

To: Members of the Licensing  
Committee

Date: 2 March 2018

Direct Dial: 01824 712568

e-mail: democratic@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **THURSDAY, 8 MARCH 2018** in the **COUNCIL CHAMBER, COUNTY HALL, RUTHIN.**

Yours sincerely

G Williams  
Head of Legal and Democratic Services

## **AGENDA**

### **PART 1 - THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING**

#### **1 APOLOGIES**

#### **2 DECLARATION OF INTERESTS**

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

#### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

#### **4 MINUTES OF THE LAST MEETING (Pages 7 - 18)**

To receive the minutes of the Licensing Committee held on 6 December 2017 (copy enclosed).

**5 INTRODUCTION OF A LIST OF DESIGNATED WHEELCHAIR ACCESSIBLE VEHICLES** (Pages 19 - 36)

To consider a report by the Head of Planning and Public Protection (copy enclosed) regarding changes introduced by the Equality Act 2010 and seeking approval to introduce and maintain a list of wheelchair accessible vehicles.

**6 PROPOSED AMENDMENTS TO THE EXISTING HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE SPECIFICATIONS** (Pages 37 - 40)

To consider a report by the Head of Planning and Public Protection (copy enclosed) detailing proposed amendments to the existing hackney carriage and private hire vehicle specifications.

**7 GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES** (Pages 41 - 84)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the final draft of the Council's Statement of Principles for the Gambling Act 2005 for adoption and implementation with effect from 1 April 2018.

**8 UPDATE ON CONVICTION POLICY AND CONDITIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND OPERATORS** (Pages 85 - 86)

To consider a report by the Head of Planning and Public Protection (copy enclosed) updating members on progress with the review of policies associated with Hackney Carriage and Private Hire Drivers' Conviction Policy and Private Hire Operators.

**9 REVIEW OF STREET TRADING POLICY** (Pages 87 - 88)

To consider a report by the Head of Planning and Public Protection (copy enclosed) informing members of progress with the review of the current street trading policy in Denbighshire.

**10 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2018** (Pages 89 - 92)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the committee's forward work programme for approval.

**PART 2 - CONFIDENTIAL ITEMS**

No Items.

## **MEMBERSHIP**

### **Councillors**

Hugh Irving (Chair)  
Joan Butterfield  
Brian Jones  
Barry Mellor  
Melvyn Mile  
Arwel Roberts

Alan James (Vice-Chair)  
Peter Scott  
Rhys Thomas  
Tony Thomas  
Huw Williams

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## LOCAL GOVERNMENT ACT 2000

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### Code of Conduct for Members

### DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a \*member/co-opted member of  
*(\*please delete as appropriate)*

**Denbighshire County Council**

**CONFIRM** that I have declared a \***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-  
*(\*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)\**

Signed

Date

\*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 6 December 2017 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Hugh Irving (Chair), Alan James (Vice-Chair), Brian Jones, Barry Mellor, Melvyn Mile, Arwel Roberts, Tony Thomas and Huw Williams

### ALSO PRESENT

Solicitor (AL), Public Protection Business Manager (IM), Licensing Officer (NJ), Enforcement Officers (HB & TB) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillors Peter Scott and Rhys Thomas

#### 2 DECLARATION OF INTERESTS

Councillor Hugh Irving – Personal and Prejudicial Interest – Agenda Item 5  
Councillor Barry Mellor – Personal and Prejudicial Interest – Agenda Item 6

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

#### 4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 20 September 2017 and Special Licensing Committee held on 18 October 2017 were submitted.

***RESOLVED** that the minutes of the meetings held on 20 September 2017 and 18 October 2017 be received and confirmed as a correct record.*

#### EXCLUSION OF PRESS AND PUBLIC

***RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following items of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.*

#### 5 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 523920

[Councillor Hugh Irving (Chair) declared a personal and prejudicial interest in this item because the applicant and his representative were known to him personally

and he left the meeting during consideration of the application. Councillor Alan James (Vice Chair) took the Chair for the item.]

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) a renewal application having been received from Applicant No. 523920 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the renewal following accrual of nine penalty points on the Applicant's DVLA Driver's Licence for speeding offences covering the period November 2015 to November 2016 which had been confirmed following a routine check as part of the renewal application;
- (iii) mitigation having been put forward by the Applicant during interview regarding the traffic offences together with assurances regarding his driving conduct;
- (iv) the Council's policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was accompanied by his employer and confirmed he had received the report and committee procedures.

The Enforcement Officer (TB) introduced the report and facts of the case.

The Applicant explained that all three speeding offences had coincided with major upheavals in his personal life which had since been resolved. He accepted that there was no excuse for speeding and apologised profusely in that regard. His employer also spoke in support of the Applicant advising that he was a long standing driver with an accident free record and the speeding offences had been out of character.

In response to members' questions the Applicant elaborated upon the circumstances surrounding the speeding offences and provided assurances regarding his driving competency and behaviour should a similar situation occur in the future. It was established that he had not been offered or undertaken a speed awareness course prior to or since accruing the penalty points. In terms of his fitness to drive a medical certificate had been obtained. Members noted that whilst the Applicant had disclosed the latest speeding offence to his employer, neither had informed the licensing authority of the conviction, although it was the Applicant's responsibility to do so within seven days in accordance with licensing conditions. In his final statement the Applicant reiterated his regret over the speeding offences.

The committee adjourned to consider the application and it was –



**RESOLVED** that the renewal application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 523920 be granted with a formal warning issued as to his future conduct.

The reasons for the Licensing Committee's decision were as follows –

Members had carefully considered the circumstances of the speeding offences and mitigation put forward by the Applicant together with his assurances as to future conduct and his employer reference. It was also noted that no further motoring offences had been committed in the last twelve months. The committee found the Applicant to be genuine and remorseful of his actions, and after taking into account his previous long standing good character and the support of his employer, accepted his assurances with regard to future conduct. Consequently members considered the Applicant to be a fit and proper person to hold a licence and decided to grant the renewal application. However the accumulation of nine penalty points for speeding offences in a relatively short period of time was of serious concern and consideration was given to suspending the licence for an appropriate period. On balance however it was decided to issue a formal warning as to future conduct in this case.

The committee's decision and reasons therefore were conveyed to the Applicant.

## **6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 516098**

[Councillor Barry Mellor declared a personal and prejudicial interest in this item because the applicant was known to him and he left the meeting during consideration of the application.]

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application having been received from Applicant No. 516098 for a licence to drive hackney carriage and private hire vehicles;
- (ii) the Applicant having been previously licensed by the authority and brought before the Licensing Committee on three separate occasions in January 2010, March 2011 and March 2016 resulting in formal warnings on the first two occasions and revocation of his licence on the final occasion;
- (iii) referred to the Council's policy with regard to the relevance of convictions, and
- (iv) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

The Applicant was accompanied by his union representative and confirmed he had received the report and committee procedures.

The Enforcement Officer (HB) introduced the report and facts of the case.

The Applicant's representative provided some background information relating to the Applicant's previous history as a licensed driver, highlighting that the council had failed to provide the appropriate formal training as directed by the committee in March 2011 and referred to the subsequent impact and circumstances of the case in 2016 leading to revocation of the Applicant's licence to drive hackney carriage and private hire vehicles. Previous complaints had been made whilst the Applicant had been undertaking school contract work but there had been no issue when carrying out general mainstream taxi licensing work. Consequently the Applicant submitted that if he was granted a licence he would not undertake school transport work. A reference from the Applicant's current employer was read out at the meeting highlighting a number of qualities and recommending him for employment.

Members took the opportunity to question the Applicant in order to ascertain whether or not they considered him a fit and proper person to hold a licence. The Applicant clarified that, if a licence was granted, he would not undertake any school contact work but would transport children in the usual course of taxi driving, i.e. pick-ups from the street/rank or pre-booked work. He had grandchildren himself so was aware of their behaviours and submitted that it would be fine provided children were accompanied by an adult to keep them under control and ensure they did not interfere with his driving. He acknowledged that he may be faced with challenging behaviour from youngsters late at night and advised that he would be able to cope having transported children previously with no problems. With regard to training the Applicant confirmed that he had not received training on carrying special needs children but had received the mandatory Child Sexual Exploitation awareness training recently introduced as part of the Council's application process.

During further questioning of the Applicant and officers it was established that –

- the committee in March 2011 had imposed a condition which required the Applicant to undertake appropriate formal training in respect of carrying special needs children within 28 days. However, it had not been clarified who was responsible for providing that training and whilst some driver training had been organised by the School Transport Section it had not specifically involved carrying special needs children. The Applicant's representative argued that the onus had been on the council to facilitate that training provision. It was noted that whilst provision of such training may have been limited in 2011 there was now a plethora of training organisations who would be able to offer that type of training and the Applicant indicated he would be willing to undertake such training as required
- if a licence was granted it would qualify the Applicant to transport children and any other person, vulnerable or otherwise, at any time, in a licensed vehicle.

The Applicant's representative made a final statement reiterating that previous complaints related solely to when the Applicant had undertaken school transport work and not in any other capacity and had been a civil matter with no police involvement. Whilst the Applicant would have the opportunity to pick-up and transport children when working as a licensed driver, no parent should allow children to travel alone with a driver not known to them until they were of a particular age.

The committee adjourned to consider the application and it was –

**RESOLVED** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 516098 be refused.

The reasons for the Licensing Committee's decision were as follows –

The Committee found that the Applicant had failed to demonstrate he was a fit and proper person to hold a hackney carriage and private hire vehicle licence, specifically –

- the Applicant failed to show an appreciation for the office of taxi driver or acknowledge that this was a position of trust placed in him by the local authority
- the Applicant acknowledged previous complaints made against him when carrying out his duties as a taxi driver in relation to school contract work and had provided no evidence or assurance against future complaints in terms of his conduct in that regard, instead he advised that he would not undertake any school contracts which failed to give the Committee any confidence in his abilities or behaviour
- by voluntarily excluding himself from school contract work the Applicant also failed to demonstrate that he had the trust and confidence in himself to undertake the duties required of a licensed driver
- despite being aware from his previous history that training in carrying special needs children would assist him, notwithstanding that the local authority did not provide training, he had failed to undertake any training of his own volition which may have assisted him or given confidence to the local authority with regard to his competencies and behaviour
- despite the fact that the Applicant had indicated he would not undertake school contract work, granting a licence would place him in a position of trust and qualify him to transport children and vulnerable adults, and this was given great emphasis by the Licensing Committee
- in response to questions of the Committee the Applicant advised that he would only carry children if an adult was there to supervise so that he could concentrate on his driving. The Committee felt that such a response showed that he had no appreciation of the realities of driving a taxi with children who may be unaccompanied (e.g. 14 year old going to a party). The Committee had to have confidence in the Applicant if such a situation arose. The Applicant failed to provide any assurances to the Committee and as such they did not have the confidence in him when he may be in a situation of carrying children and vulnerable adults
- in terms of the Applicant's past history and behaviours no evidence was presented to the Committee to persuade them that he would act any differently in the future
- there was a lack of remorse shown for past events and the Applicant had failed to acknowledge or demonstrate any understanding or learning from them
- the Applicant had only brought one reference in support of his application, from his current employer, however it was noted that his current position would not involve the carrying of other passengers mainly the delivery of food

Given that the overriding consideration of the Committee was one of public safety, and taking into account the Applicant's past behaviour, his submissions and responses to questions, he failed to demonstrate to the Committee that he was a fit and proper person to hold a licence to drive hackney carriage and private hire vehicles. Consequently the Committee resolved to refuse the application.

