 to 8 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".

² Casino Operating Licence can only be obtained from the Gambling Commission.

Section C

Please confirm that the applicant has completed and enclosed the draft Schedule 9 Agreement YES/NO

The Licensee shall comply with the terms of the written agreement Reference No. xxxx dated xxxx.

Does the applicant consent to the compliance with the terms of a written agreement being attached as a condition of the licence in the event that its application for a premises licence is successful? YES/NO

Is the applicant prepared to offer a third party guarantor of its obligations under the Agreement? YES/NO

If so, identify the proposed guarantor:

Name

Registered address

.....

.....

Company Registration Number

Confirm that a letter of consent from the proposed guarantor and its last 3 years audited accounts have been attached. YES/NO

Part 2 - Premises Details

10. Proposed trading name to be used at the premises (if known):

.....

11. Address of the premises (or, if none, give a description of the premises and its location):

.....

.....

.....

..... Post Code:

12. Telephone number at premises (if known):

13. Plans submitted as part of Stage 2 application:

.....

.....

14. State whether any of the above plans are illustrative only, giving reasons.

.....
.....

15. State whether the proposal is for the following (delete as appropriate):

- (a) A new build development
- (b) A modification of an existing building

16. If the proposal is for a modification of an existing building, state the current use of the building:

.....

17. If the premises are in only a part of a building, please describe the nature of the building (for example, a shopping centre or office block). The description should include the number of floors within the building and the floor(s) on which the premises are located.

.....

Note: Scale plans should be provided to illustrate the above information. Plans must be titled and referenced appropriately.

Part 3 - Summary Information

The following section requires summary information of key facts. Applicants are given the opportunity to expand on this information in later questions.

Casino Areas

18. Please quote the following measurements in square metres:

Gross Area	
Gross Customer Area	
Table Gaming Area (including electronic gaming)	
Machines Area	
Other Gaming Areas (please specify)	

Non-Gaming Areas (excluding WCs, reception and lobby)	
Non Gambling Refuge Area(s)	
Restaurant(s)	
Other (please specify)	

- 19. Minimum/maximum number of gaming tables
- 20. How many games will be automated
- 21. Minimum/maximum number of electronic gaming terminals
- 22. Minimum/maximum number of electronic gaming machines
- 23. Games of equal chance to be offered (please give details)
.....
- 24. Provision of self help and tuition facilities (describe)
.....

Non Gambling Facilities

25. Give details of all proposals for refreshment and regulated entertainment, including hours of regularity of provision:
.....
.....
.....
.....

Wolverhampton City Council is seeking a Leisure and Entertainment Destination and it is envisaged that the casino will be associated with linked developments providing a wider leisure and entertainment offer.

26. Is the casino linked to any other development? **Yes/No** [delete as appropriate]

27. If so, give details of the development and state whether the casino is dependent on the other development

.....
.....
.....

28. If so, state to what extent the casino is dependent on this development

.....
.....

29. To what extent is the development dependent upon the casino

.....
.....
.....

30. Identify all plans and documentation submitted to show the linked development

.....
.....
.....

31. State the progress and anticipated timing of the linked development

.....

Number of jobs created

32. Total number of direct full time equivalent jobs created in the proposed casino

.....

33. Total number of direct jobs created in the Leisure and Entertainment Destination (excluding casino jobs)

.....

34. Number of jobs safeguarded in the City as a result of the proposed Leisure and Entertainment Destination

.....

35. State anticipated opening date for the complex

.....

Part 4 – Evaluation Framework

Applicants should refer to the “Guidance for Applicants on Stage 2 Scoring Criteria“ before completing this section.

Applicants are not required to complete this section within the confines of the form. Separate documentation in support of the stated benefits are welcome and should be clearly referenced.

36. Deliverability and Risk

.....
.....

37. Employment

.....
.....

38. Regeneration Benefits (Physical Development)

.....
.....

39. Regeneration Benefits (Additional Facilities)

.....
.....

40. Regeneration Benefits (Community Regeneration)

.....
.....

41. Financial Contributions

.....
.....

42. Social Responsibility

.....
.....

43. Local Business Benefits

.....
.....

