

To: Members of the Licensing  
Committee

Date: 29 November 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 **WEDNESDAY, 5 DECEMBER 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 9 - 14)**

To receive the minutes of the Licensing Committee held on 13 June 2018 (copy enclosed).

## **PART 2 - CONFIDENTIAL ITEMS**

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following items of business because it is likely that exempt information as defined in paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act would be disclosed.

### **5 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES (Pages 15 - 28)**

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of a request for dispensation from the requirement to display licence plates on a private hire vehicle.

### **6 APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE (Pages 29 - 42)**

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of an application for a Private Hire Vehicle Licence.

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

### **7 UPDATE ON HACKNEY CARRIAGE AND PRIVATE HIRE CONVICTION POLICY (Pages 43 - 74)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) updating members on the review of the Hackney Carriage and Private Hire Conviction Policy and seeking approval to adopt the Institute of Licensing guidance document.

### **8 UPDATE ON PENALTY POINTS POLICY AND PROCEDURE (Pages 75 - 90)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) providing an update on the Penalty Points Policy and Procedure.

### **9 UPDATE ON THE INTRODUCTION OF A LIST OF DESIGNATED WHEELCHAIR ACCESSIBLE VEHICLES (Pages 91 - 94)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) informing members of progress on introducing a list of wheelchair accessible vehicles.

### **10 GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES (Pages 95 - 140)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the Council's Statement of Principles for re-adoption.

**11 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2019** (Pages 141 - 144)

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

**MEMBERSHIP**

**Councillors**

Hugh Irving (Chair)

Alan James (Vice-Chair)

Joan Butterfield

Arwel Roberts

Brian Jones

Rhys Thomas

Richard Mainon

Tony Thomas

Barry Mellor

Huw Williams

Melvyn Mile

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## LICENSING COMMITTEE PROCEDURE FOR THE DETERMINATION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE APPLICATIONS AND REVIEWS OF EXISTING LICENSED DRIVERS

STEP	DESCRIPTION
1.	The Chair to welcome and introduce the applicant/licence holder to all parties present.
2.	Solicitor to ask the applicant/licence holder to confirm that he/she has received the report and the Committee procedures. If applicant confirms same, move onto step 4.
3.	If it should occur that the applicant/licence holder states that the report has not been received, then such matter will be addressed at this stage. Members may wish to consider adjourning the matter, for a short period, in order for the applicant/licence holder to read the report.
4.	Head of Planning and Public Protection (or representative) briefly introduces the application/review
5.	The applicant/licence holder is requested to present his/her case  The applicant/licence holder can call any witnesses he/she chooses in support of the application, for which advance notice should have been given to the Licensing Officers.
6.	Committee Members can question the applicant/licence holder and or his witnesses
7.	Technical officers are invited to present any findings (Licensing/Community Enforcement, First Contact Team (Social Services), School Transport.)
8.	The Committee Members followed by the applicant/licence holder can ask questions of the technical officers
9.	The applicant/licence holder will be invited to make a final statement, if they so wish
10.	The following will be requested to leave the meeting whilst the application/review is discussed by Members – the applicant/licence holder, all third parties, Head of Planning and Public Protection, technical officers  NB The only people remaining should be – Committee Members, translator, committee’s legal adviser and the minute taker

11.	The committee members will consider the application/review taking into account the evidence heard
12	Should Committee Members prove it necessary to recommence the asking of questions and recall any party to provide further information or clarification, all persons who have withdrawn from the meeting will be invited to return. After the question(s) have been determined all third parties will be asked to withdraw again for Members to consider all evidence.
13.	When the Members have reached their decision, all parties will be recalled and the applicant/licence holder will be informed of the Members decision by the Chairman.
14.	The Chair will inform the applicant/licence holder of the decision reached. This will include any specific conditions or penalties which may have been imposed. If necessary the Council's Solicitor to provide further clarification of the decision and its implications to the applicant/licence holder.
15.	If the decision is to refuse or there is a decision to suspend or revoke, the Council's Solicitor to inform the applicant/licence holder of the right of appeal to the Magistrates' Court (the decision letter will also include these details).
16.	For an existing licensed driver (issued by Denbighshire), and the decision involves a resolution by the Committee to suspend or revoke the existing licence, Members may do so under either: <ul style="list-style-type: none"> <li>1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976.</li> <li>2. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. This decision will have IMMEDIATE EFFECT and can only be used when the grounds for suspension/revocation are a public safety matter.</li> </ul> <p>The Solicitor will explain to the licence holder the implications of the decision.</p>
17.	The applicant/licence holder will be informed of the decision in writing as soon as practicable.
18.	The applicant/licence holder will be invited to discuss any matter they are unsure of with Licensing Officers after the Committee

## 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, 13 June 2018 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Hugh Irving, Alan James, Brian Jones, Richard Mainon, Barry Mellor, Melvyn Mile, Arwel Roberts, Tony Thomas, Rhys Thomas and Huw Williams

### ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Built Environment and Public Protection Manager (GR), Public Protection Business Manager (IM), Licensing Officer (NJ) and Committee Administrator (KEJ)

#### 1 APOLOGIES

There were no apologies.

#### 2 APPOINTMENT OF CHAIR

Nominations were sought for Chair of the Licensing Committee for 2018/19. Councillor Huw Williams proposed, seconded by Councillor Tony Thomas that Councillor Hugh Irving be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Alan James be appointed Chair. There being no further nominations and upon being put to the vote it was –

***RESOLVED** that Councillor Hugh Irving be appointed Chair of the Licensing Committee for the ensuing year.*

#### 3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for Vice Chair of the Licensing Committee for 2018/19. Councillor Huw Williams proposed, seconded by Councillor Joan Butterfield that Councillor Alan James be appointed Vice Chair. There being no further nominations and upon being put to the vote it was –

***RESOLVED** that Councillor Alan James be appointed Vice Chair of the Licensing Committee for the ensuing year.*

#### 4 DECLARATION OF INTERESTS

Councillor Tony Thomas declared a personal and prejudicial interest in agenda item 7 – Review of a Licence to Drive Hackney Carriage and Private Hire Vehicles because the Driver subject of the review was known to him personally.