The committee's decision and reasons therefore were conveyed to the Applicant together with the right of appeal against the decision to the Magistrates Court within 21 days.

At this juncture (11.05 a.m.) the meeting adjourned for a refreshment break.

## **7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 517116**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) re-consideration of an application received from Applicant No. 517116 for a licence to drive hackney carriage and private hire vehicles following an appeal against refusal of the application by the Licensing Committee in June 2017;
- (ii) detailed convictions revealed following an enhanced disclosure to the Disclosure and Barring Service (DBS) relating to offences committed in 1998 under the Road Traffic Act 1988 which had not been disclosed by the Applicant and the accumulation of fourteen penalty points on his DVLA Driving Licence relating to traffic offences committed during 2014 and 2015, one of which had not been disclosed by the Applicant;
- (iii) relevant documentation relating to the case including details of the Applicant's formal interview having been attached to the report;
- (iv) referred to the Council's policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

The Applicant was accompanied by his legal representative and confirmed he had received the report and committee procedures.

The Enforcement Officer (TB) introduced the report and facts of the case.

The Applicant's legal representative highlighted the difficulties when different rules were applied by different organisations which had led to a misunderstanding with regard to the disclosure of relevant convictions as part of the application process in this case. There had been no attempt by the Applicant to deceive or hide any information which had been borne out by the submission of the DBS check and known routine check of the Applicant's DVLA driving licence. Reference was made

to the timing of the motoring convictions obtained by the Applicant and those 'spent' convictions which remained on record for a further twelve months and there had been no convictions for motoring offences for over two years. It was submitted that the Applicant had accepted his mistake and was of good character and possessed the necessary qualities to be a responsible and trustworthy licensed driver.

Members were advised of two issues to consider in this case, (1) the non-disclosure of relevant convictions, and (2) the penalty points which remained valid in respect of the application. The Applicant responded that he had been advised that the 'spent' convictions would not debar him from obtaining a licence and he accepted that three penalty points remained valid on his licence and had been disclosed. He also confirmed that he had an offer of employment should the licence be granted.

In his final statement the Applicant's legal representative reiterated that a genuine mistake had been made with regard to the non-disclosure for which the Applicant had apologised and he asked members to look favourably on the application.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 517116 be granted with a formal warning issued as to his future conduct.

The reasons for the Licensing Committee's decision were as follows –

Having considered the explanation by the Applicant with regard to the offences and non-disclosure of relevant offences members accepted that he had made a genuine mistake on this occasion and there had been no intention to deceive. It was noted that the motoring offences had occurred some time ago and the Applicant had a period free from convictions for over two years. Whilst there remained some valid points on the Applicant's DVLA Licence the committee did not consider them so serious as to make him unfit to act as a licensed driver. Consequently members found the Applicant to be a fit and proper person to hold a licence and agreed to issue a warning as to his future conduct in light of the convictions received.

The Committee's decision and reasons therefore were conveyed to the Applicant.

## **8 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. DR186**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) a renewal application having been received from Applicant No. DR186 for a licence to drive hackney carriage and private hire vehicles;
- (ii) a routine check on the Applicant's DVLA Driving Licence having confirmed the accumulation of twelve penalty points for speeding offences covering the period September 2013 to December 2016;

- (iii) relevant documentation relating to the case including details of the Applicant's formal interview together with character references having been attached to the report;
- (iv) the Applicant having appealed to the Magistrates Court against refusal of the application by officers under delegated decision resulting in an agreement to submit the renewal application to the Licensing Committee for determination;
- (v) the Council's policy with regard to the relevance of convictions, and
- (vi) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was accompanied by his legal representative and confirmed he had received the report and committee procedures.

The Public Protection Business Manager introduced the report and facts of the case.

The Applicant's legal representative advised that the Applicant was not proud of his driving record and accumulation of nine penalty points (the oldest convictions having since been removed from record) and detailed the circumstances surrounding the speeding offences which had been committed in unfamiliar areas in his private vehicle and not when working as a licensed driver. He referred to areas within the council's conviction policy arguing that the Applicant was not dishonest and did not pose a threat to the public or public safety, highlighting the glowing references (previously circulated) which had been provided voluntarily by a cross section of the community attesting to his good character. In terms of sanctions members were advised that the Applicant had effectively been suspended for nearly two months given that he had not been able to work during that time which had caused financial hardship with low employment prospects for the future. The Applicant responded to questions and provided assurances regarding his driving competencies. He confirmed he had not been offered a speed awareness course.

In making a final statement the Applicant's legal representative described the Applicant as a dedicated individual and competent driver who had expressed genuine remorse and had maintained a clean driving record over the last twelve months. He submitted that the character references provided further assurance as to his character demonstrating that he was fit and proper to hold a licence.

Councillor Tony Thomas left the meeting at this point.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the renewal application for a hackney carriage and private hire vehicle driver's licence from Driver No. DR186 be granted with a formal warning issued as to his future conduct.

The reasons for the Licensing Committee's decision were as follows –

Members carefully considered the report and submissions put forward by the Applicant in support of his application. The committee found the Applicant to be genuine in his address and response to questions and had also demonstrated via his character references that he was a trusted and well regarded individual. Consequently the committee considered the Applicant to be a fit and proper person to hold a licence. However concerns were expressed regarding the Applicant's speeding offences and it was agreed to issue a formal warning as to future conduct.

The Committee's decision and reasons therefore were conveyed to the Applicant.

## **OPEN SESSION**

Upon completion of the above business the meeting resumed in open session.

### **9 PROPOSED AMENDMENTS TO THE EXISTING HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE SPECIFICATIONS**

The Licensing Officer (NJ) submitted a report (previously circulated) detailing proposed amendments to the existing hackney carriage and private hire vehicle specifications for members' consideration.

The existing hackney carriage and private hire vehicle policy, together with vehicle specification and conditions, had been approved by the Licensing Committee in December 2016 following extensive consultation and came into effect on 1 July 2017. The Licensing Committee held on 18 October 2017 had resolved to deviate from the policy specification with regard to minimum legroom requirements and requested that officers review the current specification policy, in particular the vehicle seating specification, and report back as soon as practicable. Details of the proposed amendments had been included as an appendix to the report.

Members noted that, apart from amendments for clarification purposes, the majority of the proposed amendments removed the more restrictive vehicle specifications in favour of the vehicles being "type approved" as they had already been deemed fit for purpose to carry the number of passengers as detailed on the vehicle registration documents. Upon being put to the vote it was –

***RESOLVED*** that the amendments to the hackney carriage and private hire vehicle specifications as detailed in Appendix A to the report be approved with immediate effect.

### **10 PROPOSED CHANGES TO TAXI LICENSING FEES AND CHARGES**

The Public Protection Business Manager submitted a report (previously circulated) seeking members' consideration of revised hackney carriage/private hire fees and charges in light of the consultation responses received thereon.

The proposed licensing fees and charges had been approved for public consultation by the Licensing Committee in September 2017. One consultation response had been received as detailed within the report together with officers' comments in response thereto. Consequently members were asked to consider

whether or not to modify the proposed fees and charges in line with the representations made.

During debate it was clarified that the council did not undertake, or charge for, the calibration of taxi meters which was carried out by private companies.

**RESOLVED** that, following consideration of the representations received, members –

- (a) *approve the fees and charges as detailed in Appendix A to the report, and*
- (b) *authorise officers to implement the fees and charges as approved with effect from 1 April 2018.*

## **11 PROPOSED CHANGES TO THE HACKNEY CARRIAGE VEHICLES TABLE OF FARES AND CHARGES**

The Public Protection Business Manager submitted a report (previously circulated) seeking members' review of the current tariff charges for hackney carriage vehicles (taxis).

Following a request by a delegation of licensed drivers to review the current tariff charges officers had consulted with all drivers to ascertain an appropriate tariff charge based on five options. Details of the responses received had been included within the report together with the authority's position within the "league table" of taxis fares based on each option. Reference was made to the decision making process which was subject to further public notice and Lead Member delegated decision prior to implementation. It was proposed that any representations received in response to the public notice be referred back to the Licensing Committee for further consideration as part of that process.

Members discussed the decision making process with officers, particularly given that the relevant Lead Cabinet Member was also a member of the Licensing Committee, and officers agreed to seek further clarification in that regard. Officers also confirmed that the taxi meter tariffs related to the maximum fees and charges set and operators could charge a lower amount. Members noted the increase in fares and charges had been requested by a significant number of licensed drivers.

**RESOLVED** that members –

- (a) *approve an amendment to the current table of charges as follows:*
  - *Introduce option 2 of the costs per mile*
  - *Introduce stepped changes in multiples of £0.10 per 1/20<sup>th</sup> of a mile only*
  - *Increase the soiling charge to £100*
  - *Increase waiting time for Tariff 1 to £0.30 per minute*
  - *Retain waiting time for Tariff 2 as £0.40 per minute*
  - *Include Easter Sunday into Tariff 2*
  - *Include wheelchairs and pushchairs in the exclusions to the luggage charge*



- *Retain the extra charge of £0.20 for each item of luggage outside the passenger compartment (excluding shopping)*
  - *Introduce an extra charge of £0.20 for each domestic pet, excluding guide dogs*
- (b) *authorise officers to prepare a report for Lead Member delegated decision to adopt the amendments in sub-paragraph (a) above;*
- (c) *authorise officers to publish the changes in a local newspaper for the necessary consultation, and if no objections are received, they will come into effect on 1 February 2018, and*
- (d) *request that where any objections are received, the Licensing Committee will consider those objections at their next meeting with a view to implementing (with or without modification) not later than 1 April 2018.*

Councillor Brian Jones abstained from voting on this item.

## **12 LICENSING COMMITTEE FORWARD WORK PROGRAMME**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2018.

***RESOLVED*** that the Licensing Committee's forward work programme as detailed in Appendix 1 to the report be approved.

The meeting concluded at 12.50 p.m.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	8th March 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Public Protection Business Manager <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706066
<b>SUBJECT:</b>	Introduction of a list of designated wheelchair accessible vehicles

## 1. PURPOSE OF THE REPORT

- 1.1 To inform Members of the changes introduced by the Equality Act and to seek approval of a list of wheelchair accessible vehicles

## 2. EXECUTIVE SUMMARY

- 2.1 Legislation allows local authorities to retain a list of all vehicles licensed as a hackney carriage or private hire vehicle which meet the requirements of a wheelchair accessible vehicle and, where a list exists, the legislation places further obligations on drivers and /or proprietors of those vehicles.

## 3. POWER TO MAKE THE DECISION

- 3.1 The Equality Act 2010 permits local authorities to maintain a list of wheelchair accessible vehicles.

