



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**MONDAY 12TH MARCH 2018**  
**AT 6.00 P.M.**

**PARKSIDE SUITE - PARKSIDE, MARKET STREET, BROMSGROVE, B61 8DA**

**MEMBERS:** Councillors R. L. Dent (Chairman), C. J. Spencer (Vice-Chairman), M. T. Buxton, M. Glass, H. J. Jones, C. M. McDonald, S. R. Peters, S. P. Shannon, M. A. Sherrey, L. J. Turner and S. A. Webb

### **AGENDA**

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest  
  
To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
3. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 13th November 2017 (Pages 1 - 6)
4. Gambling Act 2005 - Review of Statement of Principles (Pages 7 - 46)
5. Proposed Amendments to Hackney Carriage and Private Hire Licensing Policies - Results of Consultation (Pages 47 - 68)
6. Update on the situation regarding Wheelchair Accessible Hackney Carriage and Private Hire Vehicles (Pages 69 - 76)
7. Licensing Committee Work Programme 2017/2018 (Pages 77 - 78)

8. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

26th February 2018



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## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**MONDAY 13TH, NOVEMBER 2017, AT 6.00 P.M.**

PRESENT: Councillors R. L. Dent (Chairman), C. J. Spencer (Vice-Chairman), M. T. Buxton (during Minute No's 19/17 to 21/17), M. Glass, H. J. Jones, C. M. McDonald, S. R. Peters, S. P. Shannon, M. A. Sherrey, L. J. Turner and S. A. Webb

Observers: Councillor P. J. Whittaker, Portfolio Holder for Regulatory Services

Officers: Mrs. V. Brown, Mr. D. Etheridge, Mrs. A. May and Mrs. P. Ross

Prior to the meeting commencing the Chairman took the opportunity to remind Members that the Senior Licensing Practitioner, Worcestershire Regulatory Services, would be providing a brief update on the Immigration Act 2016 after the meeting.

17/17

#### **APOLOGIES**

No apologies for absence were received.

18/17

#### **DECLARATIONS OF INTEREST**

There were no declarations of interest.

19/17

#### **MINUTES**

The minutes of the meeting of the Licensing Committee held on 11th September 2017 were submitted.

The Democratic Services Officer referred to an amendment she had received from Councillor C. M. McDonald with regard to minute number 14/17, Street Trading – Designation of Streets (Response to the Proposal). Councillor McDonald had requested that it be recorded in the minutes that the Senior Licensing Practitioner, Worcestershire Regulatory Services, had informed the Committee that the costs incurred so far were £250.60 and that he had spent thirty minutes of his time on this item.

**RESOLVED** that subject to the above amendment, the minutes of the meeting of the Licensing Committee held on 11th September 2017 be approved.

20/17

## **PROPOSED AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICIES**

The Licensing Committee was asked to consider a report that detailed proposed amendments to the Council's Hackney Carriage and Private Hire Licensing Policies and to approve consultation on those proposed amendments.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), drew Members' attention to the Council's Hackney Carriage and Private Hire Handbook, at Appendix 1 to the report.

The Senior Licensing Practitioner, WRS, informed the Committee that currently there were no scheduled reviews due to be undertaken in relation to the Council's licensing policies, although officers ensured that policies were continually updated to reflect any relevant changes in legislation and other circumstances.

The Hackney Carriage and Private Hire Handbook was approved and updated in March 2016. The handbook sets out the Council's policies on the licensing of Hackney Carriage and Private Hire vehicles and drivers.

There were two specific areas within the handbook that had caused some difficulty since the Hackney Carriage and Private Hire Handbook was last updated and officers were asking the Committee to consider the proposed amendments to these two areas, the NVQ Level 2 in Road Passenger Vehicle Driving and Tints on Windows; and to decide whether to carry out a consultation on the proposed amendments, as detailed in paragraphs 3.13 and 3.19 in the report.

### **NVQ Level 2 in Road Passenger Vehicle Driving**

The Senior Licensing Practitioner, WRS, informed the Committee that, new holders of driver licences were required to be awarded an NVQ Level 2 in Road Passenger Vehicle Driving or an equivalent qualification within twelve months from the date of the grant of their initial licence.

It was highlighted that, as detailed in paragraphs 3.8 and 3.9 in the report; to achieve a full Level 2 NVQ Certificate in Road Passenger Vehicle Driving (Community Transport, Taxi and Private Hire), learners had to obtain a minimum of 31 credits from mandatory and optional groups. Mandatory units covered health and safety, driving community transport/chauffeured vehicles safely and efficiently, providing professional customer services and services for those who required assistance, dealing with difficult situations and emergencies and working with others.

Learners could choose from a range of optional units according to their job role. These included; defensive driving, meeting special customer needs, providing a service to children and young people, processing

# Agenda Item 3

telephone bookings, transporting luggage and parcels, planning routes and processing fares.

Some license holders had reported difficulties to WRS, in obtaining the Level 2 NVQ Certificate in Road Passenger Vehicle Driving or an equivalent qualification, as there were very few training providers in the local area offering this qualification. Licence holders had also complained that the costs of obtaining the qualification were unduly burdensome.

The Senior Licensing Practitioner, WRS, further informed the Committee that when the requirement to obtain the Level 2 NVQ Certificate in Road Passenger Vehicle Driving was initially introduced, Government funding was made available to fund the cost of the training and to encourage uptake of the qualification amongst licensed drivers across the country. Government funding was apparently no longer being provided, so those undertaking the qualification had to fund it themselves.

The Senior Licensing Practitioner, WRS, highlighted to the Committee that Bromsgrove District Council was the only licensing authority in Worcestershire that currently required its licenced drivers to obtain this qualification.

The Senior Licensing Practitioner, WRS, responded to questions from Members and in doing so explained that, the Level 2 NVQ Certificate in Road Passenger Vehicle Driving could not be completed on-line. The qualification was achieved through 'Guided Learning', which included practical on-the-job training observed by a qualified trainer and a portfolio of evidence that was assessed by the training provider. The licenced driver would have to complete between 161 to 171 'learning hours' in order to complete the qualification.

Members were further informed that the qualification was only available to fulltime licensed drivers, due to the number of 'learning hours' required to complete the qualification; and that as a result of the criteria being changed that there was now less access to Government funding for this qualification.

Further discussion followed whereby the majority of Members were in agreement that it was entirely reasonable to consult on an alternative training solution now that the criteria had changed.

Councillor C. M. McDonald was not in agreement and commented that in her opinion it was a backward step and that the only issue was that the funding had been removed and she would like to see the requirement to achieve the Level 2 NVQ Certificate in Road Passenger Vehicle Driving retained in the handbook.