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

No urgent matters had been raised.

## **6 MINUTES OF THE LAST MEETING**

The minutes of the Licensing Committee held on 8 March 2018 were submitted.

***RESOLVED** that the minutes of the meeting held on 8 March 2018 be received and confirmed as a correct record.*

## **EXCLUSION OF PRESS AND PUBLIC**

***RESOLVED** that under Section 100(A) of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item 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.*

## **7 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 510126**

[Councillor Tony Thomas declared a personal and prejudicial interest and left the meeting for the duration of this item]

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

- (i) the suitability of Driver No. 510126 to hold a licence to drive hackney carriage and private hire vehicles following a complaint of disability discrimination and refusal to take a fare;
- (ii) details of the complaint (a summary of facts together with associated witness statements and documentation having been attached to the report), and
- (iii) the Driver having been invited to attend the meeting in support of her licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting and confirmed receipt of the report and committee procedures. She had submitted two character references which had been circulated to members to be taken into account as part of the review process.

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

The Driver explained her version of events in response to the complaint and advised that, given the circumstances presented, she had sought advice from her employers on what action to take and on their instruction she had refused to take the fare. She responded to members' questions regarding the witness statements provided and her conduct during the incident, together with training/guidance issues and her familiarity with the Council's Hackney Carriage and Private Hire Licensing

Policy and Conditions. In her final statement the Driver strongly denied any conduct which amounted to disability discrimination.

The committee adjourned to consider the case and it was –

***RESOLVED*** that the complaint made in respect of Driver No. 510126 not be upheld and no action be taken.

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

Members had carefully considered all the evidence presented in this case together with the explanation provided by the Driver and response to questions. Members had considered the Driver to be open and honest in her submissions and a credible witness and had accepted her version of events. The Licensing Committee found that the Driver had acted reasonably in the circumstances presented, seeking instruction from her employer and acting upon it. Consequently it was agreed not to uphold the complaint in this case and to take no further action.

The decision and reasons for the decision were conveyed to the Driver.

Given the lack of training and guidance provided to the Driver in this case it was suggested that she seek clarity from her current/future employers regarding their policy and procedures to ensure she was prepared should a similar situation arise. Members also noted that the Driver was now fully familiar with the Hackney Carriage and Private Hire Licensing Policy and Conditions and asked that she continue to keep up to date with those rules and regulations.

As an aside members highlighted the importance of appropriate training and guidance for licensed drivers and discussed whether more could be done to ensure employers provided clear guidance to benefit both drivers and customers. Officers felt it would be opportune to assess that provision as part of the ongoing work to introduce a list of wheelchair accessible vehicles, which would also give greater clarity and place further obligations on drivers and proprietors of those vehicles. Consequently it was agreed that officers investigate the issue further and report back to a future meeting of the committee thereon.

## **OPEN SESSION**

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

### **8 REQUEST FOR ADVERTISING ON A HACKNEY CARRIAGE VEHICLE**

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

- (i) a request from a Hackney Carriage Proprietor for approval to display a large Welsh flag emblem covering the bonnet area of his licensed vehicles (computer generated images shown in Appendix A to the report);

- (ii) the Council's existing policy and vehicle specification setting out acceptable requirements relating to paintwork, signage, advertising and livery of licensed vehicles (Appendix B to the report);
- (iii) the need to consider potential implications in granting requests to display sporting emblems and patriotic signage which may attract unwelcome attention or increase the potential for criminal behaviour, and
- (iv) highlighted the inconsistency between the policy requirement relating to the paintwork for hackney carriages and private hire vehicles and sought clarification in that regard.

The Applicant had been unable to attend the meeting and submitted apologies but asked that the request for advertising be considered in his absence.

The Licensing Officer provided a summary of the report and reasoning behind the request being referred to committee given the potential implications when granting permission for emblems of this type which may attract unwelcome attention. Members had also been asked to consider rectifying the discrepancy between the requirements for hackney carriage and private hire vehicles in terms of paintwork.

During their deliberations members considered the size and scale of the design to be such that it was not suitable to be placed on a licensed vehicle and agreed that sporting emblems and patriotic signage of this type could incite an aggressive response and the potential for anti-social or criminal behaviour. It was recognised that the committee had approved a request to display a smaller emblem of this type at their meeting in September 2017 and had agreed to determine each request on its own merits. However, given the growing concern amongst members regarding signage of this nature it was felt the policy should be further reviewed in that regard.

Some members also advocated uniformity between all hackney carriage vehicles and were concerned that approving any signage or other advertisements would prove contrary to that aim. It was considered that whilst there may be merit in some advertising such as temporary advertising for specific events or charitable purposes, the selling of advertising space on licensed vehicles for general commercial purposes should be restricted and greater clarity on permissible advertisements should also be considered as part of any future policy review.

In terms of the inconsistency between the policy requirements for hackney carriage and private hire vehicles regarding paintwork, members agreed that the same policy should apply to both and that the requirement for hackney carriages should be brought in line with that for private hire vehicles to ensure a consistent approach.

**RESOLVED** that –

- (a) *the request to display emblems be refused;*
- (b) *the intended sentence relating to the policy requirement for both hackney carriage and private hire vehicles relating to paintwork to read 'The paintwork*

*shall be of a professional finish and be one consistent colour over the whole of the vehicle's bodywork', and*

- (b) *officers be asked to review the policy with regard to signs and notices on hackney carriage vehicles.*

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

Having considered the report and Applicant's request members considered the size and scale of the design submitted to be such that it was not suitable to be placed on a licensed vehicle. Members also considered that the emblem could attract unwelcome attention and an aggressive response with the potential for anti-social or criminal behaviour. On that basis it was agreed that the request be refused.