Part 5 - Contact Details

44. Please give the name and contact details of the person who can be contacted about the application:

Name

Address

.....

Daytime Telephone Number

Mobile Number

45. Postal address for correspondence associated with the application:

.....

.....

..... Post Code:

46. If you are happy for correspondence in relation to your application to be sent via e-mail, please give the e-mail address to which you would like correspondence to be sent:

.....

Part 6 - Declaration and Signature

I confirm that, to the best of my knowledge, the information contained in the application and accompanying documents is true. I understand that it is an offence under Section 342 of the Gambling Act 2005 to give information, which is false or misleading.

I confirm that I am authorised by the applicant to sign this form on its behalf.

Signature

Print Name

Position

Address

Date

DRAFT

**AGREEMENT BETWEEN
WOLVERHAMPTON CITY COUNCIL**

-AND-

XXXXXXXXXXXXXXXXXXXX

UNDER SCHEDULE 9 OF THE GAMBLING ACT 2005

**RELATING TO THE GRANT OF A CASINO LICENCE
[PROVISIONAL STATEMENT]**

FOR PREMISES AT

XXXXXXXXXXXXXXXXXXXX

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context otherwise indicates or requires the following shall have the meanings respectively assigned to them:

‘the Agreement’ means this agreement constructed as a deed and the schedules hereto and all amendments to such agreement and schedules

‘the Act’ means the Gambling Act 2005

‘the Licence’ means a small casino premises licence to be granted by the Council pursuant to the Act.

1.2 Where in this Agreement reference is made to any clause paragraph or schedule such reference is to a clause paragraph or schedule in this Agreement.

1.3 The clause headings in this Agreement are for reference only and are not to be taken into account in its construction or interpretation.

1.4 Words importing the singular meaning include the plural and vice versa except where the context requires otherwise.

1.5 Words of the masculine gender include other genders and words denoting persons include corporate persons and associations.

1.6 Obligations by more than one person are joint and several and where any party to this Agreement is more than one person references to that party are to each person individually as well as jointly with the other comprising it.

1.7 References to any party under this Agreement shall include successors in title to that party.

1.8 Nothing in this Agreement creates or implies a partnership or joint venture between the parties and the Licensee shall not be or be deemed to be an agent of the Council and shall not hold itself out as having authority or power to bind the Council in any way.

1.9 The parties to this Agreement hereby acknowledge that this Agreement forms the entire agreement between them relating to its subject matter and the Licensee acknowledges that no representation whether oral or written has been made to it before this Agreement by or on behalf of the Council which has influenced or induced it to enter in to this Agreement or any other agreement connected in any way with the subject matter of this Agreement.

1.10 If any provision of this Agreement is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Agreement is to be unaffected.

- 1.11 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties Act) 1999 by any person who is not a party to this Agreement.
- 1.12 References to any statutory provision enactment order regulation or other similar instrument shall be construed as a reference to the statutory provision enactment order regulation or instrument (including any EU instrument) as amended replaced consolidated or re-enacted from time to time and shall include all orders regulations codes of practice instruments or other subordinate legislation made under it.
- 1.13 This Agreement is to be governed and interpreted in accordance with English Law.
- 1.14 The Courts of England are to have jurisdiction in relation to any disputes between parties to this Agreement arising out of or related to this Agreement.

2. LEGAL BASIS

- 2.1 This Agreement is made pursuant to schedule 9 of the Gambling Act 2005, section 111 of the Local Government Act 1972 and section 2 of the Local Government Act 2000 and all other powers enabling such agreement.

3. CONDITIONALITY

- 3.1 This Agreement is conditional upon the grant of the Licence [provisional statement].

4. BENEFITS

- 4.1 The Licensee covenants to provide the benefits set out in Schedule 1 to the Council's satisfaction from the starting date or dates specified in that Schedule.
- 4.2 In the event that the benefits set out in Schedule 1 or any of them are not provided at any time following the date specified in Schedule 1 the Licensee covenants to pay to the Council the liquidated and ascertained damages set out in Schedule 1. Where the relevant benefit is supplied for only a proportion of the month the liquidated and ascertained damages for that month shall be reduced proportionately.
- 4.3 The Licensee acknowledges and agrees that the obligation in Clause 4.2 will be without prejudice to any other remedies which the Council has for non provision of the said benefits including but limited to enforcement of the conditions of the Licence a claim in debt or specific performance.