The Council's Legal Advisor reiterated that, as stated earlier the funding for the Level 2 NVQ Certificate in Road Passenger Vehicle Driving was

# Agenda Item 3

only available to full time licensed drivers. Part time licensed drivers would have to meet the cost of £600.

Members were in agreement that the question, as detailed at paragraph 3.13 be included in the consultation document, but with the following amendment; that disability awareness training be undertaken before new licence holders were licenced.

Members were also mindful that, as highlighted earlier, that Bromsgrove District Council was the only authority in Worcestershire who required licensed drivers to undertake the Level 2 NVQ Certificate in Road Passenger Vehicle Driving; but Members would still ask WRS to encourage fulltime licenced drivers to consider achieving this qualification.

The Senior Licensing Practitioner, WRS, informed Members that there were a number of training providers who provided disability awareness training for licensed drivers and that some organisations provided online training solutions. Members were reassured that only approved training providers would be considered and that licenced drivers who undertook the training would be required to produce a certificate to evidence that the training had been completed.

## **Tints on Windows**

The Senior Licensing Practitioner, WRS, informed the Committee that, licence holders had raised some concerns that the majority of vehicles currently manufactured were fitted with some level of tint on the windows as standard.

Licence holders had also complained that the cost involved in replacing the glass in the windows, so that their vehicle complied with the requirements as detailed in the Council's Hackney Carriage and Private Hire Handbook, were unduly burdensome.

The Senior Licensing Practitioner, WRS, highlighted to Members that in the last twelve months Licensing Sub-Committees were convened to consider ten applications for vehicle licences. The applications could not be determined by licensing officers under delegated powers, due to the level of tint on the windows. It was noted that all ten applications were granted by Licensing Sub-Committee Members.

The Senior Licensing Practitioner, WRS continued and stated that as a result there were a number of licensed vehicles operating in the district that did not comply with the Council's Hackney Carriage and Private Hire Handbook. Some licence holders who had paid out considerable amounts of money in order to replace the tinted windows in their vehicles had complained to WRS that this was unfair.

The Council's Legal Advisor reminded the Committee that each application presented to Licensing Sub-Committee Members was considered on its own merits.



The Senior Licensing Practitioner, WRS drew Members' attention to the three proposals, as detailed in paragraph 3.19 in the report; that Members were being asked to consider for the purpose of consultation with relevant stakeholders.

Further discussion followed whereby Members raised a number of questions on:-

- Safeguarding for both travelling passengers and licenced drivers.
- Setting an appropriate level for tinted windows with officers using a light meter to determine the levels of tint on each vehicle presented.

Members requested that the following amendment and two additional options be included in the consultation questionnaire:

- Option B – to include that the amount of light to be transmitted through the glass to be determined following further research and consultation.
- Option D - that the glass to be factory fitted standard glass and that no additional tint was added on top of the manufacturer's factory fitted tint.
- Option E - that the wording in the Council's Hackney Carriage and Private Hire Handbook be left as it is and not amended.

The Senior Licensing Practitioner, WRS, provided the Committee with brief details on the criteria as set by other local authorities with regard to tinted windows.

Members accepted that manufacturers now fitted, factory tinted windows, as standard on vehicles for environmental reasons.

Following discussion it was

**RESOLVED:**

- a) that, following the amendments, as detailed in the preamble above, being incorporated into the consultation questionnaire, the report be approved for the purpose of consultation with relevant parties and stakeholders; and
- b) that the results of the consultation be reported back to a future meeting of the Licensing Committee.

21/17

**LICENSING COMMITTEE WORK PROGRAMME 2017/2018**

The Committee considered the Licensing Committee Work Programme for 2017/2018.

**RESOLVED** that the Licensing Committee Work Programme 2017/2018 be noted.

# Agenda Item 3

The meeting closed at 6.42 p.m.

Chairman

**GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

The Council's current Statement of Principles under the Gambling Act 2005 took effect on 31<sup>st</sup> January 2016. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every three years. Therefore a new Statement of Principles must be published by 31<sup>st</sup> January 2019.

As part of the process of preparing a Statement of Principles for the three year period beginning on 31<sup>st</sup> January 2019, the Licensing Committee are now asked to approve a draft revised Statement of Principles for the purpose of consultation with relevant parties.

**2. RECOMMENDATIONS**

**Members are asked to RESOLVE;**

**To approve the revised draft Statement of Principles shown at Appendix 1 for the purpose of consultation with relevant parties.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs involved in carrying out the consultation would be met from existing budgets held by Worcestershire Regulatory Services.

**Legal Implications**

- 3.2 Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.

- 3.3 The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.
- 3.4 When revising its Statement of Principles, the Council is required to consult with:-
- the Chief Officer of Police for the Authority's area;
  - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
  - one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

### **Service / Operational Implications**

- 3.5 Bromsgrove District Council is a licensing authority in accordance with the provision of the Gambling Act 2005.
- 3.6 Each licensing authority is required before each successive three year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority's Statement of Principles.
- 3.7 The Council's current Statement of Principles took effect on 31<sup>st</sup> January 2016 and therefore a new Statement of Principles must now be prepared and published ready to take effect on 31<sup>st</sup> January 2019.
- 3.8 Whilst there have been no significant amendments to the provisions of the Gambling Act 2005 itself since the last Statement of Principles took effect, there have been changes made to the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) that licensed operators have to comply with. The Gambling Commission has also updated its Guidance to Licensing Authorities (GLA).
- 3.9 These changes have been taken into account by officers when preparing the draft Statement of Principles that can be seen at **Appendix 1**.
- 3.10 Officers also considered that the Statement of Principles needed to be enhanced with more comprehensive information included on how the Council will approach its role and responsibilities in relation to the various permits and small society lotteries that it is responsible for administering and monitoring.