## **9 UPDATE ON THE HACKNEY CARRIAGE AND PRIVATE HIRE CONVICTION POLICY**

The Licensing Officer submitted a report (previously circulated) updating members on the review of the Council's Hackney Carriage and Private Hire Driver Conviction Policy.

Members were reminded of the work undertaken by the Institute of Licensing (IOL) to develop a national conviction policy and the final guidance on determining the suitability of applicants and licensees had been published in April 2018. The intention was for local authorities to adopt the document to standardise requirements, however initial enquiries in North Wales had indicated that only Anglesey had expressed an interest in adopting the document. Consequently there was a risk that Denbighshire could be the only local authority in North Wales to adopt the document which could lead to applicants, who did not meet the policy requirements, being granted licences by neighbouring authorities and operating in Denbighshire in some circumstances. The Licensing Technical Panel (Wales) had also agreed there was a need to scrutinise the policy further before they could support its adoption throughout Wales. In addition the Welsh Government would be producing a white paper setting out proposals for licensing in Wales which they hoped to legislate before the end of the current Assembly term. They had suggested that the IOL's policy or some similar document would likely be included in any new legislation for Wales.

In response to questions officers confirmed that Denbighshire was represented on the Licensing Technical Panel (Wales). Representation on the IOL consisted of high ranking officials and Wales was represented as part of that forum. In light of the differing work streams and potential variations the committee was minded to wait for the outcome of the Welsh Government white paper and the Licensing Technical Panel's scrutiny of the IOL policy document. In the meantime it was agreed that the Council's existing Conviction Policy be reviewed to ensure any areas of ambiguity were removed or clarified.

**RESOLVED** *that members –*

- (a) *authorise officers to continue to assess the impact on the adoption of the Institute of Licensing Relevance of Conviction Policy alongside the Welsh Government's review and report back to a future committee meeting, and*
- (b) *instruct officers to review the current Conviction Policy and report back to the next Committee meeting.*

## **10 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2018/19**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2018/19.

The Public Protection Business Manager highlighted changes to the work programme to enable officers to focus on the administration of core business during the summer and autumn months with any unplanned business such as driver hearings continuing as necessary. The work programme focused predominantly on policy matters from December 2018 – September 2019. It was also confirmed that the business items discussed earlier on the agenda relating to wheelchair accessible vehicles and review of the policy relating to signage/advertising would be added to the forward work programme.

Members raised concern regarding the reduction in staffing levels due to sickness absence and officers reported upon measures being undertaken to mitigate the temporary reduction in staff resources and agreed to keep members updated on that issue. Officers also reported upon a positive meeting to discuss licensing issues with Chief Inspector Andrew Williams who was fully aware of the authority's position and supportive of it and officers would continue to build a good relationship with the Police. Members paid tribute to the hard work, commitment and dedication of licensing staff and wished to record and convey their appreciation in that regard.

**RESOLVED** *that, subject to the addition of the items agreed during the meeting, the Licensing Committee's forward work programme as detailed in Appendix A to the report be approved.*

The meeting concluded at 11.10 a.m.

By virtue of paragraph(s) 14 of Part 4 of Schedule 12A  
of the Local Government Act 1972.

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of the Local Government Act 1972.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> December 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) 01824 706433
<b>SUBJECT:</b>	Update on Hackney Carriage and Private Hire Conviction Policy

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

- 1.1 To update Members on the review of the current Hackney Carriage and Private Hire Conviction Policy.
- 1.2 To inform Members of the newly published 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' produced and published by the Institute of Licensing.
- 1.3 To seek Members approval to adopt the Institute of Licensing guidance document.

## **2. EXECUTIVE SUMMARY**

- 2.1 Members have scheduled an update on the progress on the Council's current Hackney Carriage and Private Hire Drivers' Conviction Policy review.

## **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 Members will recall that at the last meeting of the Committee in September this year, Officers presented an update report on the Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades. The Institute of Licensing guidance can be found at Appendix A.

- 4.2 Members will further recall that Officers initially informed you that out of all North Wales Authorities, only Anglesey were mindful of adopting the Institute of Licensing guidance and it was therefore agreed that Officers further develop and review the Council's current conviction policy
- 4.3 Since the last meeting in September, the All Wales Licensing Technical Panel have met and discussed the Institute of Licensing guidance at length, and it was agreed in principle that each Local Authority should look to adopt the Institute of Licensing conviction policy to ensure consistency across Wales.
- 4.4 In light of the All Wales Licensing Technical Panel's direction to consider adopting the Institute of Licensing guidance, the majority of north Wales Licensing Authorities have indicated that they will be looking to adopt the guidance.
- 4.5 Members are reminded of the purpose for developing such a policy/guidance, specifically to assist in the determination of a fit and proper person so ensuring the protection and wellbeing of the public using licensed vehicles. Although there is no national or statutory published guidance or standards, and as with nearly all other local authorities, Denbighshire does have a policy and guidance on convictions etc for taxi drivers. However, as each local authority develops its own policy, guidance on this matter varies greatly from authority to authority throughout Wales and England, with some being far less stringent than others.
- 4.6 The adoption of the new Guidance produced and published by the Institute of Licensing will go further to enhance the decision making process by Officers and Members on determining the suitability of new applicants and for current licence holders, and in doing so will also result in a degree of national uniformity and to serve the public interest in consistency, certainty and confidence in the licensing system.
- 4.7 Adherence to the Institute of Licensing guidance may also provide protection to licensing authorities on any appeal.

## **5.0 CONSULTATION**

- 5.1 The guidance has been produced in partnership with the Local Government Association (LGA), Lawyers in Local Government and the National Association of Licensing Enforcement Officers and has been subject to a wide ranging public consultation including Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, academics, the Probations Service and the Police.