5. TERMINATION OF AGREEMENT

- 5.1 The Licensee's covenants contained in this Agreement shall continue unless and until the Licence is surrendered or terminated for any other reason.

- 5.2 Upon surrender or other termination of the Licence [provisional statement] the Licensee shall remain liable for any liabilities accrued under this Agreement and/or any breach of covenant prior to surrender or other termination of the Licence [provisional statement] and the Council's remedies in respect thereof shall not be affected by such surrender or other termination.
- 5.3 For the avoidance of doubt in the event that the grant of a casino premises licence follows the grant of a provisional statement:
- 5.3.1 the Licensee's covenants herein shall continue in full force and effect unless and until the Licence is surrendered revoked or lapses and
- 5.3.2 all references herein to the Licence shall be deemed to include reference to a casino premises licence following the grant of the provisional statement.
- 5.4 In the event of a transfer of the licence [provisional statement] the Licensee's obligations under this Agreement shall continue unless and until the Council agrees in writing to terminate this Agreement.
- 5.5 In the event of termination of this Agreement as detailed in clause 5.4 the Licensee shall remain liable for any liabilities accrued under this Agreement and/or any breach of covenant prior to termination and the Council's remedies in respect thereof shall not be affected by such termination.

6. WAIVER OF AGREEMENT

- 6.1 No waiver (whether express or implied) by the Council of any breach or default in performing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the covenants terms or conditions or for action upon any subsequent breach or default.

7. INTEREST AND INDEXATION

- 7.1 Where any monetary payments due under this Agreement is not paid within ten (10) working days of the due date it shall carry interest at the rate of 4% above the base rate of the Bank of England from time to time from the due date (whether before or after any judgement) until actual payment.
- 7.2 Any fixed monetary payments due under this Agreement shall increase on 1 January each year by an amount equivalent to the increase in the Retail Prices Index issued by the Office for National Statistics on 1 January of the preceding year.

8. LEGAL COSTS

- 8.1 The Licensee shall pay to the Council on completion of this Agreement the reasonable legal costs of the Council incurred in the negotiation preparation and execution of this Agreement.

9. DISPUTE RESOLUTION

- 9.1 If a dispute arises between the parties in connection with this Agreement the parties shall each acting in good faith use reasonable endeavours to resolve such dispute by means of prompt discussion at an appropriate level.
- 9.2 If a dispute is not resolved within 14 days of referral under clause 9.1 then the parties may refer it to the Chief Executive or appropriate nominated officer of each party for resolution who shall meet for discussion within 14 days or longer period as the parties may agree.
- 9.3 If the procedure set out in clause 9.1 and 9.2 fails to resolve the Dispute the parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) (Resolve) Model Mediation Procedure. To initiate the mediation party must give notice in writing (the Alternative Dispute Resolution "ADR" notice) to the other parties requesting mediation in accordance with this clause. The mediation will take place not later than 28 days after the ADR Notice or such period as the parties may agree. If there is any issue on the conduct of the mediation upon which the parties cannot agree within 14 days of the ADR notice, then either (CEDR-Resolve) will, at the request of any party, decide the issue for the parties having consulted with them.
- 9.4 If the Dispute is not resolved under clauses 9.1-9.3 then the parties may commence proceedings in the Courts for resolution of the Dispute. For the avoidance of doubt compliance with clauses 9.1-9.3 shall be a condition precedent to the commencement of any such proceedings **SAVE THAT:-**

nothing in this clause 9.3 shall prevent any party applying for emergency relief from the Court, including injunctive relief, at any time; and where any dispute party fails to comply with any part of the procedure in clauses 9.1-9.3 inclusive, any other dispute party may commence proceedings in accordance with this clause notwithstanding that the said procedure has not been complied with and attempts to resolve the Dispute by negotiation and mediation have not been deemed to have failed.