## 4.0 BACKGROUND INFORMATION

- 4.1 The Equality Act 2010 brings together a number of different pieces of legislation concerning discrimination. Sections 160 to 173 deal specifically with Private Hire vehicles and Hackney Carriage vehicles.
- 4.2 There are already offences in place for failing to carry assistance dogs. The Equality Act 2010 (Commencement No.12) Order 2017 brought into force sections 165 (passengers in wheelchairs) and 167 (lists of wheelchair accessible vehicles) on 6 April 2017 which will introduce similar offences for discrimination against wheelchair users.
- 4.3 The Government has indicated that it now expects Council's to introduce and maintain a list of designated vehicles, which, in turn, will create offences for breaches of the duties that will be imposed. The Department for Transport (DfT)

have issued formal statutory guidance asking Local Authorities to introduce those parts of the Equality Act that provide protection for wheelchair users.

- 4.4 A vehicle can be on the designated list if it conforms to such accessibility requirements as the licensing authority thinks fit but generally, consideration will be given to the ability to get in and out of vehicles in safety and being able to travel in safety and reasonable comfort – whether the disabled person is staying in their wheelchair or not.
- 4.5 Section 165 will impose certain duties on drivers of designated vehicles such as;
- Carry a passenger while in the wheelchair
  - Not to make an additional charge for doing so
  - If the passenger decides to sit in a passenger seat, to carry the wheelchair
  - To take steps to ensure passengers are carried in safety and comfort
  - To give the passenger such mobility assistance as is reasonably required.
- 4.6 Mobility assistance is assistance;
- To enable the passenger to get in and out of the vehicle
  - If the passenger wishes to remain in the wheelchair, to enable the passenger to get in and out of the vehicle while in the wheelchair
  - To load the passengers luggage into or out of the vehicle
  - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle
- 4.7 Any vehicles placed on the list will not be required to carry all wheelchairs but instead must be capable of carrying some.
- 4.8 A driver will be able to apply for an exemption certificate if they have a medical condition, disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require.
- 4.9 If a driver successfully receives an exemption, they will not be required to perform any of the duties requiring passenger assistance. The Council will be considering information supplied by a GP.
- 4.10 Officers propose to begin contacting owners of vehicles which would be included on the list. If a driver indicates their intention to apply for an exemption, a reasonable time will be given to apply for the appropriate medical certification.
- 4.11 If agreed by the Committee, it is proposed that the publication of the designated list will take place within six months of this hearing. Following this date, it will become an offence for a driver to fail to give reasonable assistance to a wheelchair passenger.
- 4.12 The Equality Act enables vehicle owners to appeal against the decision of the Council to include their vehicle(s) on the designated list. The appeal must be made to a Magistrate's Court within 28 days of being included on the designated list.

## **5.0 CONSIDERATIONS**

- 5.1 That Members consider the content of this report and the advice contained in the Equality Act 2010 and the Department for Transport's guidance.

## **6.0 RECOMMENDATION**

- 6.1 Member approve the introduction of a published list of wheelchair accessible vehicles.
- 6.2 That Members delegate the setting of the implementation date to the Public Protection Business Manager in consultation with the Public Protection Manager and Chair of Licensing Committee.
- 6.3 Instruct officers to report back to the Licensing Committee during 2018 with information on the prepared list.

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Department  
for Transport

# Access for wheelchair users to Taxis and Private Hire Vehicles

## Statutory Guidance

**Moving Britain Ahead**

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR  
Telephone 0300 330 3000  
Website [www.gov.uk/dft](http://www.gov.uk/dft)  
General enquiries: <https://forms.dft.gov.uk>



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# Ministerial Foreword



This Government is committed to ensuring that transport works for everyone, including disabled people. Since joining the Department for Transport in 2015, and taking on Ministerial responsibility for transport accessibility, I have made it my mission to challenge the status quo and encourage innovative thinking to improve access to transport across the modes.

I know however, that despite the real improvements which have taken place in recent years, some disabled passengers still face discrimination when attempting to travel. I am clear that this is unacceptable.

Owners of assistance dogs are already protected by provisions in the Equality Act 2010 which make it unlawful to refuse or charge them extra. I want similar protections to apply to wheelchair users, which is why I am delighted that we have commenced the remaining parts of sections 165 and 167 of the Equality Act 2010, making it a criminal offence for drivers of designated taxi and private hire vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra. I hope that in so doing we will send a clear signal to the minority of drivers who think it acceptable to discriminate on grounds of disability that such behaviour will not be tolerated – and, more importantly, to enable wheelchair users to travel with confidence.

A handwritten signature in blue ink that reads "Andrew Jones". The signature is written in a cursive, flowing style.

**Andrew Jones MP,  
Parliamentary Under Secretary of State, Department for Transport**

# 1. Introduction

## Status of guidance

- 1.1 This guidance document has been issued in order to assist local licensing authorities (LAs) in the implementation of legal provisions intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicle (PHV) services. It provides advice on designating vehicles as being wheelchair accessible so that the new protections can apply, communicating with drivers regarding their new responsibilities and handling requests from drivers for exemptions from the requirements.
- 1.2 This is a statutory guidance document, issued under section 167(6) of the Equality Act 2010 and constitutes the Secretary of State's formal guidance to LAs in England, Wales and Scotland on the application of sections 165 to 167 of the Equality Act 2010. LAs must have regard to this guidance document.

## 2. Putting the law into practice

### Background

- 2.1 We have commenced sections 165 and 167 of the [Equality Act 2010](#) (“the Act”), in so far as they were not already in force. Section 167 of the Act provides LAs with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- 2.2 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows LAs to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.
- 2.3 On 15<sup>th</sup> September 2010, the Department for Transport issued guidance on the Act which stated, in relation to section 167, *“although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates”*.
- 2.4 We therefore recognise that many LAs have already implemented some of these provisions, including publishing lists of wheelchair accessible vehicles and exempting drivers. Therefore, there are likely to be a range of approaches being used in practice by LAs across England, Wales and Scotland.

### Transitional arrangements

- 2.5 We want to ensure that the commencement of sections 165 and 167 of the Act has a positive impact for passengers in wheelchairs, ensures they are better informed about the accessibility of designated taxis and PHVs in their area, and confident of receiving the assistance they need to travel safely.
- 2.6 But we recognise that LAs will need time to put in place the necessary procedures to exempt drivers with certain medical conditions from providing assistance where there is good reason to do so, and to make drivers aware of these new requirements. In addition, LAs will need to ensure that their new procedures comply with this guidance, and that exemption notices are issued in accordance with Government regulations. This will ensure that we get a consistent approach and the best outcomes for passengers in wheelchairs.
- 2.7 As such, we would encourage LAs to put in place sensible and manageable transition procedures to ensure smooth and effective implementation of this new law. LAs should only publish lists of wheelchair accessible vehicles for the purposes of

section 165 of the Act when they are confident that those procedures have been put in place, drivers and owners notified of the new requirements and given time to apply for exemptions where appropriate. We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provisions, but this will of course be dependent on individual circumstances.

2.8 A flowchart setting out the sorts of processes that a LA could follow is set out below. This is an indicative illustration, and it will be down to each LA to determine the actions they need to take to ensure this new law is implemented effectively in their area.



# 3. Vehicles

## Overview

- 3.1 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.

## Vehicles that can be designated

- 3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.
- 3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair"<sup>1</sup> to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.
- 3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

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<sup>1</sup> As defined in Schedule 1 of the [Public Service Vehicle Accessibility Regulations 2000](#)

## Preparing and publishing lists of designated vehicles

- 3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.
- 3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.
- 3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.
- 3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

## Appeals

- 3.13 Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list.

# 4. Drivers

## Driver responsibilities

- 4.1 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 4.2 The duties are:
- to carry the passenger while in the wheelchair;
  - not to make any additional charge for doing so;
  - if the passenger chooses to sit in a passenger seat to carry the wheelchair;
  - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - to give the passenger such mobility assistance as is reasonably required.
- 4.3 The Act then goes on to define mobility assistance as assistance:
- To enable the passenger to get into or out of the vehicle;
  - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
  - To load the passenger's luggage into or out of the vehicle;
  - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 4.4 Once the duties are commenced, it will be an offence for the driver (unless exempt) of a taxi or PHV which is on the licensing authority's designated list to fail to comply with them. We encourage LAs to provide drivers of taxis and PHVs who are not exempt from the duties with clear guidance on their duties with respect to the carriage of passengers in wheelchairs, either as part of existing driver-facing guidance, or as supplementary communication. The Disabled Persons Transport Advisory Committee's Disability Equality and Awareness Training Framework for Transport Staff<sup>2</sup> may provide a useful resource.
- 4.5 Although each situation will be different, we take the view that reasonable mobility assistance will be subject to other applicable law, including health and safety legislation. However, we would always expect drivers to provide assistance such as folding manual wheelchairs and placing them in the luggage compartment, installing the boarding ramp, or securing a wheelchair within the passenger compartment.
- 4.6 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or

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<sup>2</sup>

<http://webarchive.nationalarchives.gov.uk/20080804135759/http://www.dptac.gov.uk/education/stafftraining/pdf/trainingframework-nontabular.pdf>



light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

- 4.7 It is our view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment. We recommend that licensing authority rules for drivers are updated to make clear when a meter can and cannot be left running.

## Applying for and issuing exemptions

- 4.8 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows LAs to grant exemptions from the duties to individual drivers. These provisions are contained in section 166, and were commenced on 1<sup>st</sup> October 2010.
- 4.9 Section 166 allows LAs to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties. Since October 2010, taxi and PHV drivers who drive wheelchair accessible taxis or PHVs have therefore been able to apply for exemptions. If they do not do so already, LAs should put in place a system for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt.
- 4.10 We suggest that authorities produce application forms which can be submitted by applicants along with evidence supporting their claim. We understand that some licensing authorities have already put in place procedures for accessing and exempting drivers, and as an absolute minimum, we think that the evidence provided should be in the form of a letter or report from a general practitioner.
- 4.11 However, the Government's view is that decisions on exemptions will be fairer and more objective if medical assessments are undertaken by professionals who have been specifically trained and who are independent of the applicant. We would recommend that independent medical assessors are used where a long-term exemption is to be issued, and that LAs use assessors who hold appropriate professional qualifications and who are not open to bias because of a personal or commercial connection to the applicant. LAs may already have arrangements with such assessors, for example in relation to the Blue Badge Scheme.
- 4.12 If the exemption application is successful then the LA should issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle. As section 166 has been in force since 2010, many LAs will already have processes in place for issuing exemption certificates, and as such we do not intend to prescribe the form that those certificates should take. We are however keen to ensure that passengers in wheelchairs are able to clearly discern whether or not a driver has been exempted from the duties to provide assistance, and as such will prescribe the form of and manner of exhibiting a notice of exemption.
- 4.13 If the exemption application is unsuccessful we recommend that the applicant is informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

## Demonstrating exemptions

- 4.14 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.
- 4.15 The Department will soon make regulations which will prescribe the form of and manner of exhibiting a notice of exemption. Where a driver has been exempted from the duties under section 165 of the Act, they must display an exemption notice in the vehicle they are driving in the form and manner prescribed by the regulations. If the notice is not displayed then the driver could be prosecuted if they do not comply with the duties under section 165 of the Act.
- 4.16 The Department aims to distribute copies of the notice of exemption to LAs, but they are of course free to produce their own in accordance with the regulations.
- 4.17 Only one exemption notice should be displayed in a vehicle at any one time.