- 5.2 Members will be aware that it is the Council's usual practice to consult with all key stake holders on any proposed policy change, however, as the proposed guidance document is a national document, and any deviation from this document would create inconsistencies throughout the Country.
- 5.3 Should Members be minded to adopt then Officers are proposing to engage with all existing Licence Holders to inform them of the proposals to adopt the attached guidance document, as it exists.
- 5.4 Officers are further proposing to hold a number of surgeries across the County for licence holders to attend and discuss any part of the guidance document that may affect them individually.

## 6. **RECOMMENDATION**

- 6.1 That Members adopt the Institute of Licensing guidance on determining the suitability of applicants and licensees in the hackney and private hire trades.
- 6.2 That Members instruct officers to draft a policy which meets the contents of the Institute of Licensing Guidance document and report back to the June 2019 meeting with a view to implementation on the 1<sup>st</sup> July 2019.
- 6.3 That Officers engage, through correspondence and surgeries across the County, with all existing Hackney Carriage and Private Hire licence holders on the Institute of Licensing guidance document.

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# Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**  
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

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## Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC  
Cornerstone Barristers

April 2018

## Chapter 1: Introduction

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- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications<sup>1</sup>. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

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<sup>1</sup> Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*<sup>2</sup>.

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

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<sup>2</sup> [2007] 1 WLR 2067

## Chapter 2: Offenders and Offending - An Overview

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- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.<sup>3</sup> With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm<sup>4</sup>. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

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<sup>3</sup> DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

<sup>4</sup> Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud<sup>5</sup> noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place<sup>6</sup>.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future<sup>7</sup>. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%<sup>8</sup>. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences<sup>9</sup>.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity<sup>10</sup>. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population<sup>11</sup>. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

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<sup>5</sup> Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>6</sup> Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>7</sup> Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

<sup>8</sup> Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

<sup>9</sup> Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

<sup>10</sup> McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

<sup>11</sup> Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

### Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”<sup>12</sup>.
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”<sup>13</sup>.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over<sup>14</sup>. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships<sup>15</sup>. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males<sup>16</sup>.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist<sup>17</sup>. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance<sup>18</sup>. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

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<sup>12</sup> National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

<sup>13</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

<sup>14</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

<sup>15</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

<sup>16</sup> Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

<sup>17</sup> Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

<sup>18</sup> Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3<sup>rd</sup> Edition. Oxford: Oxford University Press.

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”<sup>19</sup>.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

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<sup>19</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

## Chapter 3: 'Taxi' Licensing Overview

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- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

### Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory



criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person<sup>20</sup>.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK<sup>21</sup>.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.<sup>22</sup>
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*<sup>23</sup>. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<sup>24</sup>
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

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<sup>20</sup> Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

<sup>21</sup> Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

<sup>22</sup> “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1<sup>st</sup> December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

<sup>23</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199

<sup>24</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 10.21

- 3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?
- 3.19 The local authority has the power to require an applicant to provide:
- “such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>25</sup>
- This “information” can include any pre-conditions or tests that they consider necessary
- 3.20 Some of these are universal, such as medical assessments<sup>26</sup>. Others are required by some authorities, but not others. These include:
- Enhanced DBS certificates and sign-up to the update service;
  - Knowledge tests;
  - Driving tests;
  - Disability Awareness;
  - Signed Declarations;
  - Spoken English tests.
- 3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.
- 3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>27</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker<sup>28</sup>.
- 3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks<sup>29</sup> and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

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<sup>25</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>26</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

<sup>27</sup> “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

<sup>28</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898

<sup>29</sup> “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability<sup>30</sup>.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account<sup>31</sup>. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

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<sup>30</sup> As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

<sup>31</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

## Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority<sup>32</sup>. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person<sup>33</sup>.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”<sup>34</sup>
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

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<sup>32</sup> See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

<sup>33</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

<sup>34</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation<sup>35</sup>. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

## Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>36</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

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<sup>35</sup> See s57(1)(c) of the 1976 Act.

<sup>36</sup> S37 of the 1847 Act in relation to hackney carriages, section 48 of the 1976 Act to private hire vehicles.

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”<sup>37</sup>

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<sup>37</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 8.98

## Chapter 4: Guidance on Determination

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- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

### Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

#### Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.



#### Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

#### Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>38</sup>) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

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<sup>38</sup> Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>39</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>40</sup>.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

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<sup>39</sup> This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

<sup>40</sup> This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

#### Crimes resulting in death

- 4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### Exploitation

- 4.30 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

#### Offences involving violence

- 4.31 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

#### Possession of a weapon

- 4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

#### Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

### Dishonesty

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Drugs

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

### Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

## Vehicle proprietors

- 4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

## Acknowledgements

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In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

The Institute is delighted to have the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government contributing to and supporting this project with IoL.

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- Ben Atrill
- Suzy Lamplugh Trust
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- Professor of Criminology Fiona Measham, Durham University
- Councillor Philip Evans, Conwy County Borough Council
- Councillors Catriona Morris and Mick Legg, Milton Keynes Council
- Louise Scott Garner
- Jenna Parker, Institute of Licensing

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The Local Government Association (LGA) is the national voice of local government.  
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Lawyers in Local Government (LLG). [www.lawyersinlocalgovernment.org](http://www.lawyersinlocalgovernment.org)



National Association of Licensing and Enforcement Officers (NALEO). [www.naleo.org.uk](http://www.naleo.org.uk)

<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> December 2018
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection Services
<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 Penalty Points Policy & Procedure

## 1. PURPOSE OF THE REPORT

- 1.1 To provide members with an update on the Penalty Points Policy & Procedure

## 2. EXECUTIVE SUMMARY

- 2.1 The Penalty Points Policy and Procedure is a single document encompassing how the Council will deal with minor breaches in respect of taxi licensing and was approved by Members in September 2014 and further updated in September 2015
- 2.2 The issuing of points has been active since January 2015.