- 3.11 The amendments that have been made in the draft Statement of Principles are shown by way of “track changes” within the document at **Appendix 1** and the more significant changes that have been made are also summarised below.
- 3.12 A new section has been included that provides information on the Gambling Commission and its responsibilities.
- 3.13 The draft Statement has been updated to reflect the fact that when it is published in January 2019, a Local Area Profile will have been finalised and will be available for gambling operators to have regard to when completing their own local risk assessments.
- 3.14 The draft Statement now includes a section recognising the links between Public Health and gambling-related harms and how the Council would like to work together in partnership with the local Public Health team to try and better understand and address gambling-related harms in the area.
- 3.15 The draft Statement now includes sections that set out in much more detail how the Council will approach its functions under the Act in relation to gambling activities in clubs and alcohol licensed premises.
- 3.16 The draft Statement now includes sections that set out how the Council will approach its role in relation to the issuing and monitoring of Unlicensed Family Entertainment Centre Permits and Prize Gaming Permits.
- 3.17 The draft Statement also now includes a greatly expanded section on lotteries and how the Council will approach its role and responsibilities in relation to the registration and monitoring of Small Society Lotteries.
- 3.18 Consultation on the revised draft Statement of Principles will take place with all relevant parties including:
- The Chief Officer of West Mercia Police
  - The Gambling Commission
  - All other responsible authorities identified under the Act
  - Relevant Trade Associations
  - Public Health
  - Organisations working with people who are problem gamblers
  - Parish Councils
  - The general public

- 3.19 The consultation will also be made available for comment via the Council's website and publicised via social media and also through the local press. Given the number of changes being proposed to the Council's existing Statement of Principles, it is proposed that consultation take place over a period of 10 weeks.
- 3.20 Any responses received during the consultation exercise will be reported back to the Licensing Committee later this year.

**4. RISK MANAGEMENT**

- 4.1 Failing to prepare and publish a new Statement of Principles by 31<sup>st</sup> January 2019 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Gambling Act 2005.

**5. APPENDICES**

Appendix 1 – Draft Revised Statement of Principles

**AUTHOR OF REPORT**

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**Bromsgrove**  
District Council  
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## REVISED STATEMENT OF PRINCIPLES

### GAMBLING ACT 2005



~~2016 – 2019~~  
**2019 - 2022**

# Agenda Item 4

Contents	Page
Introduction	3
Gambling Act 2005	4
<b>The Gambling Commission</b>	4
Local Area Profile	5
Authorised Activities	5
General Statement of Principles	6
Preventing gambling from being a source of crime and disorder	7
Ensuring gambling is conducted in a fair and open way	7
Protecting children and vulnerable people from gambling	8
<b>Public Health and Gambling</b>	9
Local Risk Assessments	9
Premises licences	11
Responsible Authorities	13
Interested Parties	13
Licence conditions	14
Gaming Machines	15
<b>Gambling in Alcohol Licensed Premises</b>	15
<b>Gambling in Clubs</b>	19
<b>Unlicensed Family Entertainment Centre Permits</b>	23
<b>Prize Gaming Permits</b>	25
Temporary Use Notices	26
Occasional Use Notices	27
Lotteries	27
Exchange of Information	32
Enforcement	33
Reviews	34
<b>Appendix A – Map of the District of Bromsgrove</b>	<b>35</b>
<b>Appendix B – List of Consultees</b>	<b>36</b>



## Statement of Principles – Gambling Act 2005

### 1.0 Introduction

1.1 Bromsgrove District Council is situated in the County of Worcestershire, which contains six District Councils in total. The Council area has a population of approximately ~~93,600~~ 95,750 and in terms of area it covers approximately 84 square miles. The Council area is mainly rural in character (90% of the area is classed as Green Belt) with two central urban areas of Bromsgrove Town and Rubery. Whilst it is only 14 miles from central Birmingham, the Clent and Lickey Hills provide an important dividing line between the industrial Midlands and the rural landscape of North Worcestershire.

1.2 A map of the District of Bromsgrove can be seen at Appendix A.

1.3 Bromsgrove District Council's overall vision is "working together to build a district where people are proud to live and work, through community leadership and excellent services." This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are central to the regulatory regime created by the Act. These are:

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

1.4 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between July and September 2015 in line with current published Government consultation principles. Should you have any comments as regards this policy statement please send them via email or letter to: [wrsenquiries@worcsregservices.gov.uk](mailto:wrsenquiries@worcsregservices.gov.uk)

1.5 This statement must be published at least every three years. The statement may also be reviewed from 'time to time' and any amended parts re-consulted upon.

1.6 We intend that this document should provide information and guidance on the general approach that we will take to licensing. A series of advice sheets with more specific guidance is available from our web site or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

1.7 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

## **2.0 Gambling Act 2005**

2.1 This policy reflects and aims to support our strategic purposes, as set out in the Council Plan.

2.2 The Act provides for gambling to be authorised in a number of different ways.

2.3 Our main functions are to:

- licence premises for gambling activities, including the issue of provisional statements,
- regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
- regulate gaming and gaming machines in alcohol licensed premises,
- grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for the temporary use notices,
- receive occasional use notices for betting at tracks,
- register small societies lotteries,
- Maintain public registers, and
- Provide information to the Gambling Commission on issued licences.

2.3 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. The “National Lottery” is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

## **3. The Gambling Commission**

3.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

3.2 The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.

3.3 In addition, the Commission’s role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

3.4 Information about the Gambling Commission can be found on the Internet at: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or by phone: 0121 230 6666.

## 4.0 Local Area Profile

4.1 Alongside its Statement of Principles, the Licensing Authority ~~would like to work~~ has worked with the other Licensing Authorities in Worcestershire and other partners ~~during the lifetime of this Statement~~ to develop a “Local Area Profile” for the County as a means of mapping out local areas of concern, which can be reviewed and updated to reflect changes to the local landscape.

4.2 This Local Area Profile ~~is likely to take~~ takes account of a wide range of factors, data and information held by the Licensing Authority and its partners. An important element of preparing the Local Area Profile ~~will be~~ has been proactive engagement with responsible authorities as well as other organisations in the area that ~~can~~ could give input to ‘map’ local risks in the area.

4.3 These ~~are likely to~~ include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as GamCare or equivalent local organisations.

4.4 The aim of the Local Area Profile ~~will be~~ is to increase awareness of local risks and improve information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The Local Area Profile will also help to inform specific risks that operators will need to address in their own risk assessments, which ~~will~~ forms a part of any new licence application, or ~~an any~~ application made to vary a licence. ~~from made since April 2016.~~

~~4.5 The creation of a Local Area Profile, however, is dependent on information and knowledge of the local area gathered by partner agencies and other relevant organisations that have the expertise and knowledge of the impact gambling has in the local area. Where evidence is submitted to the Licensing Authority which identifies the areas of concern it is intended to produce a Local Area Profile separate to this Policy.~~

4.5 ~~Once a Local Area Profile has been developed, it will be~~ The Local Area Profile is published on the Licensing Authority’s website and ~~will be~~ updated on a regular basis to reflect changes to the local environment. ~~Holder’s of premises licences will be notified whenever the Local Area Profile is updated.~~

## 5.0 Authorised Activities

5.1 ‘Gambling’ is defined in the Act as gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize,
- 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, and