## Appeals

- 4.18 Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate. That appeal should be made to the Magistrate's Court, or a sheriff in Scotland, and must be made within 28 days beginning with the date of the refusal.
- 4.19 LAs may choose to establish their own appeal process in addition to the statutory process but this would need to be undertaken rapidly in order to allow any formal appeal to the Magistrate's Court to be made within the 28 day period.

# 5. Enforcement

## Licensing measures and prosecution

- 5.1 It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the LA that licensed them, and the LA has not provided them with an exemption certificate, regardless of where the journey starts or ends.
- 5.2 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 5.3 LAs have wide-ranging powers to determine the rules by which taxis and private hire vehicles within their respective areas may operate. We recommend that they use these powers to ensure that drivers who discriminate against disabled passengers are held accountable.
- 5.4 If a driver receives a conviction for breaching their duties under section 165 of the Act, it would be appropriate for the authority to review whether or not they remained a fit and proper person to hold a taxi or PHV drivers' licence. The Government's presumption is that a driver who wilfully failed to comply with section 165 would be unlikely to remain a "fit and proper person".
- 5.5 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	8 <sup>th</sup> March 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706433
<b>SUBJECT:</b>	Proposed amendments to the existing Hackney Carriage and Private Hire Vehicle Specifications

## 1. PURPOSE OF THE REPORT

- 1.1 For Members to consider further amendments to the existing hackney carriage and private hire vehicle specifications.

## 2. EXECUTIVE SUMMARY

- 2.1 Since the implementation of the new policy in July 2017, it has been brought to Officers attention that the section relating to doors is unclear and the section relating to wheelchair accessibility is restrictive and may have unintended consequences on the taxi industry. Officers are proposing an amended text to the relevant paragraphs in the vehicle specification for Members consideration and approval.

## 3. POWER TO MAKE THE DECISION

- 3.1 Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847.

## 4. BACKGROUND INFORMATION

- 4.1 As a reminder to Members, the existing hackney carriage and private hire vehicle policy, together with vehicle specification and conditions, was approved at the December 2016 committee meeting, following extensive consultation, and came into effect on the 1<sup>st</sup> of July 2017.
- 4.2 At a further Meeting of the Licensing Committee, in December last year, Members considered and approved some alterations to the vehicle specification relating mainly to the seating specification.

- 4.3 A further request from the trade has been made to review Section 3.11.1 (relating to Private Hire) and 6.5.1 (Hackney Carriage) of the vehicle specification relating to doors.
- 4.4 For Members information 3.11.1 and 6.5.1 reads:  
*“The vehicle shall have a minimum of 4 side opening doors which are easily accessible to passengers. Access to and from vehicles such as minibuses will be determined on a case by case basis eg the rear door should not be a means of access.”*
- 4.5 The concern from the trade relates to minibus/MPV type vehicles that may not have 4 side opening doors, and it is worthy to note that a large proportion of minibuses/MPV type vehicles would not be able to meet the above specification.
- 4.6 It is also their concern that determining minibuses on a case by case basis does not provide them with the clarity when looking to replace their vehicles. This has the potential to lead to differing opinions in turn to refusals and possible appeals.
- 4.7 It is therefore proposed to modify section 3.11.1 and 6.5.1 to read:  
*“All saloons, estates or purpose built taxi vehicles shall have at least four side-opening doors, which may be opened from the inside and the outside. Minibuses, transits and people carrier type vehicles shall have at least three doors not including any tailgate or rear doors.”*
- 4.8 There is an increasing desire by companies to offer full access for all in the community to taxis. Sections 3.14.1 and 6.8.1 of our vehicle specification limits wheelchair access to vehicles only with ramp access at a nearside door – *“A ramp or ramps for the loading of a wheelchair and passenger shall be available at all times for use at the nearside rear passenger door”*. Whilst there are not significant numbers of vehicles on the fleet that have rear access for wheelchairs this type of accessible vehicle is becoming more prominent on the roads.
- 4.9 The vehicle specification already includes references to safe loading / unloading and securing wheelchairs along with the use of associated lifting equipment – as is often associated with this type of accessible vehicle. It is therefore proposed to amend sections 3.14.1 and 6.8.1 to read:  
*“A ramp or ramps, or appropriate lifting equipment, for the loading of a wheelchair and passenger shall be available at all times for use at the nearside or rear passenger door”*

5. **CONSIDERATION**

- 5.1 For Members to consider the contents of the report and if Members are minded to approve such modifications it would benefit licence holders by clarifying what vehicles would be suitable to be accepted as a licensed vehicle.

6. **RECOMMENDATION**

- 6.1 For Members to consider all the information contained in this report and approve the amendments as detailed in paragraphs 4.7 and 4.9, to come into force with immediate effect.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	8 March 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Technical Support Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Gambling Act 2005 – Review of Statement of Principles

## 1. PURPOSE OF THE REPORT

- 1.2 To present Members of the Licensing Committee with the final draft of the Council's Statement of Principles for the Gambling Act 2005.

## 2. EXECUTIVE SUMMARY

- 2.1 In accordance with the Gambling Act 2005 the Council is required to review the Statement of Principles every three years.
- 2.2 A review has been undertaken of the current Statement and a final version is attached at Appendix A to this report.

## 3. POWER TO MAKE THE DECISION

- 3.1 Section 349 Gambling Act 2005

## 4. BACKGROUND INFORMATION

- 4.1 In determining the Statement of Principles, the Council is required to have regard to the licensing objectives of the Gambling Act 2005 and the Gambling Commission's 'Guidance to Licensing Authorities'.
- 4.2 The statutory licensing objectives are:
- Protecting children and other vulnerable people from being harmed or exploited by gambling
  - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime, and
  - Ensuring that gambling is conducted in a fair and open way
- 4.3 The Statement of Principles has been developed by the six Licensing Authorities in North Wales, bringing consistency to matters relating to Gambling

issues and functions.

## **5. CONSULTATION**

5.1 At their meeting in September, 2017 Members authorised officers to continue with the required consultation by compiling any responses received and return to this Meeting with a final version for their approval.

5.2 This version has been subject to a full public consultation, including:

- The Gambling Commission
- North Wales Police
- North Wales Fire and Rescue Service
- The Planning Authorities
- Environmental Health, Health and Safety and Trading Standards
- Children Services
- Her Majesty's Revenue and Customs
- Denbighshire County Councillors

5.2.1 Representatives of holders of Licences and Permits were also contacted and advised how to respond via the Council's website.

5.3 No responses were received as a result of the consultation.

## **6. CONSIDERATION**

6.1 Members are asked to consider adopting the presented version.

6.2 Despite the formatting being altered from our previous version, the Statement of Principles has not been significantly changed otherwise and, as such, will not require further approval from Full Council

## **7. RECOMMENDATION**

7.1 That Members agree to adopt the Statement of Principles as presented with an implementation date of 1 April 2018.

# Statement of Gambling Policy

GAMBLING ACT 2005

1<sup>st</sup> April 2018 – 31<sup>st</sup> March 2021



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# 1. INTRODUCTION

## 1.1 BACKGROUND

- 1.1.1 Under the provisions of the Gambling Act 2005, Denbighshire County Council is the **Licensing Authority** (and is referred to in this document as “the licensing authority”) responsible for granting gambling Premises Licences, Notices, Permits and Registrations in the county of Denbighshire.
- 1.1.2 The Gambling Act 2003 (“the Act”) requires a licensing authority to prepare and publish a statement of licensing policy (“the policy”) at least every three years. This policy is made under Section 349 of the Act and in accordance with the ‘Guidance to Local Authorities’ issued by the Gambling Commission under Section 25 of the Act (“the Guidance”).
- 1.1.3 The licensing authority is bound by the Act and any regulations made under the Act. The licensing authority must have regard to the Guidance and the Licence Conditions and Codes of Practice (LCCP) issued by the Gambling Commission (Section 153). If it considers it appropriate, the licensing authority may depart from the Guidance if they have good reason to do so and can provide full reasons.
- 1.1.4 The policy was adopted by Denbighshire County Council on 8<sup>th</sup> March 2018 having considered the comments received from those consulted. The policy became effective from 1<sup>st</sup> April 2018 and will remain in force until a statutory or other review and consultation process is deemed necessary. The licensing authority will keep the policy under review, making any amendments it considers appropriate to support the licensing objectives. Any amendments will be published in the form of a new policy statement or, if appropriate, by publishing the amendment.
- 1.1.5 The policy will normally apply to any application determined after the date that the licensing authority resolved to make these policies operational, irrespective of the date on which the application was made.
- 1.1.6 Key policy principles are presented in boxes.
- 1.1.7 The Appendices are to be read in conjunction with this policy however they do not form part of the policy and may be updated at any time.

## 1.2 GEOGRAPHY OF DENBIGHSHIRE COUNTY COUNCIL

- 1.2.1 Denbighshire is largely a rural county covering an area which runs from the North Wales coastal resorts of Rhyl and Prestatyn down through the Vale of Clwyd, as far as Corwen and the popular tourist town of Llangollen. Along the way it takes in the historic towns of Rhuddlan, Denbigh and Ruthin, each with its own castle, and the cathedral city of St. Asaph.
- 1.2.2 The leisure and tourism industry in Denbighshire is a major contributor to the local economy.
- 1.2.3 Denbighshire attracts over 5 million tourists and visitors per year.
- 1.2.4 Denbighshire currently has 39 premises authorised by a premises licence, notice or permit under the Gambling Act 2005.

## 1.3 CONSULTATION PROCESS

- 1.3.1 The draft Statement of Gambling Policy was subject to formal consultation with:
- North Wales Police Service;
  - North Wales Fire & Rescue Service;
  - Representatives of the holders of the various licences for premises in the District who will be affected by this policy;
  - Persons and businesses likely to be affected by authorised gambling within the District
- 1.3.2 The draft Statement of Gambling Policy was also advertised and made available for inspection on the licensing authority website, and in council offices and libraries for a period of 4 weeks in accordance with the requirements of the Act.
- 1.3.3 The licensing authority, giving full regard to the Guidance, gave appropriate weight to the views of those consulted. In determining what weight to give particular representations, the licensing authority took into account:
- who made the representation (what is their expertise or interest)
  - how many other people have expressed the same or similar views
  - how far the representations relate to matters that the licensing authority should be including in the policy statement.



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## 2. SCOPE AND EXTENT

2.0.1 The purpose of this Statement of Gambling policy is to set out the principles the licensing authority will apply when exercising its licensing function, i.e. when regulating the gambling activities within the terms of the Act. Reference will be made to the Act for ease of understanding however it is not intended to be a simplified summary of the law.