## 3. BACKGROUND INFORMATION

- 3.1 The council's key responsibility under the licensing legislation is to ensure that only fit and proper persons are granted and remain hackney carriage / private hire drivers or operators. This is to ensure the safety of those using hackney carriages and private hire vehicles and general public.
- 3.2 The Penalty Point Policy and Procedure was adopted as a process for identifying those drivers, vehicle proprietors or operators who repeatedly behave in a manner which, if taken as a whole, indicates that they are not fit and proper persons to hold a licence. It is a means by which officers can identify and record both serious and also relatively low-level breaches of an unacceptable nature. The Scheme acts as a record of a licensed individual's behaviour and conduct, and will provide the Council with guidance as to whether a person is "fit and proper" to hold the relevant licence

- 3.3 The last review of the Penalty Point Policy and Procedure was in September 2015. This review implemented some amendments to the policy and procedure and the current version is attached at Appendix A.
- 3.4 The document is to be reviewed at least every 3 years.
- 3.5 Officers have reviewed the Penalty Point Policy and Procedure and consider it still fit for purpose and are therefore not proposing any changes to the scheme.
- 3.6 The following tables provide an update to Members on the number of incidents and type of breach where points have been issued during this year and last.

<b>2017</b>		
<b>No of Incidents</b>	<b>Issue</b>	<b>No. of points per issue</b>
1	Smoking in a smoke free place namely a licensed vehicle	10 points
1	Driving a licensed vehicle in a manner likely to cause danger to a member of the public	10 points
1	Driving a licensed vehicle with a defective tyre below the minimum tread depth of 1.6mm namely 0.9 mm	10 points
2	Drive a licensed vehicle with a filthy interior	6 points
1	Providing false or misleading information on a licence application form	10 points
	Driver non-compliant licensable condition namely without consent of the hirer convey or permit to be conveyed any other person in the vehicle	3 points
2	Fail to notify the Council in writing of a speeding Fixed Penalty within seven working days	6 points
1	Present licensed vehicle for Test in an unsafe or dangerous condition	20 points

<b>2018</b>		
<b>No of Incidents</b>	<b>Issue</b>	<b>No. of points per issue</b>
1	Fail to notify road traffic collision within 72 hours	6 points

2	Fail to disclose two separate motoring convictions for speeding to the Council in writing within seven working days	6 points
1	Fail to notify the Council in writing of a speeding conviction within seven working days	6 points

**4. RECOMMENDATIONS**

- 4.1 Members acknowledge the information provided on the breakdown of the points issued

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## **14. Denbighshire County Council Penalty Point Policy and Procedure**

### **14.1 Introduction**

14.1.1 This document details the Penalty Point procedure used by the Council to deal with minor breaches or infringements of legislation or unacceptable behaviour committed by those licensed as Drivers and Operators and vehicle proprietors, in much the same way that points can be attached to a DVLA driving licence.

### **14.2 Policy Statement**

14.2.1 The aim of this Policy is to improve the levels of compliance of licensing regulations and requirements and to help raise standards, safety and the protection of members of the public affected by the actions of licensed drivers and operators and vehicle proprietors.

14.2.2 The Council is committed to ensure that only fit and proper persons become, and remain, as hackney carriage and private hire drivers and Operators and vehicle proprietors.

14.2.3 The procedure also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.

### **14.3 Purpose of the procedure**

14.3.1 The penalty point procedure is designed to work in conjunction with other enforcement options, identifying those drivers, operators or vehicle proprietors who repeatedly behave in a manner which, if taken as a whole, indicates that they are not fit and proper persons to hold a licence.

14.3.2 The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 (the relevant legislation covering such licences), only allows for the suspension or revocation of a licence, or the prosecution of a licence holder where they commit an offence under the above legislation. Therefore there is no system in place to deal with minor breaches or infringements, which in isolation are not serious enough to warrant the suspension or revocation of a licence.

#### **14.4 Who is covered by the procedure**

14.4.1 Penalty Points may be awarded against anyone holding a Hackney Carriage Licence; a Private Hire Driver Licence; a Private Hire Operator Licence or a Vehicle Proprietor.

#### **14.5 Issuing of Penalty Points**

14.5.1 Officers will investigate allegations of offences by licensed operators, drivers or vehicles owners. When considering what action to take the Investigating officer(s) will take into account all available and appropriate evidence, such as eye witness accounts and their reliability, the views of the licence holder who may be affected by the outcome of the investigation, etc.. The outcome of investigations may result in a wide range of potential actions against the driver and /or operator and / or proprietor. This procedure deals with the option of penalty points. For other enforcement action please refer to the relevant procedures.

14.5.2 Once the decision to issue penalty points is made, letters will be sent to all persons/organisations involved in the allegation(s) detailing the findings and decision of the Investigation officer. A record of the decision and any copies of associated documents will be kept on file (usually in secure electronic format) and retained for a period of 6 months following the expiry of the 2 year rolling period referred to at 14.5.6 below.



- 14.5.3 The points will be issued by an officer, or the Committee, to the driver and /or operator and / or proprietor depending on the circumstances, and will be confirmed in writing within 14 days of their issue.
- 14.5.4 Any penalty points incurred under this procedure are completely separate from any points which may be attached by the Police, through fixed penalty notices, or the Courts, through convictions to DVLA driving licences.
- 14.5.5 Confirmed infringements or breaches resulting in the award of penalty points will act as an ongoing record of a licensee's behaviour and conduct and may be used in determining whether they are a fit and proper person to hold a licence.
- 14.5.6 Where a licence holder accumulates 20 or more penalty points, in separate incidents, in a 24 month rolling period (a period of 24 consecutive months determined on a rolling basis with a new 24 month period beginning each day) the matter will be referred to the next available Licensing Committee. The Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:
- Take no action
  - Issue a warning
  - Issue additional penalty points
  - Suspend a licence as a punitive sanction
  - Suspend a licence to correct a fault, defect, or breach
  - Revoke or refuse to renew a licence
- 14.5.7 Periods of suspension will be determined by the Licensing Committee and will depend on the nature of the offence, breach, or infringement and the individual's compliance history. A determination will also be made as to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.