- a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

## 6.0 General Statement of Principles

- 6.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will generally aim to permit the use of premises for gambling as long as it is considered to be :-
- in accordance with any relevant Codes of Practice issued by the Gambling Commission
  - in accordance with any relevant Guidance issued by the Gambling Commission
  - in accordance with this Statement of Principles, and
  - reasonably consistent with the licensing objectives.
- 6.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 6.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 6.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 6.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 6.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 6.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 6.8 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

## **7.0 Preventing gambling from being a source of crime and disorder**

- 7.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 7.2 In view that we will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 7.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for Security Industry Authority (SIA) registered door supervisors.
- 7.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 7.5 "Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.
- 7.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

## **8.0 Ensuring gambling is conducted in a fair and open way**

- 8.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 8.2 Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

## **9.0 Protecting children and vulnerable people from being harmed or exploited by gambling**

- 9.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.
- 9.2 Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.
- 9.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 9.4 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.
- 9.5 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 9.6 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.
- 9.7 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

These principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area.
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 9.8 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Worcestershire Safeguarding Children Board for this purpose.

## 10. Public Health and Gambling

- 10.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.
- 10.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.
- 10.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.
- 10.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.
- 10.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.
- 10.6 The licensing authority would therefore like to engage with the local Public Health team in the future development of this Statement of Principles and the Local Area Profile. It is hoped that the Public Health team will be able to help the Licensing Authority:
- Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
  - Make decisions that benefit and protect the health and wellbeing of local communities.
  - Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
  - Identify and interpret health data and evidence to inform the review of the Statement;
  - Conduct a health-impact assessment of gambling in the local area or assess any existing information.

## 11.0 Local Risk Assessments

- 11.1 ~~From~~ Since 6 April 2016 it ~~will be~~ has been a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.

11.2 The Licensing Authority will expect the local risk assessment to consider, for example:

- whether the premise is in an area of deprivation;
- whether the premise is in an area subject to high levels of crime and/or disorder;
- whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
- the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
- how vulnerable persons as defined within this Policy are protected.

11.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy **and the Local Area Profile**.

11.4 Other matters that the risk assessment may include are, for example:

- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
- Where installed, details of CCTV coverage and how the system will be monitored.
- Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.
- The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
- Where only one staff member is employed – in the case of smaller premises, – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
- Provision of signage and documents relating to games rules, gambling care providers.
- The mix of gambling provided.
- Consideration of primary gambling activity and location of gaming machines.

11.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary. **The Licensing Authority expects a copy of the most recent local risk assessment to be kept on each premises that is subject to a premises licence under the Gambling Act 2005.**

11.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence, to grant the licence with special conditions or to refuse the application.



- 11.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.
- 11.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. ~~By developing a Local Area Profile it is likely to assist operators in identifying specific local risks within the area.~~ The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.
- 11.9 The Licensing Authority expects local risk assessments to be kept under review and updated as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

## 12.0 Premises licences

- 12.1 A premises licence can authorise the provision of facilities at the following:
- casino premises
  - bingo premises
  - betting premises, including betting tracks
  - adult gaming centres
  - family entertainment centres
- 12.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.
- 12.3 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.
- 12.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be

possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.

- 12.5 The Secretary of State appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Bromsgrove was not identified as a suitable location for a casino, consequently we are currently prevented from granting a Casino Premises Licence.
- 12.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.
- 12.7 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 12.8 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 12.9 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 12.10 We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 12.11 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future. Where we have agreed to grant a licence but substantial building works or alterations are still required we will impose a condition requiring the premises to be inspected on completion of the work and prior to the issue of the licence. Where the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 12.12 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
  - should the premises be permitted to be used for gambling;
  - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.

- 12.13 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 12.14 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 12.15 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9am until 5pm.

## **13.0 Responsible authorities**

13.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below, contact details for each of the responsible authorities identified are available on our website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk), and will be sent on request.

- The Gambling Commission
- The Chief Officer of Police for the Area
- Fire and Rescue Service
- Bromsgrove District Council Planning Department
- Bromsgrove District Council Licensing Department (WRS)
- Bromsgrove District Council Environmental Health (WRS)
- Worcestershire Safeguarding Children Board
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, Canal and River Trust, Secretary of State.

13.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

## **14.0 Interested Parties**

14.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

14.2 We will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be

aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

- 14.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, we will take into account, among other things :
- the size of the premises
  - the nature of the premises
  - the distance of the premises from the person making the representation
  - the nature of the complainant
  - the potential impact of the premises
- 14.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:
- the size of the premises
  - the catchment area of the premises, and
  - whether the person making the representation has business interests in the catchment area that might be affected
- 14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 14.6 We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant,
  - whether it raises an issue relevant to the licensing objectives, or
  - whether it raises issues specifically to do with the premises which are the subject of the application.

## **15.0 Licence conditions**

- 15.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. We will not have recourse to a pool of standard conditions.
- 15.2 We will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.
- 15.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of

gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also expect the applicant to offer their own suggestions as to way in which the licensing objectives can be promoted effectively.

- 15.4 We will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
  - relating to gaming machine categories or method of operation,
  - which specify that membership of a club or other body is required, or
  - in relation to stakes, fees, winnings or prizes.
- 15.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## **16.0 Gaming Machines**

- 16.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.
- 16.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 16.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :
- casinos
  - bingo premises
  - betting premises, (including tracks )
  - adult gaming centres
  - family entertainment centres
  - clubs
  - pubs and other alcohol licensed premises
  - travelling fairs
- 16.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.
- 16.5 We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

## **17.0 Gambling in Alcohol Licensed Premises**

- 17.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.
- 17.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.

- 17.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

## Automatic entitlement to two gaming machines

- 17.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed fee.
- 17.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.
- 17.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 17.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

## Licensed Premises Gaming Machine Permits

- 17.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.

- 17.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the number and category of gaming machines sought.
- 17.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.
- 17.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.
- 17.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.
- 17.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.
- 17.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.
- 17.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.
- 17.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee, unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.

17.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

## Exempt Gaming

17.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.

17.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

17.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.

17.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

17.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:

- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
- gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
- the premises are mainly used for gaming
- an offence under the Act has been committed on the premises.

17.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.



## 18.0 Gambling in Clubs

### Defining Clubs

18.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:

- members' clubs (including miners' welfare institutes)
- commercial clubs.

18.2 This is an important distinction in respect of the gaming that may take place.

18.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.

18.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.

18.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.

18.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

### Exempt Gaming

18.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.

18.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

18.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.

18.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However in order to qualify as exempt gaming, clubs

may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.

- 18.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

## Club Gaming Permits

- 18.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.

- 18.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.