10. GUARANTEE

- 10.1 The Guarantor shall comply with the obligations set out in Schedule 2.

11. DEALINGS

- 11.1 This Agreement may not be assigned charged held on trust or in any way dealt with by the Licensee or the Guarantor.

12. **INFORMATION**

12.1 The Licensee acknowledges:-

- 12.1.1 that the Council is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004; and
- 12.1.2 that any information which the Licensee provides to the Council on the basis that it is confidential information may nevertheless need to be disclosed by the Council in order for the Council to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004; and
- 12.1.3 that in the event of a request for information the Council shall be responsible for determining at its absolute discretion whether information is exempt from disclosure and whether information is to be disclosed and the Licensee agrees that it shall facilitate the Council's compliance with its information disclosure requirements pursuant to the aforementioned legislation.

13. **NO FETTER OF STATUTORY FUNCTIONS**

- 13.1 The obligations of the Council under this Agreement are obligations of the Council in its capacity as Licensing Authority and nothing in this Agreement shall operate as an obligation upon or in any other way fetter or constrain the Council in any other capacity nor shall the exercise by the Council of its duties and powers in any other capacity lead to any liability under this Agreement (howsoever arising) on the part of the Council to the Licensee.

14. **VAT**

- 14.1 All money payable and taxable supplies made under this Agreement are exclusive of VAT and the relevant party will pay all VAT properly chargeable in respect of them at the time when the money is due or the supply is made

IN WITNESS whereof the parties hereto have executed this Agreement as a Deed the day and year first before written.

SCHEDULE 1
The Benefits

[Please specify:

- (1) The benefit as fully as possible, together with whether and if so what periodic payments are being proposed.*
- (2) The starting date for the provision of the benefit.*
- (3) The liquidated and ascertained damages payable per calendar month for any period following the starting date over which the benefit in question is not being provided]*

Benefit	Starting Date	Liquidated and ascertained damages: sum payable per calendar month
1.		
2.		
3.		
4.		
5. Etc		

SCHEDULE 2
GUARANTOR'S PROVISIONS

1. OBLIGATIONS GUARANTEED

- 1.1 The Guarantor as primary obligor and not only as guarantor, guarantees to the Council that the Licensee will comply with the terms of this Agreement.
- 1.2 As an independent obligation, the Guarantor agrees with the Council to comply with the terms of this Agreement if the Licensee does not do so and to indemnify the Council against any breach of those terms.
- 1.3 The Guarantor agrees that the Council may make a claim under this guarantee and indemnity without first making a claim against the Licensee.
- 1.4 The Guarantor is to pay all sums due to the Council under the guarantee and indemnity without any legal or equitable set-off, counterclaim or deduction.

2. CONTINUATION OF THE GUARANTEE

- 2.1 The obligations of the Guarantor are not to be released by:
 - 2.1.1 any delay or neglect by the Council in enforcing the terms of this Agreement or any time allowed by the Council for their performance;
 - 2.1.2 any variation of the terms of this Agreement;
 - 2.1.3 the disclaimer of this Agreement by the Crown or by a liquidator or trustee in bankruptcy of the Licensee;
 - 2.1.4 The Licensee being struck off the register of companies or otherwise ceasing to exist;
 - 2.1.5 the Licensee or the Council giving consent to any matter under this Agreement;
 - 2.1.6 any legal limitation, immunity, disability, incapacity or other circumstances relating to the Licensee, whether or not known to the Council; or
 - 2.1.7 anything else which would have released the Guarantor whether by the variation of the obligations guaranteed or by the conduct of the parties.

3. DEFAULT OF LICENSEE

- 3.1 The provisions of this clause 3 will apply:
 - 3.1.1 if the Licensee commits a breach of the terms of this Agreement which cannot be remedied;
 - 3.1.2 if the Licensee commits a breach of the terms of this Agreement which is capable of being remedied and:

- 3.1.2.1 does not begin diligently to remedy that breach within ten working days of written notice from the Council or immediately in case of emergency; and
 - 3.1.2.2 does not remedy the breach within a reasonable period of time, to be specified in the notice, to the reasonable satisfaction of the Council;
 - 3.1.3 following the disclaimer of this Agreement by the Crown or by a liquidator or trustee in bankruptcy of the Licensee; or
 - 3.1.4 if the Licensee is a company, the Licensee is struck off the register of companies or otherwise ceases to exist.
- 3.2 If any of the provisions in paragraph 3.1 apply and the Council requests the Guarantor to do so in writing, the Guarantor is to:
- 3.2.1 enter into a new agreement with the Council on the terms of this Agreement with the substitution of the Guarantor for the Licensee and with due allowance to be made in the new agreement for any sums paid by the Licensee under this Agreement when calculating any sums due under the new agreement.