2.0.2 The Act defines **Gambling** as:-

2.0.3 **Gaming** - means playing a 'game of chance' for a prize. A 'game of chance' includes a game that involves both an element of chance and skill, a game that involves an element of chance that can be eliminated by superlative skill, and a game that is presented as involving an element of chance, but does not include a sport.

2.0.4 **Betting** – means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not.

2.0.5 **Taking part in a lottery** – means paying in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

A full glossary of the terms used in the Act and in this policy can be found in **Appendix A**.

2.0.6 It is a criminal offence under Section 33 of the Act to provide facilities for Gambling unless an exception is provided for under the Act.

2.0.7 The **types of authorisation** the Act requires the licensing authority to regulate are:-

- Premises Licences
- Temporary Use Notices
- Occasional Use Notices
- Permits as required under the Act; and
- Registrations as required under the Act.

2.0.8 This policy relates to all premises licences, notices, permits and registrations identified as falling within the provisions of the Act, namely: -

- Premises Licences
  - Casinos;
  - Bingo Premises;
  - Betting Premises;
  - Tracks (*site where races or other sporting events take place*);
  - Adult Gaming Centres;
  - Licensed Family Entertainment Centres;

- Notices
  - Temporary Use Notices
  - Occasional Use Notices
- Permits
  - Family Entertainment Centre Gaming Machine Permits;
  - Club Gaming Permits;
  - Club Gaming Machine Permits;
  - Alcohol licensed premises Gaming Machine Permits;
  - Prize Gaming Permits;
- Registrations
  - Registrations of Small Society lotteries.

## 3. LICENSING OBJECTIVES

3.0.1 When exercising its functions under the Act the licensing authority must seek to promote the three **licensing objectives** contained in the Act. The three objectives are:

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

### 3.1 OBJECTIVE 1: PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME AND DISORDER

3.1.1 The licensing authority will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder.

3.1.2 The Guidance for local authorities notes that “disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.” The licensing authority agrees with this statement.

3.1.3 Applicants are encouraged to discuss the crime prevention procedures in their premises with the licensing authority Licensing Officers and/or the North Wales Police before making a formal application.

3.1.4 In considering licence applications, the licensing authority will particularly take into account the following:

- The design and layout of the premises;
- The training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- The likelihood of any violence, public order or policing problem if the licence is granted.

## 3.2 OBJECTIVE 2: ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

- 3.2.1 Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

## 3.3 OBJECTIVE 3: PROTECTING CHILDREN AND OTHER VULNERABLE PERSONS

- 3.3.1 With limited exceptions, the access of children and young persons to licensed gambling premises, which are adult only environments, will not be permitted.

3.3.2 The licensing authority will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

3.3.3 The licensing authority will consult with the Social Services Department on any application that indicates there may be concerns over access for children or vulnerable persons.

3.3.4 The licensing authority will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:

- Supervision of entrances;
- Segregation of gambling areas from areas frequented by children;
- Supervision of gaming machines in non-adult gambling specific premises.

- 3.3.5 The 2005 Act provides for a Code of Practice on access to casino premises by children and young persons and the licensing authority will work closely with the police to ensure the appropriate enforcement of the law.

3.3.6 The licensing authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that '**vulnerable persons**' includes :

- people who gamble more than they want to;
- people who gamble beyond their means; and
- people who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

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## 4. LEGISLATION AND POLICIES

### 4.1 LEGISLATION

4.1.1 In undertaking its licensing function under the Gambling Act 2005, the licensing authority will use a full range of measures including its planning controls and be mindful of legislation, strategies and policies which may impact on the promotion of the licensing objectives. These include:-

- Equalities Act 2010
- Section 17 of the Crime and Disorder Act 1988;
- Human Rights Act 1998;
- Health and Safety at Work etc. Act 1974;
- Environmental Protection Act 1990;
- The Anti-social Behaviour Act 2003;
- Race Relations Act, 1976 (as amended)
- The Licensing Act 2003
- Regulatory Return (Fire Safety) Order 2005
- The Regulators' Compliance code
- Planning and Public Protection Service Enforcement Policy

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

### 4.2 PLANNING AND BUILDING CONTROL

4.2.1 Planning, building control and licensing regimes are properly separated to avoid duplication and inefficiency. They involve consideration of different, although related matters.

4.2.2 Denbighshire County Council has statutory planning responsibility within the County.

4.2.3 Denbighshire County Council's planning policies are set out in the Local Development Plan and 'Supplementary Planning Guidance'.

4.2.4 The Planning Authority develop their plans to:

- ensure effective and sustainable long term planning, and
- optimise economic, social and environmental benefits.

4.2.5 In general, planning permissions authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover activities that can have a wide range of different impacts in the locality. The precise nature of the

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impacts of the specified activities proposed by an applicant for a premises licence need to be considered when the application is made.

- 4.2.6 The licensing authority will normally expect that prior to the submission of a licensing application, the appropriate planning permission will have been granted in respect of any premises. However, applications for licences may be made before any relevant planning permission has been sought or granted.
- 4.2.7 The authority will also normally expect the activity to be authorised by the licence to be a lawful planning use and that any operating hours sought do not exceed those, if any, authorised by the planning permission.
- 4.2.8 Operating hours granted within the licensing process do not replace any restrictions imposed as a planning condition. Planning conditions will be addressed through the planning process.

# 5. DELEGATION, LICENSING COMMITTEE AND DECISION MAKING

## 5.1 DELEGATION

5.1.1 The licensing authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub Committee to deal with them.

5.1.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, for example, those licences and permits where no representations have been made, will be delegated to Council Officers.

5.1.3 The licensing authority will delegate licensing matters to be dealt with by the Licensing Committee and to Officers in accordance with the latest recommended Delegation of Functions specified in guidance issued by the Secretary of State, under Section 182 of the Act. The table shown at **Appendix B** sets out the current agreed delegation of decisions and functions to Licensing Committee, Sub-Committees and Officers.

5.1.4 This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Committee, or Committee to Full Council, if appropriate.

## 5.2 LICENSING COMMITTEE

5.2.1 The Act provides that the functions of the licensing authority, including its determinations are to be carried out by its licensing committee. At Denbighshire County Council this committee is referred to as the **Licensing Committee** and contains 11 Members.

5.2.2 The licensing committee may delegate these functions to sub-committees or in appropriate cases, to officials supporting the licensing authority.

- 5.2.3 The Licensing Committee of Denbighshire County Council have appointed a **Licensing Sub-Committee** to deal with
- Applications where there are relevant representations
  - Applications to review premises licence
  - Applications for club gaming/club machine permits where there are relevant representations
  - Decisions to give a counter notice to a Temporary Use Notice.

5.2.4 The Sub-Committee contains 3 members who will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward councillors will not sit on a sub-committee involving an application within their ward.

5.2.5 Where a councillor who is a member of the **Licensing Committee** is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

5.2.6 The Licensing Sub-Committee will refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

5.2.7 The Licensing Committee will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.



## 5.3 DECISION MAKING

- 5.3.1 Every determination of a licensing decision by the Licensing Committee or Sub-committee shall be accompanied with clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable.
- 5.3.2 A summary of the decision shall be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the licensing authority.
- 5.3.3 The Council's licensing officers will deal with all other licence applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 5.3.4 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committee. Where representations are rejected written reasons as to why that is the case will be given.
- 5.3.5 In order to avoid duplication with other statutory regimes as far as possible the licensing authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

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## 6. GENERAL PRINCIPLES

- 6.0.1 Nothing in this 'Statement of Policy' will:
- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
  - Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.
- 6.0.2 The licensing authority, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.
- 6.0.3 The licensing authority shall aim to permit the use of premises for gambling in so far as they think it is
- In accordance with any relevant code of practice under Section 24 of the Act;
  - In accordance with any relevant guidance issued by the Commission;
  - Reasonably consistent with the licensing objectives
  - In accordance with the licensing authority's statement of licensing policy.
- 6.0.4 Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Act.

### 6.1 COMPETENT AUTHORITY FOR PROTECTION OF CHILDREN FROM HARM

- 6.1.1 The licensing authority, designates the (Social Services) Safeguarding and Reviewing Team of Denbighshire County Council as the competent authority to provide advice on the protection of children from harm given the wealth of specialist knowledge and expertise to hand to fulfil this role.
- 6.1.2 The Act indicates each licensing authority must nominate a single body to undertake this function but it may be prudent for the licensing authority to involve other organisations if it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representations to that effect.

## 6.2 INTERESTED PARTIES

- 6.2.1 For the purposes of the Gambling Act 2005, a person is an interested party in relation to a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.
  - Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations.
- 6.2.2 When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Guidance to local authorities.
- 6.2.3 Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premise under consideration, puts themselves forward as representing the interests of residents in the vicinity, the licensing authority will normally ask them to provide evidence that they are acting as representatives of others.

## 6.3 EXCHANGE OF INFORMATION

- 6.3.1 In fulfilling its functions and obligations under the Gambling Act 2005 the licensing authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information the licensing authority will conform to the requirements of the Gambling Act, Data Protection and Freedom of Information legislation in accordance with the Council's existing policies.
- 6.3.2 Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representation or applying for a review of a premises licence will be informed that these details will be disclosed.

## 6.4 INSPECTION AND CRIMINAL PROCEEDINGS

- 6.4.1 The licensing authority will be guided by the Gambling Commission's Guidance and will endeavour to be:
- **Proportional:** regulators will only intervene when necessary; remedies will be appropriate to the risk posed and costs identified and minimized.
  - **Accountable:** regulators will be able to justify decisions and be subject to public scrutiny.
  - **Consistent:** rules and standards will be joined up and implemented fairly.
  - **Transparent:** regulators will be open and endeavour to keep regulations simple and user friendly;
  - **Targeted:** regulation will be focused on the problem and minimize side effects.
- 6.4.2 The licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 6.4.3 The licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:
- Planning controls;
  - Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
  - Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
  - The power of the police, other responsible authorities or a local resident or business to seek a review of the licence.
- 6.4.4 This licensing authority will use a risk based inspection criteria for any necessary inspections, i.e. those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk.
- 6.4.5 When determining risk, consideration will be given to :-
- the nature of the gambling activities carried out on the premises
  - the location of the premises in relation to schools etc.
  - the procedures put in place by the management to meet the licensing objectives.
- 6.4.6 The licensing authority will make arrangements to monitor premises, undertake inspections and take appropriate enforcement it deems necessary to support and promote the licensing objectives or following receipt of complaint. The County will be monitored for unlicensed premises.

6.4.7 The licensing authority will seek to work actively with the police in enforcing legislation. It encourages the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998.

6.4.8 In general terms, action will only be taken in accordance with the Planning & Public Protection Enforcement Policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

6.4.9 Where conditions have been imposed on a licence, an authorised person of the licensing authority may inspect the premises at any reasonable time for the purpose of checking that those conditions are being complied with.

6.4.10 The licensing authority will consider issuing a written informal warning to a licence holder specifying recommended improvement within a particular period of time if it deems necessary to support and promote the licensing objectives.