- 18.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

## Club Machine Permits

- 18.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.

- 18.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.

- 18.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

## Applications for Club Gaming Permits and Club Machine Permits

- 18.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.

- 18.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.

18.20 The Licensing Authority can only refuse an application on the grounds that:

- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- b) the applicant's premises are used wholly or mainly by children and/or young persons
- c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- d) a permit held by the applicant has been cancelled in the previous ten years
- e) an objection has been lodged by the Commission or the police.

18.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.

18.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.

18.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.

18.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.

18.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

#### Determining Applications for Club Gaming Permits

18.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.

18.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.

18.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.

18.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

## Maintenance of Permits

- 18.30 Club Gaming Permits and Club Machine Permits will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.
- 18.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

## Cancellation and forfeiture of permits

- 18.32 The Licensing Authority may cancel the permit if:
- the premises are used wholly by children and/or young persons
  - an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.
- 18.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.
- 18.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.
- 18.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

## Renewal of permits

- 18.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.
- 18.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.
- 18.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

## 19.0 Unlicensed Family Entertainment Centre Permits

### Introduction

- 19.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.
- 19.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

### Applications for Unlicensed Family Entertainment Centre Permits

- 19.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.
- 19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.
- 19.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

### Consideration of Applications

- 19.6 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.
- 19.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children and young persons, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.
- 19.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 19.9 The Licensing Authority may also consider asking applicants to demonstrate:

- that they have suitable policies and procedures in place for the safeguarding of children and young persons.
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
- that employees at the premises are suitably vetted
- that employees are trained to have a full understanding of the maximum stakes and prizes.

19.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

19.11 The permit will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit

19.12 The permit may lapse for a number of reasons, namely:

- if the holder ceases to occupy the premises
- if the Licensing Authority notifies the holder that the premises are not being used as an uFEC
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist, or goes into liquidation.

### Renewal of a Permit

19.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.

19.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

## 20.0 Prize Gaming Permits

- 20.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.
- 20.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

### Applications for Prize Gaming Permits

- 20.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.
- 20.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.
- 20.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

### Consideration of Applications

- 20.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 20.7 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions.
- 20.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.
- 20.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.
- 20.10 A permit cannot be issued in respect of a vessel or a vehicle.
- 20.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:

- they understand the limits to stakes and prizes that are set out in regulations
- the gaming offered is within the law.

20.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

20.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.

20.14 The permit may lapse for a number of reasons:

- if the holder ceases to occupy the premises
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if a company holding the permit goes into liquidation
- if the holder (for example a partnership) otherwise ceases to exist.

### Renewal of a Prize Gaming Permit

20.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.

20.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew.

## **21.0 Temporary Use Notices**

21.1 These 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. We would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

21.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.



## 22.0 Occasional Use Notices

22.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

22.2 The Licensing Authority will share information with the Gambling Commission in relation to any Occasional Use Notices received. The Licensing Authority may also work in partnership with the Gambling Commission to carry out test purchase operations involving licensed operators that are providing facilities for betting in reliance on an Occasional Use Notice.

## ~~17.0 Lotteries~~

~~17.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission unless they are 'exempt' lotteries as defined by the Act. One of those exemptions is for "small societies lotteries," which we will allow, after registration. We will maintain a register of small societies lotteries.~~

~~17.2 A society will be allowed to register with us if it is 'non-commercial', in other words, if it is established and conducted:~~

- ~~• for charitable purposes;~~
- ~~• for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or~~
- ~~• for any other non-commercial purpose other than for private gain.~~

## 23.0 Lotteries

### Introduction

23.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.

23.2 An arrangement is a simple lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance.

23.3 An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance.

23.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

23.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on “small society lotteries.” Information on other forms of exempt lotteries is available from the Gambling Commission website.

23.6 The Licensing Authority defines ‘society’ as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.

23.7 Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

23.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

### Registration Applications

23.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society’s principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.

23.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application.

23.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:

- A list of the members of the society
- The society's constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
- A written declaration from the applicant stating that they represent a *bona fide* non-commercial society.

23.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application—

- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
- an application for an operating licence made by the applicant for registration has been refused.

23.13 The Licensing Authority may refuse an application for registration if they think that—

- the applicant is not a non-commercial society,
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with the application for registration is false or misleading.

23.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

23.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society would be consistent with the Act
- Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission

### Promotion of small society lotteries once registered

23.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.

23.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.

23.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to

minimise the risk of lottery tickets being sold to children, including procedures for:

- checking the age of apparently underage purchasers of lottery tickets
- taking action where there are unlawful attempts to purchase tickets.

23.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- the name of the promoting society
- the price of the ticket, which must be the same for all tickets
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
- the date of the draw, or information which enables the date to be determined.

23.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

23.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.

23.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:

23.23 Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.

23.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

## Financial Returns

23.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.

23.26 The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society
- no single prize may be worth more than £25,000

- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed

23.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

23.28 The following information must be submitted:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

23.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

23.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority's website.

23.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

23.32 The Licensing Authority will notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

## Revocation of a registration

- 23.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.
- 23.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.
- 23.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:
- Whether allowing the registration of the society to continue would be consistent with the Act
  - Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
  - Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

## **24.0 Exchange of Information**

- 24.1 To ensure the licensing objectives are met, we will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.
- 24.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.
- 24.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Information Management Officer or via the Council's website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk).
- 24.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.
- 24.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register.

Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## 25.0 Enforcement Protocols

- 25.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.
- 25.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 25.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 25.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- 25.5 We will endeavour to be proportionate; accountable; consistent; transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.
- 25.6 In order to ensure compliance with the law, the Licensing Authority will prepare a risk based Inspection Programme and will carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories High, Medium and Low and will also carry out 'non routine' evening programmed inspections. Where a one off event takes place under a Temporary Use Notice or Occasional Use Notice, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted.
- 25.7 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

## 26.0 Reviews

- 26.1 A review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:
- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
  - Consistent with the licensing objectives
  - In accordance with our statement of principles.
- 26.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.
- 26.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 26.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:
- Add, remove or amend a licence condition;
  - Remove or amend a default condition, such as opening hours;
  - Suspend the premises licence for a period not exceeding 3 months;
  - Revoke the licence.