4. NO ASSIGNMENT

- 4.1 The Guarantor is not to take an assignment of this Agreement from the Licensee.

5. ADDITIONAL PROVISIONS

- 5.1 The Guarantor is not to claim any rights of subrogation in respect of the obligations guaranteed by the Guarantor and is not entitled to participate in any security held by the Council in respect of those obligations unless and until those obligations have been performed or discharged in full.
- 5.2 The Guarantor is not to claim in competition with the Council in the insolvency of the Licensee and is not to take any security, indemnity or guarantee from that person in respect of those obligations.
- 5.3 If any payment made to the Council is set aside or avoided under the laws relating to insolvency, the Council may claim under this guarantee and indemnity in respect of that payment and any settlement, release or discharge of the obligations guaranteed by the Guarantor is to take effect subject to this condition.
- 5.4 If there is more than one Guarantor, the obligations which they undertake can be enforced against them all jointly or against each individually.

**THE COMMON SEAL of
WOLVERHAMPTON CITY COUNCIL**

Was hereunto affixed in the presence of:-

Authorised signatory

EXECUTED AS A DEED by

[the Licensee]

In the presence of:-

EXECUTED AS A DEED by

[the Guarantor]

In the presence of:-

Terms of Reference for the Evaluation Panel and Licensing Committee

INTRODUCTION

In May 2008 Parliament gave Wolverhampton City Council (“the Authority”) the right to grant a Premises Licence for a small casino under the Gambling Act 2005.

Stage 1 of the process imposes a regulatory test, whereby applications are tested for their compliance with the gambling licensing objectives, the Gambling Commission’s Codes of Practice and Guidance, and the Licensing Authority’s Gambling Licensing Policy. If there is more than one successful applicant at Stage 1, then the competition at Stage 2 is activated.

At that stage, the Casino Premises Licence is to be awarded to the party whose proposal is considered likely to result in the greatest benefit to the Authority’s area. To that end, the Authority and the applicant may enter into an agreement for the provision of services or otherwise, the agreement may be enforced as a condition of the licence, and its existence may be taken into account in evaluating the likely benefit of the proposal.

The decision will be taken by the Authority’s Licensing Committee.

However, the Authority has constituted a non-statutory Panel named the Evaluation Panel to evaluate the bids for the benefit of the Licensing Committee. The Evaluation Panel is not a decision making body, and whilst the Licensing Committee may take the Panel’s evaluations into account, it is not bound to follow them.

STAGE 1 PROCEDURE

An application for a Casino Premises Licence or a Provisional Statement must be made to the Authority in the form and manner prescribed by the Gambling Act 2005 and the Application Regulations.

An application for a Casino Premises Licence may only be made by a person who

- i) holds a Casino Operating Licence or has made an application for such an Operating Licence which has not yet been determined; and
- ii) has a right to occupy the premises or land to which the application relates.

If the applicant cannot satisfy these requirements, he may nevertheless apply for a Provisional Statement.

Following the making of the application, the applicant must give notice to the Responsible Authorities, advertise the application and display a site notice, all in accordance with the Application Regulations.

Representations may be made on the application by Responsible Authorities and interested parties, as defined by the Act. For this purpose, each competing applicant for the Casino Premises Licence is an interested party and so can make representations in relation to each of the competing applications. The period for representations is 28 days beginning on the closing date for making applications under the competition procedure. If the Authority considers a representation to be vexatious, frivolous or certainly not such as to influence its determination of the application, it will disregard it.

Unless the applicant and also interested parties or Responsible Authorities consent to a determination without a hearing, the Authority must hold a hearing to consider each application if.