14.5.8 Where a driver, proprietor or operator reaches the 20 points and is referred to the Committee it will not preclude all relevant information being disclosed. This will include any other penalty points, complaints, warnings, and suspensions etc. The 20 points will be a referral trigger.

14.5.9 Where an identified breach results in the issue of a single award of 20 penalty points these matters will be considered as soon as is practicable by the Head of Planning & Public Protection or in his/her absence, the Head of Legal and Democratic Services, in consultation with the Chair of the Licensing Committee, or in his / her absence, the vice Chair, for appropriate action. Any action will be considered alongside the Council's agreed document "Procedure for Suspension / Revocation of a Hackney Carriage and Private Hire Driver Licence".

#### **14.6 A breach or infringement is discovered**

14.6.1 If there is good evidence that there was a breach or inappropriate behaviour and it is considered appropriate to do so, the licence holder will be issued with a penalty point notice.

14.6.2 The penalty point notice will describe the infringement or breach, date and time it took place, and how many points have been issued to the licence holder.

14.6.3 The Council reserve the right to not impose penalties points under this scheme where in the opinion of the Officers the allegations are either frivolous, vexatious or repetitious, or made, in the Officers opinion, to further personal grievances or which are not made within a reasonable time period, to be determined by the Council depending on the individual circumstances, of the breach having occurred.

#### **14.7 How to report an infringement**

14.7.1 Any breaches of conduct will be subject to investigation by officers, and only where there is clear, verifiable evidence of an infringement e.g. a photograph of an illegally parked vehicle, will a penalty point notice be issued.

14.7.2 Infringements can be reported through the Council's website <https://www.denbighshire.gov.uk/en/resident/contact-us/contact-us.aspx>

## **14.8 Infringements/breaches covered by the Scheme**

14.8.1 A full list of infringements and breaches covered by this Scheme can be found at Appendix 1.

## **14.9 Appeals**

14.9.1 If a licensee wishes to appeal against the issue of a "penalty points notice" he/she must do so in writing, stating the reasons of the appeal, within 10 working days from the date of issue of such a notice, to the Council's Head of Planning and Public Protection or in his/her absence the Public Protection Manager, who, in consultation with the Chairman of the Licensing Committee, will have the discretion to:-

- uphold the Council Officer's decision – retain the number points on the "penalty points notice"; or
- cancel the issue of the "penalty points notice" to the licensee.

14.9.2 The Head of Planning and Public Protection or, as the case may be, the Public Protection Manager will write to the licensee informing them of the outcome within 10 working days of receiving the appeal.

14.9.3 If no appeal is lodged within 10 days from the date of issue of the Notice, then the Council will take the view that the licence holder has accepted the penalty points.

14.9.4 There is no appeal beyond the decision made by the Head of Public Protection. However, should a licensee be subsequently reported to the Licensing Committee for accumulating 20 penalty points, he/she has the opportunity to raise the validity of the points issued.

#### **14.10 Re-applying for a licence**

14.10.1 If a licence holder has had their licence revoked, they may apply for a new licence, but it is Council Policy that such an application under the Penalty Point Scheme will not be entertained until a suitable period from the date of revocation has elapsed, as detailed below:

- where the penalty points which resulted in the revocation included any infringements that attracted 10 or more points, then this period will be 24 months
- where none of the infringements individually attracted more than 10 points, then this period is reduced to twelve months.

14.10.2 It should not be assumed that an application for a new licence, following revocation under this Scheme, will automatically be granted. Any application will be subject to the Council's normal application process and consideration of whether the applicant is a fit and proper person to hold a licence.

#### **14.11 Delegation of Functions**

14.11.1 The Head of Planning and Public Protection Public Protection can delegate authority to the Public Protection Manager to issue penalty points in accordance with this policy. The Public Protection Manager can also delegate this function to an authorised Officer of the Council.

#### **14.12 Review of the Scheme**

14.12.1 This Policy will be reviewed every three years. Notwithstanding this, the policy will continue to be evaluated and may be updated at any time, subject to the appropriate consultation.

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## APPENDIX 1 – PENALTY POINT SCHEME

FOR BREACHES OR INFRINGEMENTS BY HACKNEY AND PRIVATE HIRE OPERATORS, DRIVERS AND VEHICLE PROPRIETORS

### SCALE OF PENALTY POINTS

REF No	BREACH/OFFENCE OR INFRINGEMENT	PENALTY POINTS
1	<b>Use/Cause/Permit</b> a vehicle to be driven with a defect contrary to Road Vehicle (Construction & Use) Regs 1986 (as amended) (per defect):	
	a) Defective tyres (including spare)	10
	b) Defective brakes	10
	c) Defective seat belts	10
	d) Defective steering	10
	e) Defective suspension	10
	f) Defective doors ( closing/ locking mechanism)	6
	g) Defective windscreen – cracked etc. in drivers view	6
	h) Defective bodywork– sharp edges, corrosion likely to cause injury to persons	6
	i) Defective headlamps, brake lights, sidelights	10
	j) Defective windscreen wipers/washers	6
	k) Defective exhaust	3
	l) Defective horn	3
m) Insecure battery which could be a fire risk.	10	