### Map of the District of Bromsgrove



List of Consultees

Chief Officer of West Mercia Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005

Director of Public Health

District Councillors

Parish Councils

Holders of Premises Licences issued by the Council under the Gambling Act 2005

Gambling Trade Associations:

Association of British Bookmakers  
British Amusement Catering Trade Association  
Bingo Association  
National Casino Forum  
Lotteries Council  
Hospice Lotteries Association

Organisations working with those who have a gambling problem:

GamCare  
Gamblers Anonymous

**PROPOSED AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICIES – RESULTS OF CONSULTATION**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

The Licensing Committee has previously approved consultation for some proposed amendments to the Council’s Hackney Carriage and Private Hire Licensing Policies. The consultation exercise has now been undertaken and the results of this exercise are now to be considered.

**2. RECOMMENDATIONS**

- 2.1 That Members consider the responses received during the consultation and RESOLVE whether or not to proceed with any of the proposed amendments to the Council’s Hackney Carriage and Private Hire Licensing Policies.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs associated with carrying out the consultation exercise were met from existing budgets held by Worcestershire Regulatory Services.

**Legal Implications**

- 3.2 The Council’s current policies in relation to the operation of Private Hire Licences and Hackney Carriage Licences are set out in the Taxi Handbook and associated guidance issued by the Council. Whilst there are no scheduled reviews due to be undertaken in relation to the Council’s policies, the two specific matters which resulted in the consultation have arisen as matters directly brought to the attention of the Licensing Committee. Any proposed changes to the council’s policy should take account of the responses to the consultation.

**Service / Operational Implications**

- 3.3 On 13<sup>th</sup> November 2017 the Licensing Committee considered a report that set out some proposed amendments to the Council's policies on the licensing of Hackney Carriage and Private Hire vehicles and drivers, which are contained in the Council's Hackney Carriage and Private Hire Handbook.
- 3.4 The proposals related to two areas within these policies that have caused some difficulty since the Hackney Carriage and Private Hire Handbook was last updated in March 2016.
- 3.5 These first of these two areas was the requirement for drivers to obtain an NVQ Level 2 in Road Passenger Vehicle Driving or an equivalent qualification within twelve months from the date of the grant of their initial licence.
- 3.6 The second area that has caused difficulty is the requirement in relation to vehicles licensed as Hackney Carriage or Private Hire Vehicles that states the windows are not permitted to have a tint where this conceals the identity of the passenger inside.
- 3.7 Having considered the issues that these two areas of the policies have caused, Members approved consultation on proposed amendments that may assist with these difficulties.
- 3.8 A consultation survey was used to facilitate consultation with relevant parties. A copy of the consultation document can be seen at **Appendix 1**.
- 3.9 A copy of the consultation survey was sent to:
- All licensed Hackney Carriage and Private Hire drivers
  - All licensed Private Hire Operators
  - National Taxi Association
  - National Private Hire Association
  - West Mercia Police
  - West Mercia Safer Roads Partnership
  - Royal Society for the Prevention of Accidents (RoSPA)
  - District Councillors
  - Parish Councils
- 3.10 The consultation was also advertised on the Council's website and through a press release.
- 3.11 The consultation began in December 2017 and concluded on Friday 16 February 2018. A total of eleven consultation surveys were received back during the consultation exercise.

## **LICENSING COMMITTEE**

12<sup>th</sup> March 2018

- 3.12 A table summarising the responses received during the consultation exercise can be seen at **Appendix 2**.
- 3.13 In addition to the consultation surveys that were returned, a response was received from the Guide Dogs for the Blind Association. This response can be seen in full at **Appendix 3**.
- 3.14 Members are now asked to consider the responses received during the consultation exercise and resolve whether or not they wish to make any amendments to the policies set out in the Council's Hackney Carriage and Private Hire Handbook.

## **RISK MANAGEMENT**

- 4.1 The risks identified by this report relate to the Council either acting too hastily to change policy or choosing to disregard the issues raised by licence holders. These risks are being managed by the approach of seeking more information from the trade and considering all the relevant implications and carrying out formal consultation before deciding whether to proceed with making any changes.

## **5. APPENDICES**

- Appendix 1 – Consultation Survey  
Appendix 2 – Summary of Survey Results  
Appendix 3 – Guide Dogs for the Blind Association Response

## **AUTHOR OF REPORT**

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# Bromsgrove District Council

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



## **Hackney Carriage and Private Hire Consultation**

**December 2017**

## Bromsgrove District Council

### Hackney Carriage and Private Hire Consultation December 2017

Bromsgrove District Council's policies on the licensing of hackney carriage and private hire vehicles, operators and drivers are contained within the Council's "Hackney Carriage and Private Hire Handbook." The current version of this document was approved by the Licensing Committee with effect from 1 April 2016.

The Council keeps all its policies under review to ensure they remain fit for purpose and will consider amendments when appropriate.

There are two particular areas in the existing policies that have created difficulties for licence holders and the Council since the current Hackney Carriage and Private Hire Handbook was approved. These are:

- The requirement for those issued licences to drive hackney carriage and/or private hire vehicles to obtain an NVQ Level 2 in Road Passenger Vehicle Driving
- The requirements relating to the level of tint that is acceptable on the windows of hackney carriage and private hire vehicles.

In light of the difficulties being experienced, the Licensing Committee has decided to carry out consultation on some proposals that may address the problems that have arisen.

Please use this consultation questionnaire to give your thoughts and feedback on the proposals under consideration. Once complete, please return the consultation questionnaire by email to [wrsenquiries@worcesterservices.gov.uk](mailto:wrsenquiries@worcesterservices.gov.uk) using the subject line "Bromsgrove Taxi Consultation"

Alternatively you can post your response to:

Bromsgrove Taxi Consultation  
Worcestershire Regulatory Services  
Wyre Forest House  
Finepoint Way  
Kidderminster  
Worcestershire  
DY11 7WF

This consultation will be open for responses until **Friday 16<sup>th</sup> February 2018** and all responses received will be given consideration by the Council's Licensing Committee before any decisions about whether to implement any of the proposals are taken.



<b>Part A –</b>	<b>Requirement to Obtain an NVQ Level 2 in Road Passenger Vehicle Driving</b>
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The Council's current driver licensing policy includes the following requirement:

*"New holders of driver licences are required to be awarded an NVQ Level 2 in Road Passenger Vehicle Driving or equivalent qualification within twelve months from the date of the grant of their initial licence."*

The qualification was set up with the aim of contributing to the skills, knowledge and overall performance of individuals who are employed in providing a community transport service, taxi and/or private hire. This qualification is based on the latest National Occupational Standards.

To achieve a full Level 2 NVQ Certificate in Road Passenger Vehicle Driving (Community Transport, Taxi and Private Hire), learners must achieve a minimum of 31 credits from mandatory and optional groups. Mandatory units cover health and safety, driving community transport/ chauffeured vehicles safely and efficiently, providing professional customer services and services for those who require assistance, dealing with difficult situations and emergencies and working with others.