- a) there remain live representations from interested parties or Responsible Authorities;
- b) the Authority proposes to attach an individual condition to the premises licence.
- c) the Authority proposes to exclude a default condition from the licence.

This hearing will be held before the Licensing Committee and will be governed by the Hearings Regulations and the Committee's established procedures for Premises Licence applications.

In considering the merits of the application for Stage 1, the Licensing Committee will apply the test set out in section 153 of the Gambling Act 2005. In particular, it must aim to permit the use of premises for gambling in so far as it thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant Guidance issued by the Gambling Commission;
- (c) reasonably consistent with the licensing objectives¹ (subject to paragraphs (a) and (b)), and
- (d) in accordance with the statement published by the Authority under section 349 (subject to paragraphs (a) – (c)).

In making its determination, the Licensing Committee must disregard:

- (1) the expected demand for the proposed facilities;
- (2) whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building;
- (3) any information which is relevant to a determination at Stage 2, unless that information is also relevant to the determination at Stage 1. So, for example, information regarding the benefit of the proposal to the area would be disregarded.
- (4) whether any of the competing applications is more deserving of being granted.

Following the Stage 1 procedure, if there is only one successful applicant, a Casino Premises Licence (or Provisional Statement as the case may be) will be awarded to that applicant. If there is more than one successful applicant, then all of the successful applicants will be Invited to participate in Stage 2 of the competition.

There is a right of appeal against the Licensing Committee's decision at Stage 1 of the process. Pending completion of the appeal, Stage 2 of the competition will be suspended.

¹ The licensing objectives are: (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, (b) Ensuring that gambling is conducted in a fair and open way, and (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

STAGE 2 PROCEDURE

(A) THE EVALUATION PANEL

Stage 2 applicants will be invited to complete a form and supply plans and attachments, demonstrating how their proposal is likely to benefit the Authority's area.

All Stage 2 applications will then be placed before the Evaluation Panel.

The Panel may request officers of the Authority to engage in discussions or negotiations with each Stage 2 applicant with a view to the particulars of their application being refined, supplemented or otherwise altered so as to maximise the benefits to the Authority's area should the application be granted. If the discussions are with a view to particulars of the application being improved or altered (rather than merely clarified or particularised) the same invitation will be offered to all other applicants to ensure equal treatment.

Wherever possible, such discussions will take place in writing to ensure transparency. The Panel itself will not correspond with applicants but will direct correspondence through the Council officer assigned to act as the single point of contact with the applicant.

Where oral discussions occur these will take place with nominated Council officers and will be fully minuted for the Panel's benefit.

The applicant will be invited to amend his bid documentation to reflect any clarifications or alterations to the bid arising from the above process. At this stage, any suggested changes going beyond the agreed clarifications or amendments will be disregarded.

Following completion of the bid documentation, the Evaluation Panel will evaluate each bid.

The evaluation will consist of:

- (1) A qualitative appraisal.
- (2) A quantitative appraisal against each of the principles in the "Application Guidance – guidance to applicants on stage 2 scoring criteria". For each principle, the Panel will evaluate which of the following bands the application should be placed within and, if it wishes, the broad positioning within the band:

91 – 100	Outstanding
81 – 90	Excellent
71 – 80	Very Good
61 – 70	Good
51 – 60	Average
41 – 50	Below Average
31 – 40	Poor
21 – 30	Very Poor
11 – 20	Extremely Poor
0 – 10	No significant response

In reaching a unified score for each principle, the Panel may choose its own method, for example by taking an average or median score, rounding up or down, or some other method, provided that the same method is used consistently for all applicants.

- (3) An assessment of the deliverability of the scheme, taking account of all material factors including, but not limited to, the practicability of the scheme, the applicant's standing and track record of delivery, any legal agreement offered and any guarantor willing to guarantee delivery of the proposals.

The Panel will supply its draft evaluation to the relevant applicant to enable the relevant applicant to correct factual errors or to make representations as to the scoring or qualitative evaluation. No new information will be accepted at this stage. Following any reply by the applicant, the Panel will complete its evaluation and forward it together with the applicant's representations to the Licensing Committee for final determination. At this point, the role of the Evaluation Panel ceases.