	n) Any other relevant defect not referred to above	6
2	Failing to produce Certificate of Compliance, MOT certificate, driving licence or insurance certificate, which is valid on the day of request, within 7 days of being requested	3
3	Obstructing an authorised officer or Police Officer	10
4	Failure to carry an assistance dog without an exemption notice	3
5	Using or allowing a vehicle to be used subject to a suspension/revocation issued by an Authorised Officer or Police Officer	20
6	Using an unlicensed vehicle or licensed vehicle without Insurance	20
7	Driver using a handheld mobile phone, handheld two way radio, whilst the vehicle is in motion	10
8	Presenting a licensed vehicle for testing in an unsafe or dangerous Condition	20
9	Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	10
10	Failure to submit a licensed vehicle that is 5 years old, or more for a 6 monthly MoT and provide documented proof to the Council that it has passed such a test. The Council will expect to see documentary evidence that such a test has been carried out within 4 weeks of the due date of the MoT test.	10
11	Operator failing to keep proper records or keep records in accordance with the licence conditions	3
12	Failing to notify the Council of details of road traffic collision within 72 hours	6
13	Failure to behave in a civil and orderly manner (including rude or aggressive behaviour) to a member of the public, licensed driver or Officer of the Council or Police Officer	10
14	Plying for hire by private hire drivers.	10
15	Carrying more passengers than the capacity stated on the vehicle licence.	20
16	Failure to carry an up to date fire extinguisher.	3



17	Failure to wear private hire/hackney carriage driver's badge.	3
18	Refusal to accept hiring without reasonable cause e.g. reasonable cause – when drunk or rude customer	6
19	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the County's taxi ranks – parking in front or behind rank).	5
20	Failure to give assistance with loading/unloading luggage to or from any building or place, without reasonable cause e.g. temporary medical condition	3
21	Failure to attend punctually at appointed time and place without sufficient cause:	
	a) During daytime	3
	b) During the hours of darkness	6
22	Leaving a Hackney Carriage unattended whilst on a designated rank, without reasonable cause e.g. quick toilet break	3
23	Failure to comply with the Driver Dress Code	3
24	Failure to comply with the Code of Good Conduct	5
25	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	5
26	Failure to carry a legal spare wheel and tools or other method of repair e.g. foam/run flat tyre	3
27	Failure to display the external/internal licence plate or signs as required.	3
28	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle.	3
29	Charging hackney carriage passenger more than the metered or agreed fare	6
30	Failure to return a vehicle licence plate within 7 days after request	6
31	Using a non-approved or non-calibrated taximeter	6
32	Unreasonably prolonging a journey or any misconduct regarding the charging of fares	6
33	Failure to notify the Council, in writing, of any conviction, caution, fixed penalty or similar within 7	6

	working days	
34	Failure to notify the Council, in writing, of a change of address within 7 working days	3
35	Failure to notify, in writing, a change in medical circumstances	6
36	Unsatisfactory condition of a vehicle (interior or exterior):	
	a) Dirty exterior	3
	b) Filthy and stained interior	6
	c) Other non-compliant licensable condition (as required by the "Blue Book")	3
37	Driving or parking in a manner likely to cause inconvenience, distress or danger to members of the public e.g. tailgating/speeding/overtaking/furious driving	10
38	Parking in contravention of public highway parking restrictions including occupying/parking in a loading bay	5
39	Parking/stopping or picking up or dropping off passengers on zigzags of a pedestrian crossing or school entrance	6
40	Failing to display Hackney Carriage fare card in vehicle	3
41	Failure to present vehicle for inspection by an authorised officer at required time/location.	10
42	Private Hire driver charging or attempting to charge more than the fare agreed with the customer by the operator	6
43	Private hire vehicle parking / waiting on a taxi rank	6
44	Smoking in a licensed vehicle, and allowing passengers to smoke in a licensed vehicle	10
45	Failure to display in a licensed vehicle, no smoking signage as prescribed in the Health Act 2006	3

<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> December 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 the Introduction of a list of designated wheelchair accessible vehicles

## 1. PURPOSE OF THE REPORT

- 1.1 To inform Members of the progress on introducing 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 Equality Act 2010, Section 167.

## 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 Section 167 allows the licensing authority to maintain lists of wheelchair accessible vehicles.
- 4.3 Members will recall that at their March meeting earlier this year they resolved to approve the introduction of such a list and instructed officers to begin the development and report back to the Licensing Committee.
- 4.4 Current records indicate that there are 352 licensed vehicles and 24 of those being classed as wheelchair accessible.

- 4.5 Members will also recall that at their March meeting they delegated the implementation date to officers in consultation with Chair of the Licensing Committee. Officers are proposing an implementation date of 31<sup>st</sup> January 2019. Prior to this date all proprietors of a wheelchair accessible vehicle will be advised of the implementation of the list and the process for any applications for exemption from the obligation to provide mobility assistance, as outlined in Appendix A.
- 4.6 Members are reminded that once the list is active the legislation 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 The list of wheelchair accessible vehicles will be made publically available through the council's website.

## **5.0 RECOMMENDATION**

- 5.1 Members note the contents of the report and agree to the implementation date of 31<sup>st</sup> January 2019 for the publication of the list of designated wheelchair accessible vehicles.

Eich cyf / Your ref {\$Licence->>manual\_reference\_number}

Ein cyf / Our ref {\$Licence->>manual\_reference\_number}

Dyddiad / Date {\$Communication->communication\_date|date\_format:"%d/%m/%Y"}

Rhif union / Direct dial 01824 706342

E-bost / Email [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk)



## Atodiad A / Appendix A

{\$Communication->Contact->contact\_name}  
{\$Communication->Contact->formatted\_long\_address}

Dear {\$Communication->Contact->contact\_name},

### Re: **Equality Act 2010 – Designated Vehicles & Medical Exemptions**

On the 6th April 2017, Sections 165 and 167 of the Equality Act 2010 became effective.

Section 167 of the Act provides the Licensing Authority with the powers to make lists of “designated vehicles” (i.e. wheelchair accessible vehicles), and Section 165 of the Act then places duties on the drivers of those vehicles.