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## 7. LICENSING PROCESS

- 7.0.1 **Applicants are advised that the application process for each type of authorisation or permission is set out in detail in the Act, the Regulations and the Guidance.**
- 7.0.2 Applications must be made on the prescribed or local form, and be accompanied by a fee. All prescribed forms and notices can be downloaded from the Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
- 7.0.3 All local application forms are available in both the Welsh and English language, and are available to download from the licensing authority's website. A request for an application form may also be made directly to the licensing authority via telephone 01824 706342.
- 7.0.4 Applicants may submit applications electronically to the licensing authority by hardcopy or via email to [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk).

### 7.1 APPLICATIONS

- 7.1.1 The starting point in determining applications will be to grant the application, without conditions.
- 7.1.2 Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the 'risks' involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 7.1.3 When determining an application to grant a premises licence or whether to review a premises licence, regard will be given to
- the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children, and
  - the size and scope of the gambling premises concerned.
- 7.1.4 **Each case will be determined on its own merits.** Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

- 7.1.5 Where there are no **relevant representations** from Responsible Authorities or Interested Parties to an application the licence will be granted provided that the application is made in accordance with the requirements of the Act. For representations to be relevant they must
- relate to the promotion of one of the three licensing objectives;
  - be made by a responsible authority or interested party within the prescribed period;
  - not been withdrawn; and
  - they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- 7.1.6 Where relevant representations on an application are received and the application has been made in accordance with the requirements of the Act, any non-compliance with other statutory requirements may be taken into account in reaching a decision about whether to grant a licence.

## 7.2 MEDIATION

- 7.2.1 Where a relevant representation concerning the licensing objectives is made by a responsible authority or interested party, the licensing section will decide whether the representation is relevant.

- 7.2.2 Where the licensing authority find the representation to be relevant it may recommend a **mediation meeting** to address and clarify the issues of concern.
- 7.2.3 This process will not override the right of an applicant or interested party to decline to participate in a mediation meeting.
- 7.2.4 If this informal process is unsuccessful a hearing before the licensing committee or sub-committee will follow. All relevant parties will be notified.
- 7.2.5 The determination of the application will be made by the licensing committee or sub-committee and the details of that decision will be circulated to the parties concerned.

## 7.3 CONDITIONS

- 7.3.1 The Act and regulations provide for specific conditions to be attached to a Premises Licence as either “**mandatory**” or “**default**” conditions.
- 7.3.2 Section 169 of the Act gives licensing authorities the power to impose default conditions on premises licences that they issue.
- 7.3.3 When considering any conditions to be attached to licences, the licensing authority will consider the local circumstances and risks associated with specific premises or class of premises, which might give rise to the need for conditions.

7.3.4 The licensing authority will not impose any conditions unless its discretion has been engaged following the making of a relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It will then only impose such conditions which are appropriate and proportionate to promote the licensing objectives arising out of the consideration of the representations.

7.3.5 Conditions on premises licences will relate only to gambling, as considered appropriate in light of the following principles:

- Must be proportionate to the circumstance which they are seeking to address;
- Should be relevant to the need to make the proposed building suitable as a gambling facility;
- Should be directly related to the premises (including the locality and any identified local risks) and the type of licence applied for;
- Should be fairly and reasonably related to the scale and type of premises;
- Should be reasonable in all other respects.

## 7.4 REVIEWS

- 7.4.1 At any time following the grant of a premises licence a **responsible authority** or any **interested party** may ask the licensing authority to review the premises licence because of a matter arising at the premises in connection with any of the three licensing objectives.
- 7.4.2 The review process represents a key protection for the community where problems associated with the licensing objectives occur at a premises.
- 7.4.3 In every case, an application for a review must relate to a particular premises and **must be relevant to the promotion of one or more of the licensing objectives.**



- 7.4.4 Grounds for a review may be that activities, including but not limited to the following, are taking place at the premises:
- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes;
  - Use of licensed premises for the sale and distribution of illegal firearms;
  - Use of licensed premises for prostitution or the sale of unlawful pornography;
  - Use of licensed premises as a base for organised criminal activity;
  - Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
  - Use of licensed premises for the sale of smuggled tobacco or goods;
  - The use of licensed premises for the sale of stolen goods.
  - Children and/or vulnerable persons are put at risk.

7.4.5 The licensing authority will reject an application for a review if the applicant fails to provide supporting information and documents that one or more of the licensing objectives are not being met or if the reason for the review does not relate to the licensing objectives.

- 7.4.6 The licensing authority will also reject an application for a review if
- the grounds are frivolous;
  - the grounds are vexatious;
  - the grounds are irrelevant;
  - the grounds will not cause the Council to revoke or suspend a licence or to remove or attach conditions on the Premises Licence;
  - the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
  - the grounds are substantially the same as representations made at the time the application for a Premises Licence was considered.

7.4.7 The licensing authority considers it good practice for all responsible authorities that have concerns about problems identified at premises to give licence holders early warning of their concern and the need for improvement, and where possible they should advise the licence holder of the steps they need to take to address those concerns.

## INITIATION OF REVIEW BY LICENSING AUTHORITY

7.4.8 A Premises Licence may also be reviewed by the licensing authority on its own volition.

7.4.9 Prior to discharging its power to initiate a review, the licensing authority will attempt to have constructive discussions with the operators about any concerns and may ask the operator to provide the licensing authority with its own **risk assessment** which sets out the controls it has put in place to mitigate risks.

## 8. LOCAL STANDARDS

### 8.1 PREMISES LICENCES

8.1.1 Premises Licences can authorise the provision of gambling facilities on

- Casinos;
- Bingo Premises;
- Betting Premises, including Tracks;
- Adult Gaming Centres (AGC); and
- Family Entertainment Centres.

By distinguishing between premises types, the Act makes it clear that gambling activity of the premises should be linked to the premises described. **The Act does not permit premises to be licensed for more than one of the above activities.**

8.1.1 An application for a Premises Licence can only be made by persons (which includes companies or partnerships):

- Who are aged 18 or over, **and**
- Who have the right to occupy the premises and
- Who have an Operating Licence authorising him to carry out the proposed activity **OR** who have applied for an Operating Licence to allow them to carry out the proposed activity.

**The premises licence cannot be determined until an operating licence has been issued.**

8.1.2 The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they merely provide space for other people to provide betting (and those other people hold valid betting operating licences).

8.1.3 The licensing authority strongly encourages applicants to discuss proposed applications with a licensing officer and responsible authorities at an early stage and prior to the submission of the application itself. This should identify potential problems and help to build good partnership working. It may also reduce the need for a hearing at a later stage.

8.1.4 Applicants are encouraged to make themselves aware of any relevant planning and transport policies, tourism and cultural strategies and local crime and disorder strategies, and to take these into account, where appropriate, in the formulation of their operating schedules.

- 8.1.5 The licensing authority will expect all applicants to specify the methods by which they will promote the three licensing objectives in their operating schedules, having regard to the type of premises, the licensable activity proposed, the operational procedures, the nature of the location and the needs of the local community.
- 8.1.6 The authority considers that a well-drawn, specific operating schedule indicates that an applicant understands and is prepared to meet the responsibilities of a licence holder under the Act.
- 8.1.7 The authority considers that a blank or sparsely completed operating schedule may give the impression that the applicant has given inadequate thought to the responsibilities of a licence holder.

- 8.1.9 Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

## CASINOS

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- 8.1.10 It was resolved on 23<sup>rd</sup> January 2007 (implemented on 1<sup>st</sup> February 2007) that applications for casinos are not to be permitted.
- 8.1.11 Should the licensing authority choose to review this policy, this will be a resolution of Full Council following considered debate and the reasons for making the resolution will be provided.

## BINGO PREMISES

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- 8.1.12 Bingo is not given a statutory definition in the Act although two types of bingo are commonly understood:
- Cash bingo, where the stakes paid make up the cash prizes that are won
  - Prize bingo, where various forms of prizes are won, not directly related to the stakes paid.
- 8.1.13 The licensing authority will attach mandatory and default conditions to all Bingo Premises licences.

## BETTING PREMISES

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- 8.1.14 The licensing authority is responsible for issuing and monitoring premises licences for all betting premises.
- 8.1.15 The licensing authority will attach mandatory and default conditions to all Betting Premises licences.

## TRACKS

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- 8.1.16 The Act does not give a list of premises that are officially recognised as ‘tracks’ but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include
- A horse racecourse
  - A greyhound track
  - A point-to-point horserace meeting
  - Football, cricket and rugby grounds
  - A golf course
  - Venues hosting darts, bowls or snooker tournaments.

8.1.17 The licensing authority will determine what constitutes a sporting event or race on a case by case basis.

## ADULT GAMING CENTRES (AGC)

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8.1.18 Applicants for an Adult Gaming Centre Premises Licence must hold a ‘Gaming Machines General Operating Licence (Adult Gaming Centre)’ from the Gambling Commission before the premises licence can be determined.

8.1.19 The licensing authority will attach mandatory conditions to all AGC Premises licences.

## FAMILY ENTERTAINMENT CENTRES (FEC)

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8.1.20 Applicants for a Family Entertainment Centre Premises Licence must hold a ‘Gaming Machines General Operating Licence (Family Entertainment Centre)’ from the Gambling Commission before the premises licence can be determined.

8.1.21 Licensed Family Entertainment Centres (FECs) are commonly located at seaside resorts, in airports and at motorway service stations, and cater for families, including unaccompanied children and young persons. They are permitted to make available category C and D gaming machines.

8.1.22 Children and young persons are not permitted to use category C machines and it is a requirement that there must be clear segregation between the types of machines so that persons under 18 years of age do not have access to them.

8.1.23 The licensing authority will take into account the policies and procedure proposed by the applicant to protect children and young persons when considering applications for FEC Premises licences.

8.1.24 The licensing authority will attach mandatory conditions to all FEC Premises licences.

## 8.2 NOTICES

### TEMPORARY USE NOTICES (TUN)

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- 8.2.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 8.2.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 8.2.3 There are a number of statutory limits as regards temporary use notices.

- 8.2.4 In considering whether a place falls within the definition of "a set of premises", the licensing authority will look at, amongst other things, the ownership/occupation and control of the premises.
- 8.2.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the gambling commission's guidance to licensing authorities.

### OCCASIONAL USE NOTICES (OUN)

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

## 8.3 PERMITS

- 8.3.1 Permits are designed as a light-touch approach to low level ancillary gambling. The permits regulate gambling and the use of gaming machines in specific premises.
- 8.3.2 The licensing authority are responsible for issuing
- Family Entertainment Centre Gaming Machine Permits;
  - Club Gaming Permits and Club Gaming Machine Permits;
  - Alcohol-licensed premises Gaming Machine Permits;
  - Prize Gaming Permits.
- 8.3.3 The licensing authority will grant or reject an application for a permit. **No conditions may be attached to a permit.**
- 8.3.4 In addition, the licensing authority are responsible for receiving notification from holder of alcohol licences under the Licensing Act 2003 that they intend to exercise their automatic entitlement to 2 gaming machines in their premises.
- 8.3.5 See **Appendix C** for further information regarding the categories of gaming machines allowed by permit and information regarding stakes and prize limits.