Learners may choose from a range of optional units according to their job role. These include defensive driving, meeting special customer needs, providing a service to children and young people, processing telephone bookings, transporting luggage and parcels, planning routes and processing fares.

Some licence holders have reported difficulties in obtaining the NVQ or an equivalent qualification as they state there are very few training providers who are still offering the qualification in the local area. Licence holders have also complained that the costs of obtaining the qualification are unduly burdensome.

When the requirement was first introduced at Bromsgrove, there was Government funding in place to pay for the training so as to encourage uptake of the qualification amongst licensed drivers across the country. This funding is apparently no longer being widely provided, so those undertaking the qualification need to fund it themselves.

Bromsgrove District Council is the only licensing authority in Worcestershire that currently requires its licensed drivers to obtain the NVQ Level 2 in Road Passenger Vehicle Driving.

The Council is therefore considering a proposal to remove the requirement to obtain the NVQ and replace this with a requirement for all new licence holders to undertake disability awareness training before they are licensed instead.

# Agenda Item 5

There are a number of providers of disability awareness training for licensed drivers, including some organisations that provide online training solutions. If this proposal was implemented, the Council would approve training providers that licence holders could undertake their training with.

**Do you agree with the proposal to remove the requirement to obtain the NVQ and replace this with a requirement for all new licence applicants to undertake approved disability awareness training BEFORE they are licensed?**

**YES**

**NO**

Do you have any further comments to make in relation to the proposal under consideration?

<b>Part B –</b>	<b>Acceptable Level of Tint on Windows of Licensed Hackney Carriage and Private Hire Vehicles</b>
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The Hackney Carriage and Private Hire Handbook states:

*“Any vehicle to be licensed for the first time, with the exception of special event vehicles, is NOT permitted to have a tint where they conceal the identity of the passenger inside. The Licensing Officer will examine a vehicle prior to test to ensure that the level of tint on the windows does not conceal the identity of passengers inside the vehicle.”*

Licence holders have raised concerns that the majority of vehicles manufactured at present are fitted with some level of tint on the windows as standard. Licence holders have complained that the costs involved in replacing the glass in the windows so that the vehicle complies with the requirements in the Hackney Carriage and Private Hire Handbook are unduly burdensome.

To try and address some of the concerns raised, the Council’s Licensing Committee is considering implementing one of the following five options:

- Option A Remove the requirement from the handbook altogether. This would mean that, provided that the glass complies with the Con and Use Regs, the vehicle would be acceptable for licensing as a hackney carriage or private hire vehicle
  
- Option B To remove the requirement from the handbook and replace it with a requirement that the windows of the vehicle allow a defined amount of visible light to be transmitted through the glass. The precise amount of visible light to be transmitted would be set following further research and consultation.
  
- Option C To remove the requirement from the handbook and replace it with a requirement that the vehicle windows cannot be fitted with privacy glass (entirely black or reflective glass).
  
- Option D To remove the requirement from the handbook and replace it with a requirement that the glass is to factory standard and vehicles are presented to licensing in an unmodified state, vehicles fitted with films, foils, or any other aftermarket tinting will be refused a licence, unless the tinting is removed and the vehicle returned to the manufacturer’s standard specification.
  
- Option E Leave the wording in the handbook as it is currently

# Agenda Item 5

Please place each of these options in your order of preference

1<sup>st</sup> Preference      Option .....

2<sup>nd</sup> Preference      Option .....

3<sup>rd</sup> Preference      Option .....

4<sup>th</sup> Preference      Option .....

5<sup>th</sup> Preference      Option .....

Do you have any other comments to make in relation to this area of the Council's vehicle licensing policies?

# Agenda Item 5

In what capacity are you responding to this consultation?			
Licensed Hackney Carriage / Private Hire Driver		Licensed Private Hire Operator	
Member of the Public		Elected representative	
Other (please specify)			

Once complete, please return the consultation questionnaire by email to [wrsenquiries@worcestersregservices.gov.uk](mailto:wrsenquiries@worcestersregservices.gov.uk) using the subject line "Bromsgrove Taxi Consultation"

Alternatively you can post your response to:

Bromsgrove Taxi Consultation  
Worcestershire Regulatory Services  
Wyre Forest House  
Finepoint Way  
Kidderminster  
Worcestershire  
DY11 7WF

This consultation will be open for responses until **Friday 16<sup>th</sup> February 2018** and all responses received will be given consideration by the Council's Licensing Committee before any final decisions about whether to implement any of the proposals are taken.

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## Summary of Consultation Survey Responses

### Part A

**Do you agree with the proposal to remove the requirement to obtain the NVQ and replace this with a requirement for all new licence applicants to undertake approved disability awareness training BEFORE they are licensed?**

Agree? – YES / NO	Comments	Capacity of Respondent
YES	No comments made	Licensed Driver
NO	I think it is important that driving, safety awareness, passenger care etc standards are maintained at a high level. The NVQ covers a wide range of topics and ensures the public receive an excellent service.	Licensed private hire operator
YES	I have currently received my private hire licence. I do believe that if you already have the equivalent qualification, what is the point of doing further disability awareness? Can I advise you that I have an NVQ Level 3 in Custodial Care, I have also obtained an SIA licence. I am currently doing a stewarding qualification. All cover disability, the Equality Act 2010, dealing with people that have protected characteristics, victimisation, discrimination and harassment. I have regularly completed manual handling. I have also completed diversity training on a regular basis working within the prison service. Can I please have dispensation for completing any more training please?	Licensed driver
YES	Any further training is unfair unless there are funds available to cover the costs	Licensed driver and private hire operator

Agree? – YES / NO	Comments	Capacity of Respondent
YES	No comments made	Not specified
YES	No comments made	Licensed driver and private hire operator
YES	In 27 years of driving private hire vehicles, I have never been asked to convey a passenger with a disability. If this is a wheelchair passenger then a specialist vehicle is required. The NVQ qualification, if the cost wasn't so high, is fine for all.	Licensed driver and private hire operator
YES	No comments made	Licensed driver and private hire operator
YES	Any increase in disability awareness training would benefit the skills of private hire drivers and should be welcomed. Presumably the proposals would allow a better fit with the demands of current Disability Discrimination Act or similar legislation.	Alvechurch Parish Council
NO	This seems a useful qualification and enhancement to the quality and security of local taxi services. I would want to see BDC retain the requirement. The Council could have enhanced this consultation by finding out what organisations offered the qualification in the area (Worcs and the West Mids?) and the fees charged.	Member of the Public