Our records show that you have a wheelchair accessible vehicle.

A list of designated vehicles will be maintained by the Licensing Authority from the 31st January 2019 and will be published on the Council’s website.

If you drive a designated vehicle, the following duties will apply:

- to carry a passenger whilst 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;
- to give the passenger such mobility assistance as is reasonably required:
  - 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.

The duties outlined above do not apply to drivers who hold a valid exemption. An exemption can be issued by the Licensing Authority if you have a medical condition, disability or physical

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e-bost: [trwyddedu@sirddinbych.gov.uk](mailto:trwyddedu@sirddinbych.gov.uk)  
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Website: [www.denbighshire.gov.uk](http://www.denbighshire.gov.uk)

condition which makes it impossible or unreasonably difficult for you to undertake the duties.

If you feel that you require an exemption from these duties, you can complete an application form available via the following link - [www.denbighshire.gov.uk/taxi-licences](http://www.denbighshire.gov.uk/taxi-licences) - and submit it to the Licensing Authority. Your GP, or a GP who has had access to your full medical records, is required to complete a section of the form outlining the reasons why such an exemption is necessary.

All applications for an exemption certificate will be determined by the General Licensing Committee.

If an exemption is granted, the driver will be issued with a notice to that effect, which shall be displayed on the nearside of the vehicle, immediately behind the front windscreen. The notice shall only be displayed when the driver specified on the notice is driving the vehicle i.e. the driver must remove the notice from the vehicle.

If an exemption is not granted by the 31<sup>st</sup> January 2019, the duties above will apply to any driver who drives a designated vehicle. A list of designated vehicles will be maintained on the Licensing Authority's website and the proprietor of the vehicle will be notified that the vehicle has been designated.

All drivers are reminded that the provisions contained within the Equality Act 2010 which require drivers to carry assistance dogs, have been in place for many years and the exemption process as outlined above applies.

Please do not hesitate to contact us if you require further information.

Yours faithfully

## **I Millington**

**Rheolwr Busnes Gwarchod y Cyhoedd** - Gwasanaethau Cynllunio a Gwarchod Y Cyhoedd

**Public Protection Business Manager** - Planning and Public Protection Services

*Rydym yn croesawu gohebiaeth yn Gymraeg. Ni fydd unrhyw oedi wrth ymateb i ohebiaeth a dderbyniwyd yn Gymraeg.*

*We welcome correspondence in Welsh. There will be no delay in responding to correspondence received in Welsh.*

<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> December 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**

- 1.1 To present Members of the Licensing Committee with the existing version of the Council's Statement of Principles, which was adopted and implemented on 1<sup>st</sup> April 2018.
- 1.2 Following correspondence recently received from the Gambling Commission which directed all Licensing Authorities to review and adopt their Statement of Principles to come into effect from 31<sup>st</sup> January 2019, it is necessary to request that Members consider re-adopting the Statement of Principles.

## **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 Members will recall that the current Statement of Principles was adopted as recently as 8<sup>th</sup> March 2018, with an implementation date of 1<sup>st</sup> April.
- 2.3 It is therefore considered that, as there have been no changes to the Statement of Principles, Members would consider re-adopting the existing Policy without the need for further consultation.

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

- 3.1 Section 349 Gambling Act 2005

#### **4. BACKGROUND INFORMATION**

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'.

4.1 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

4.2 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.

4.3 The Statement of Principles must be reviewed and published every 3 years in a specific timeframe. This next period runs from 31<sup>st</sup> January 2019.

#### **5. CONSULTATION**

5.1 This version has already 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 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 prior to its adoption in April of this year and it is not considered that any amendments are necessary at this time.



**6. CONSIDERATION**

- 6.1 Members are asked to consider re-adopting the presented version in accordance with the directive from the Gambling Commission without the need for further consultation in order to coincide with their timescale for review.
- 6.2 The Statement of Principles has not been 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 31<sup>st</sup> January 2019.

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# 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 becomes effective from this date 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 shaded 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 has over XXX 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.



## 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.

---

## 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

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.

## 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)

- 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)

- 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 game 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 prize)

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> December 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 706451
<b>SUBJECT:</b>	Forward Work Programme 2019

## 1. PURPOSE OF THE REPORT

- 1.2 To provide Members with a proposed Forward Work Programme for 2019.

## 2. EXECUTIVE SUMMARY

- 2.1 A proposed Forward Work Programme is attached, at Appendix 1, for Members to consider and approve.

## 3. BACKGROUND INFORMATION

- 3.1 Members will be aware that at a previous Licensing Committee, Members approved an 18 month Forward Work Programme.
- 3.2 In drafting this Forward Work Programme, Officers have considered 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 If Members are minded to approve this 12 month Forward Work Programme then Officers will update Members at each committee meeting with an updated Forward Work Programme and maintain a rolling 12 month Forward Work Programme. It is proposed that this format will enable Officers to react to emerging pressures or impending changes as they arise and without the need to make significant changes to the programme.

## 4. RECOMMENDATION

- 4.1 For Members to approve the proposed Forward Work Programme, as

detailed in the Appendix.

- 4.2 For members to authorise Officers to introduce a rolling 12 month Forward Work Programme to be updated for each Committee meeting.

**Licensing Committee****Work Programme**

<b>Committee Date</b>	<b>Report</b>	<b>Comment</b>
<b>March 2019</b>	Hackney Carriage Vehicle Intended Use policy	Review
	Private Hire Vehicle Exemption policy	Review
<b>June 2019</b>	Hackney Carriage and Private Hire Driver Conviction Policy	Update
	Hackney Carriage and Private Hire Driver / Operator Conditions/policy	Update
<b>September 2019</b>	Hackney Carriage livery review	Review/update
	Street Collection policy	Review
	House to House Collections policy	Review
<b>December 2019</b>	Street Trading policy	Update

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