8.3.6 When determining applications for permits the licensing authority will consider any convictions held by the applicant that would make them unsuitable to operate the premises plus the suitability of the premises in relation to their location and issues about disorder.

### FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMIT

- 8.3.7 Unlicensed Family Entertainment Centres are able to offer only category D machines on a gaming machine permit. Any number of category D machines can be made available.
- 8.3.8 An application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an unlicensed Family Entertainment Centre and, if the applicant is an individual, is aged over 18 years.
- 8.3.9 The permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application.

8.3.10 There is no prescribed application form for this permit however the licensing authority have created a **local application form** for this purpose. A plan for the unlicensed Family Entertainment Centre must be submitted with each application.

## CLUB GAMING PERMITS AND CLUB GAMING MACHINE PERMITS

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- 8.3.11 The licensing authority may grant members clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the provision of gaming machines, equal chance gaming and games of chance as prescribed in regulations.
- 8.3.12 If a members' club or miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply for a club gaming machine permit using the prescribed form.
- 8.3.13 Holders of club gaming permits and club gaming machine permits are required to comply with the code of practice issued by the Gambling Commission on the location and operation of machines.

## ALCOHOL-LICENSED PREMISES GAMING MACHINE PERMITS

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- 8.3.14 The licensing authority may issue holders of alcohol licences under the Licensing Act 2003 a gaming machine permit which permits any number of Category C or D machines in licensed premises.
- 8.3.15 The application must be made by the person that holds the alcohol premises licence issued under the Licensing Act 2003.
- 8.3.16 The licensing authority may vary the number and category of gaming machines authorised by the permit if it considers it necessary to promote the licensing objectives.
- 8.3.17 Holders of licensed premises gaming machine permits are required to comply with the code of practice issued by the Gambling Commission on the location and operation of machines.

8.3.18 There is no prescribed form for this permit however the licensing authority have created a **local application form** for this purpose.

## PRIZE GAMING PERMITS

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- 8.3.19 The licensing authority may issue prize gaming permits to authorise the provision of facilities for gaming with prizes on specific premises.
- 8.3.20 The application must be made by the person who occupies or plans to occupy the premises and if the applicant is an individual, must be aged 18 or over.
- 8.3.21 Applicants are asked to set out the types of gaming that they are intending to offer in their application.

8.3.22 There is no prescribed form for this permit however the licensing authority have created a **local application form** for this purpose.

## 8.4 REGISTRATIONS

- 8.4.1 The Act denotes 'local authorities' as being responsible for registering societies to run **Small Society Lotteries**, as opposed to licensing authorities. In the interest of consistency, Denbighshire County Council being the local authority defined under Section 25 of the Act will be referred to as the licensing authority in this document.
- 8.4.2 Applications for small society lottery registrations must be in the form prescribed and be accompanied by both the required registration fee and all necessary documents required by the licensing authority.
- 8.4.3 The licensing authority will require applicants to provide a copy of their terms and conditions and their constitution to establish that they are a non-commercial society.



## 8.5 LOCAL RISK ASSESSMENTS

- 8.5.1 The Gambling Commission's '**Licence Conditions and Codes of Practice**' (LCCP) formalise the need for operators to consider local risks.
- 8.5.2 The Social Responsibility code 10.1.1 requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking a risk assessment, licensees must take into account the matters identified in this statement of policy.
- 8.5.3 A local risk assessment must be undertaken when applying for a new premises licence and must be updated
- When applying for a variation of a premises licence;
  - To take account any significant changes in local risks;
  - When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

- 8.5.4 The licensing authority will expect every risk assessment to cover the following broad headings:
- Reference to any specific local risks
  - How the operator proposes to mitigate these risks
  - How the operator will monitor the risks

- 8.5.5 The **Local risks** identified by the licensing authority include, but are not restricted to:
- The proximity of the premises to sensitive establishments such as schools, vulnerable adult centres, or to residential areas with a high concentration of families with children.
  - The nature of the gambling activities and category of gaming machines made available at the premises.
  - Any age restrictions and segregation requirements at the premises necessary for the protection of children and young persons.
  - The prevalence of vulnerable persons in the locality of the premises.

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## 9. COMPLAINTS AGAINST LICENSED PREMISES

- 9.0.1 The licensing authority will investigate complaints against licensed premises in relation to matters concerning the licensing objectives. In the first instance, complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.
- 9.0.2 Where an interested party has made a complaint about licensed premises, or a valid application for a licence to be reviewed, the Council may initially recommend a conciliation meeting to address and clarify the issues of concern.
- 9.0.3 This process will not override the right of any interested party or for any licence holder to decline to participate in a conciliation meeting.
- 9.0.4 Due consideration will be given to all complaints unless they are considered to be frivolous, vexatious or repetitious.

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# 10. FURTHER INFORMATION

## 10.1 GAMING MACHINES

- 10.1.1 The licensing authority notes that the term “Gaming Machine” covers all machines on which people can gamble and the term has only been preserved in the Act because it is one that is readily understood.
- 10.1.2 The definition of “gaming machines” is wider in the Gambling Act 2005 than those in previous gaming legislation and covers all types of gambling activities which can take place on a machine, including betting on virtual events.
- 10.1.3 It should be noted however that there still remains a distinction between skill machines and gaming machines plus important exemptions remain for certain equipment that is not considered a gaming machine, even when gambling can be performed on it, for example a home personal computer.
- 10.1.4 In order for a premises to site gaming machines an authorisation is normally required. Typically this is
- An operating licence from the Commission **and** a gambling premises licence from the licensing authority;
  - An alcohol premises licence, or
  - A gaming machine permit.
- 10.1.5 Where the licensing authority is concerned regarding the manufacture, supply, installation, maintenance or repair of gaming machines, or the manner in which they are operating will contact the Commission for guidance.
- 10.1.6 Regulations define four categories of gaming machine: categories A, B, C and D with category B divided into five further sub-categories. The maximum number of machines permitted varies according to the premises type.
- 10.1.7 There is no minimum age for players of Category D gaming machines however players of category A, B and C gaming machines must be aged 18 years or above.
- 10.1.8 See **Appendix C** for further information regarding machine categories and entitlements.

## 10.2 LICENSING REGISTER

- 10.2.1 Under the Act, every licensing authority is required to keep a **licensing register** containing
- a record of each premises licence, club premises certificate and personal licence issued by it,
  - a record of each temporary event notice received by it,
  - a record of every other applications made to it, notices given to it and any counter notice given by it, and
  - such other information as may be prescribed by regulations.
- 12.2 The information contained in the licensing register will be made available for inspection by the public during office hours, free of charge, and a copy of that information may be supplied on request (for a fee).
- 12.3 A summary of the information contained in the licensing register is available to view online at [www.denbighshire.gov.uk](http://www.denbighshire.gov.uk).

12.4 Any person wishing to view the licensing register in person should contact the licensing authority by email [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk) or via telephone on 01824 706342 to arrange an appointment.

12.5 To ensure that the information contained in the register is presented in an appropriate format, any person wishing to view the register in person will be requested to clarify which part of the register they wish to have available during the appointment.

## 10.3 DATABASE OF PREMISES RECORDS

- 10.3.1 A database of premises licences is available on the Commission's website and consists of information submitted by licensing authorities. The Commission's website address is [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) .

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## APPENDIX A: GLOSSARY OF TERMS

**Adult Gaming Centre:** licensed gambling premises which can provide gaming machines. Only adults (persons 18 years old or over) can enter an Adult Gaming Centre.

**Betting premises:** licensed gambling premises which can provide betting facilities and gaming machines. Only adults (persons 18 years old or over) can enter Betting Premises unless the premises are on a track.

**Bingo:** there are two types of bingo

**High Turnover Bingo** - Bingo where the aggregate of stakes and prizes in any 7 day period exceeds £2000. High turnover bingo can only take place in casinos and bingo halls.

**Low Turnover Bingo** - (sometimes described as non-high turnover bingo) Bingo where the aggregate of stakes and prizes in any 7 day period is less than £2000. Low turnover bingo can take place in pubs and clubs, and in premises that hold a Prize Gaming Permit or Unlicensed Family Entertainment Centre Gaming Machine Permit.

**Bingo Premises:** licensed gambling premises which can provide high turnover bingo and gaming machines.

**Casino:** there are 3 types of casino that can exist in England and Wales: large, small, or “tiny” (casinos that existed under the old law and have retained their licences under the new law). The differences are based on overall size and the number of machines and gaming tables that can be provided. Casinos can provide casino games (games which are not equal chance gaming and may involve playing against a bank) and bingo as well as gaming machines.

**Child:** For the purposes of the Gambling Act 2005, anyone under the age of 16 years.

**Club:** the 2005 Act recognises 2 types of club: **members clubs** (at least 25 members and established for purposes other than gaming unless it is a bridge or whist club, including Miners Welfare Institutes); and **commercial clubs**. Equal chance gaming can take place without any further permit provided the limits on stakes and prizes are not exceeded. In addition low turnover bingo can take place and if it is a bridge or whist club then bridge or whist can be played.

**Club Gaming Permit:** a permit to enable the premises to provide gaming machines (three machines of Categories B3A, B4, C or D), equal chance gaming and games of chance (limited to pontoon and chemin de fer).

**Club Machine Permit:** a permit to enable the premises to provide gaming machines (three machines of Categories B3A, B4, C or D).

**Conditions:** there are two types of conditions

1. **Default Conditions** – are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the licensing authority.

2. **Mandatory Conditions** – are conditions set by the Secretary of State (some are set out in the Act and some will be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The licensing authority will have no discretion to alter or remove these conditions.

**Crane grab machine:** a non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person's success in manipulating a machine to separate one or more physical objects from another.

**Equal Chance Gaming:** games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.

**Exempting gambling:** certain specified low-level gambling can take place in private premises, workplaces, pubs and clubs without any requirements for licensing or registration.

**Exempt Lotteries:** certain types of lottery can be run without either a licence from the Gambling Commission or registration with the local authority. They are Incidental Non Commercial Lotteries, Private Lotteries and Customer Lotteries.

**Family Entertainment Centre:** there are 2 types of Family Entertainment Centres: licensed and unlicensed. In both cases children and young persons can enter the premises unaccompanied by adults and use category D machines. Licensed Family Entertainment Centre can provide category C and D machines, but only persons aged 18 or over can use the category C machines. An Unlicensed Family Entertainment Centre can only provide category D machines.

**Fixed Odds Betting:** if a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not 'gaming'), then it is likely to be betting at fixed odds.

**Fixed Odds Betting Terminals (FOBTs):** FOBTs are a type of gaming machines which generally appear in licensed betting shops. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.

**Gaming:** playing a game of chance for a prize. This includes games of pure chance (or luck), games that have an element of skill and chance combined, and games where "superlative skill" can eliminate the element of chance. Sports are excluded from the definition of Games of Chance.

**Gaming Machine:** a machine used for gambling. There are divided into 8 categories, (A, B1, B2, B3A, B3, B4, C & D) depending on the maximum stakes and maximum prizes. Different categories of machines can be used in different types of licensed gambling premises and under different permits.