Matters to be disregarded by the Evaluation Panel

The following matters must be disregarded by the Panel as a matter of law:

- (1) the expected demand for the proposed facilities;
- (2) whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building;
- (3) any pre-existing contract, arrangement or other relationship between the Authority and any person. This includes a contract for the sale or lease of land and a section 106 agreement;

Conduct of members of the Evaluation Panel

1. The members undertake to act in accordance with the Model Code of Conduct. Without Prejudice thereto:
 - a. members will act in accordance with the Ten General Principles of Public Life set out in the Annex hereto;
 - b. Members will declare any personal interest in the outcome of the competition, and will withdraw from participation if they have a prejudicial interest.
2. Members will have no contact with applicants or their representatives save as specified above.
3. Members will ensure so far as they are able that all applicants receive equal treatment.
4. Members will not discuss their participation on the Evaluation Panel or the merits of the respective bids with any other person (including the press), whether during the process or after its completion.
5. The content of the bids and all communications with each party is entirely confidential. Members should not disclose any information concerning any bid to any person, including any other party.
6. All members should sign for receipt and acceptance of these Terms of Reference.

(B) THE LICENSING COMMITTEE

The overriding test for the Licensing Committee is that the Authority should determine which of the competing applications would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area. In determining this, the Authority may have regard to the effect of an agreement entered into by the Applicant whether as to the provision of services or otherwise.

In each case, the Licensing Committee will be provided with a copy of the application pack, the Stage 1 decision, the Stage 2 application form and associated documents (with any amendments), all correspondence and minutes, and the Evaluation Panel's draft and final evaluations together with the applicant's representations. It is important to stress that the work of the Evaluation Panel in no sense binds the Licensing Committee. The Licensing Committee may take the Evaluation Panel's evaluations into account to the extent that it considers it useful to do so.

The Licensing Committee will itself evaluate the respective merits of the applicants against the Stage 2 Scoring Criteria document.

In accordance with the Councils Gambling Policy all applicants who comply with the competition criteria will be given the same opportunity to expand and explain their proposals to the licensing committee at individual hearings. These hearings will be held in private due to the commercially sensitive nature of the applications. Applicants will not be allowed to introduce new information or amend their bid at the hearing. No more than 2 applications will be heard in one day and additional applications will be carried over to the next and subsequent days. In addition all papers relating to the hearing will be handed in every day at the end of the hearing.

The Casino Premises Licence or Provisional Statement should be offered to the highest ranked applicant at Stage 2, subject to completion of any agreement offered at Stage 2. If the agreement is not completed, the Authority should consider whether to award the Casino Premises License or Provisional Statement to the next-ranked applicant, provided that it is satisfied that, in the circumstances, that applicant's proposal would be likely to result in the greatest benefit to the area.

Matters to be disregarded by the Licensing Committee

The following matters must be disregarded by the Licensing Committee as a matter of law:

- (1) the expected demand for the proposed facilities;

- (2) whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building;
- (3) any pre-existing contract, arrangement or other relationship between the Authority and any person. This includes a contract for the sale or lease of land and a section 106 agreement;

Conduct of members of the Licensing Committee

1. The members undertake to act in accordance with the Model Code of Conduct. Without prejudice hereto:
 - a. members will act in accordance with the Ten General Principles of Public Life set out in the Annex hereto;
 - b. members will declare any personal interest in the outcome of the competition, and will withdraw from participation if they have a prejudicial interest.
2. Members will have no contact with applicants or their representatives save as specified above.
3. Members will ensure so far as they are able that all applicants receive equal treatment.
4. Members will not discuss their participation on the Licensing Committee or the merits of the respective bids with any other person (including the press), whether during the process or after its completion.
5. The content of the bids and all communications with each party is entirely confidential. Members should not disclose any information concerning any bid to any person, including any other party.
6. All members should sign for receipt and acceptance of these Terms of Reference.

ANNEX – THE TEN GENERAL PRINCIPLES OF PUBLIC LIFE

Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – members should be open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect of others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.