**Guidance to Licensing Authorities:** guidance issued by the Gambling Commission.

**Incidental non-commercial lottery:** see Exempt Lotteries above.

**Large Lottery:** where the total value of tickets in any one lottery exceeds £20,000 or £250,000 in separate lotteries over one calendar year. This type of lottery requires an operating Licence from the Gambling Commission.

**Licensed premises Gaming Machine Permit:** allows pubs to have more than 2 gaming machines, provided the main purpose of the premises is to remain a pub, rather than an Entertainment Centre with a bar.

**Licensing authority:** the district, borough or unitary authority responsible for licensing gambling and other activities in the area.

**Licensing Objectives:** there are three objectives

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

**Lottery:** the 2005 Act recognises 2 types of lottery, a simple lottery or a complex lottery. In both cases players pay to take part and prizes are allocated. In the case of a simple lottery, that allocation is wholly by chance, but in the case of a complex lottery there can be further steps which are not dependent upon chance. Some lotteries are exempt from regulation (see above).

**Occasional Use Notice:** a notice that may only be issued in respect of a track (see below) that permits betting on a track without the need for a Premises Licence.

**Prize Gaming:** gaming in which the nature and size of the prize is not determined by the number of players or stakes, e.g. bingo with non-cash prizes.

**Prize Gaming Permit:** a permit issued by the Licensing Authority allowing prize gaming to take place.

**Pub:** premises that have a premises licence under the Licensing Act 2003 to sell alcohol for consumption on the premises in a bar at which alcohol is served to customers. Pubs can have 2 category C or D gaming machines. If a pub has a Licensed Premises Gaming Machine Permit (see above) it can have more gaming machines.

**Risk Assessments:** the requirement under the Social Responsibility code 10.1.1 for operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks.

**Relevant representations:** are representations made by responsible authorities or interested parties within the prescribed period, that relate to the promotion of at least one of the three

licensing objectives, have not been withdrawn; and, in the opinion of the licensing authority, are not frivolous or vexatious.

**Responsible authority:** public bodies that must be notified of applications and are entitled to make representations to the licensing authority. They include

- the licensing authority in whose area the premises is wholly or partly situated,
- the Gambling Commission,
- the chief officer of police or chief constable for the area in which the premises is wholly or partly situated,
- the fire and rescue authority for the same area,
- the local planning authority for the area in which the premises is wholly or partly situated,
- the relevant authority which has functions in relation to pollution to the environment or harm to human health for the area in which the premises is wholly or partly situated,
- a body, designated by the licensing authority, as competent to advise about the protection of children from harm,
- HM Revenue and Customs
- Any other person prescribed in regulations by the Secretary of State.

**Review:** following the grant of a premises licence a responsible authority or interested party may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the three licensing objectives.

**Skills with Prizes machine:** a machine on which the winning of a prize is determined only by the player's skill and there is no element of chance. These are unregulated.

**Small Society Lottery:** these are for non-commercial societies (a society established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; or for any other non-commercial purpose other than that of private gain) who must register their lotteries with the local authority.

**Temporary Use Notice:** a notice that allows limited types of gambling to take place for a limited period on premises that do not have a premises licence.

**Track:** a site where races or other sporting events take place e.g. horse racing, dog racing, athletics, football, motor racing etc.

**Travelling Fair:** a fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year. Fairs can provide prize gaming and category D gaming machines.

**Young Person:** for the purposes of the Gambling Act 2005, anyone who is not a child but is aged under 18.



## APPENDIX B: DELEGATION OF DECISION MAKING

Matter to be dealt with	Full Council	Licensing Committee or Sub-committee	Head of Planning and Public Protection
Final approval of the Licensing Authority statement of policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X (if delegated by full council)	
Application for premises licences		X Where representations have been received and not withdrawn	X Where no representations received/ representations have been withdrawn
Application for a variation to a licence		X Where representations have been received and not withdrawn	X Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		X Where representations have been received from the Commission or responsible authority	X Where no representations received from the Commission or responsible authority
Application for a provisional statement		X Where representations have been received and not withdrawn	X Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		X Where objections have been made and not withdrawn	X Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X indicates the lowest level to which decisions can be delegated

## APPENDIX C: GAMING MACHINE SUMMARY

### SUMMARY OF MACHINE PROVISION BY PREMISES

Premises Type	A	B1	B2	B3	B4	C	D
<b>Large casino</b> (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
<b>Small casino</b> (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
<b>Pre-2005 Act casino</b> (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
<b>Betting premises and tracks occupied by Pool betting</b>			Maximum of 4 machines categories B2 to D (except B3A Machines)				
<b>Bingo premises</b>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
<b>Adult gaming centre</b>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
<b>Licensed family entertainment centre</b>						No limit on category C or D machines	
<b>Family entertainment centre</b> (with permit)							No limit on category D machines
<b>Clubs or miners' welfare institute</b> (with permits)				Maximum of 3 machines in categories B3A or B4 to D			
<b>Qualifying alcohol-licensed premises</b>						1 or 2 machines of category C or D automatic upon notification	
<b>Qualifying alcohol-licensed premises</b> (with licensed premises gaming machine permit)						Number of category C-D machines as specified on permit	
<b>Travelling fair</b>							No limit on category D machines

## SUMMARY OF GAMING MACHINE CATEGORIES AND ENTITLEMENTS

Category of machine	Maximum stake	Maximum prize
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	8 <sup>th</sup> March 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Public Protection Business Manager <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706066
<b>SUBJECT:</b>	Update on Conviction Policy and conditions for Hackney Carriage and Private Hire Drivers and Operators

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To update Members on the Hackney Carriage and Private Hire Drivers' Conviction Policy and Private Hire Operators conditions.

## **2.0 EXECUTIVE SUMMARY**

- 2.1 Members have scheduled an update on the progress on the policies associated with Hackney Carriage and Private Hire Drivers' Conviction Policy and Private Hire Operators.
- 2.2 The current policies remain in place until national position is known.

## **3.0 POWER TO MAKE THE DECISION**

- 3.1 No decision is required.

## **4.0 BACKGROUND INFORMATION**

- 4.1 The council, as part of its function of the licensing of hackney carriage and private hire drivers and operators, have established a number of policies to guide applicants and officers on expectations.
- 4.2 These policies were last reviewed in 2014.
- 4.3 Members agreed that these policies be reviewed as part of their forward work programme.
- 4.4 Since this was added to the forward work programme there has been a significant amount of work by a national working group, consisting of a wide spectrum of stakeholders with an interest in taxi licensing, to

develop a national model on the suitability of applicants and licensees in the hackney carriage and private hire vehicles.

- 4.5 This latest draft was subject to a national consultation period ending on the 28 February. It is expected that this draft will be further developed during the year and released later in the year.
- 4.6 Additionally, the Welsh Government have also recently completed a consultation on the taxi and private hire vehicle licensing in Wales. Officers are advised that further work will follow on this.
- 4.7 The consultation documents as referred to above have not been attached to this information report as they are expected to change during the next stages. However, it is anticipated that both these pieces of work will have an impact on the licensing process nationally and locally.

## **5.0 CONSIDERATIONS**

- 5.1 Members should consider the content of this report and whether the preferred option should be to engage in the consultations with a view to developing the national models locally.

## **6.0 RECOMMENDATION**

- 6.1 That Members:
- 1) acknowledge the contents of the report
  - 2) That Members instruct officers to report back to the Licensing Committee on the work of the national working group and the Welsh Government as further progress is made to allow members to consider the relevance to the council's taxi licensing policies.

<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	8th March 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) 01824 706451
<b>SUBJECT:</b>	Review of Street Trading Policy

## **1. PURPOSE OF THE REPORT**

- 1.1 To inform Members of the progress with regard to a review of the current street trading policy within Denbighshire.

## **2. EXECUTIVE SUMMARY**

- 2.1 Work has been ongoing in respect of drafting a Street Trading Policy and officers wish to update Members on recent progress.

## **3. POWER TO MAKE THE DECISION**

- 3.1 Local Government (Miscellaneous Provisions) Act 1982 Part III, Schedule 4, Street Trading.

## **4. BACKGROUND INFORMATION**

- 4.1 In 2015, Members authorised officers to review the street trading approval procedures in order to address difficulties with the current regulations and suggest improvements to better regulate and support street trading within the County.
- 4.2 A draft policy was considered by the Licensing Committee in December 2016 following which, an initial consultation was undertaken with City, Town and Community Councils, along with internal Council departments
- 4.3 Comments from that initial consultation were incorporated into a draft Street Trading Policy which was submitted for public consultation. No comments were received.

- 4.4 At their meeting on 20<sup>th</sup> September 2017, Members were informed that whilst the public consultation did not result in any responses, feedback from other individuals and teams from within the Council indicated that further consideration needed to be given to the policy.
- 4.5 Members therefore gave their approval for officers to engage with colleagues in the Business and Communications team to advise on the best way of reaching out to those who may be affected by the policy, notably local “fixed” traders, street traders, communities and the wider Council teams, e.g. Planning, Highways and Environmental Services.
- 4.6 Various meetings have taken place to devise an initial strategy using social media and face to face questionnaires, along with the Council’s website to contact and invite feedback from key members of the community. This should then enable us to draft a policy which has been subject to a thorough engagement and consultation process.

## **5.0 RECOMMENDATION**

- 5.1 Members authorise officers to continue work with relevant groups and individuals and present a draft policy for presentation at a future Licensing Committee.



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	8 <sup>th</sup> March 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Public Protection Business Manager <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706066
<b>SUBJECT:</b>	Forward Work Programme 2018

## **1.0 PURPOSE OF THE REPORT**

- 1.2 To provide Members with a proposed Forward Work Programme for 2018

## **2.0 EXECUTIVE SUMMARY**

- 2.1 A proposed Forward Work Programme is attached, at Appendix A, for Members to consider and approve.

## **3.0 BACKGROUND INFORMATION**

- 3.1 Members will be aware that at a previous Licensing Committee, Members approved a rolling 12 month process for their Forward Work Programme.

- 3.2 This Forward Work Programme, has been drafted in consideration of the policies relevant to the Licensing committee and the review dates of those policies along with any potential legislative changes being proposed by central government.

- 3.3 Members resolved that the Forward Work Programme be updated at each Licensing committee so that Officers will be able react to emerging pressures or impending changes as they arise and without the need to make significant changes to the programme.

## **4.0 RECOMMENDATION**

- 4.1 For Members to approve the proposed Forward Work Programme, as detailed in the Appendix.

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**Licensing Committee**

**Work Programme**

<b>Committee Date</b>	<b>Report</b>	<b>Comment</b>
<b>June 2018</b>	Hackney Carriage and Private Hire Driver Conviction Policy	Update
	Hackney Carriage and Private Hire Driver / Operator Conditions/policy	Update
	Intended Use policy	Review
	Private Hire Exemption policy	Review
<b>September 2018</b>	Street Trading policy	Approval
	Street Collection policy	Review
	House to House Collections policy	Review
<b>December 2018</b>	Penalty Points Procedure	Update

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