Agree? – YES / NO	Comments	Capacity of Respondent
<p>YES</p>	<p>The proposed solution makes sense if training is difficult to obtain, expensive and presumably prohibitive for some drivers. In addition if the NVQ qualification contains irrelevant items which are difficult to accede to them again it does not make much sense.</p> <p>Also if other local authorities do not see the need for this qualification, then that seems to provide a measure of evidence.</p> <p>That drivers should have some degree of proven awareness of disability needs to be an acceptable and useful alternative.</p>	<p>Catshill &amp; North Marlbrook Parish Council</p>

**Part B**

Order of Preference					Comments	Capacity of Respondent
1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>		
A	B	C	D	E	A lot of drivers will find this issue difficult as most new / used cars come with tinted windows / glass as a standard offer	Licensed driver
A	D				Does option D mean that if a vehicle has factory fitted privacy glass this is acceptable? If so this would be my 2 <sup>nd</sup> preference. Otherwise option A is the only one that gets my vote.	Licensed private hire operator
A	B	C	D	E	I have had difficulty buying a vehicle fit for purpose due to the level of tint. I had to go to the extremes of asking the garage dealer to drive the vehicle down to the licensing surgery. I have also had to try and get quotes for windows to be exchanged. The wording in the handbook is misleading, perhaps this could be addressed. I must thank Ann May for being so helpful with regards to the issues I have had. Thanks.	Licensed driver

Order of Preference					Comments	Capacity of Respondent
1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>		
A	D	E	C	B	No comments made	Licensed driver and private hire operator
A	D	B	C	E	No comments made	Not specified
A					No comments made	Licensed driver and private hire operator
D	A	B	E	C	No comments made	Licensed driver and private hire operator
A	D	C	B	E	The issue of window tints has caused hassle and expense for some drivers with no good reason. Why would a driver want to “conceal the identity of passengers”? Other Councils don’t have this rule and drivers find it confusing. The rule regarding minibus seats having to face each other should also be removed – again other Councils don’t have it and its more dangerous as passengers often don’t wear seat belts in the rear.	Licensed driver and private hire operator

Order of Preference					Comments	Capacity of Respondent
1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>		
C					<p>Option C was our only preferred option.</p> <p>On the matter of tinted windows, Parish Councillors understood that this is covered by wider Government vehicle regulations, administered by the Police. If that's not the case, then private hire vehicles should not have tinted windows for passenger safety reasons.</p>	Alvechurch Parish Council
A	D	E	C	B	Why has BDC not given the rationale for the original being imposed? Without this information it is hard to understand.	Member of the Public
X					If the requirement is that passengers should be visible then option A would appear to be the least prescriptive option to fulfill this requirement.	Catshill & North Marlbrook Parish Council

## Guide Dogs response to Bromsgrove District Council “Hackney Carriage and Private Hire Consultation”

16 February 2018

### Summary

- 0.1 Guide Dogs provides mobility services to increase the independence of people with sight loss in the UK. Alongside our mobility work we campaign to break down physical and legal barriers to enable people with sight loss to get around on their own terms. Current estimates suggest about 21,140 people with vision impairments are living in Worcestershire of which about 73 are guide dog owners.<sup>1</sup>
- 0.2 Taxis and private hire vehicles (PHVs), and the door to door service they provide, are essential to the independence of blind and partially sighted people, who are often unable to drive or use public transport. However, accessing taxis and PHVs can be a major challenge for assistance dog owners: A Guide Dogs survey found that 42% of assistance dog owners were refused by a taxi or PHV driver in a one-year period because of their dog – despite this being a criminal offence under the Equality Act 2010.<sup>2</sup> Such access refusals can have a significant impact on assistance dog owners’ lives, leading to feelings of anger and embarrassment and a loss of confidence and independence.
- 0.3 To help reduce the number of access refusals, it is important that drivers know their legal obligations and how to best offer assistance to their customers with vision impairments, including those travelling with a guide dog. This can be best ensured through training. We therefore welcome the suggestion that all drivers have to undertake disability awareness training before receiving their licence. To strengthen this further, we recommend changing disability awareness training to disability equality training.

**Key recommendations:** We recommend that all drivers undertake disability equality training when obtaining their licence.

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<sup>1</sup> Royal National Institute for Blind People [research](#); Guide Dogs data

<sup>2</sup> Guide Dogs, [Hail Storm: The experiences of assistance dog owners when trying to use taxis and private hire vehicles](#) 2016.

## 1. Disability equality training

- 1.1. Drivers who refuse to carry an assistance dog are committing a criminal offence under the Equality Act 2010. The consequences of delayed travel combined with the emotional impact of facing discrimination and confrontation when trying to carry out everyday activities take a significant toll on assistance dog owners.
- 1.2. Apart from feelings of anger and embarrassment, refusals can undermine the independence that assistance dogs bring to their owners. Assistance dog owners also reported that the stress of refusals has had a detrimental impact on their mental health and on whether they feel able to leave the house.<sup>3</sup> This also has a negative impact on their ability to access work and other opportunities. As guide dog owners report:
  - 1.2.1. “Each refusal is crushing, confidence shattering, rejecting, and traumatic. I always feel that I don't want to go out after - but work dictates I must.” Guide dog owner, Stevenage
  - 1.2.2. “I was left on my own at the side of the road in the dark. I am deaf and unable to phone for help and it made me feel very vulnerable. It makes me feel afraid to go out.” Assistance dog owner
  - 1.2.3. “I was very upset, it was dark, raining and 10pm at night. I was scared. I avoid evening invites, as I worry about getting home. I lose out on the chance of socialising with friends, which is bad, as I have no family.” Guide dog owner, Rochester
  - 1.2.4. “I used to have a very tough two-hour commute to work. The taxi part of the journey was the shortest bit travel wise, but it always ended up being the bit that held me up the most because I was having to spend time facing drivers who wouldn't take me with my dog. ... It's good that my contract was flexi hours otherwise I'm sure I would have been sacked for being late all the time – it happened so often.” Guide dog owner, Daventry

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<sup>3</sup> Guide Dogs, Hail Storm, 2016

- 1.3. A Guide Dogs survey found that many taxi and PHV drivers are unaware of their legal obligations and the impact refusals have on assistance dog owners.<sup>4</sup> The best way to address this is through disability equality training for all taxi and PHV drivers.
- 1.4. We welcome the proposition that all drivers will have to undertake disability awareness training before obtaining their licence. Disability awareness training has proven helpful to increase non-disabled people's understanding of individual disabilities. However, it does not focus on the greater social issues that affect disabled people and what is needed to make services more inclusive.
- 1.5. This is explored by disability equality training, which focuses on the concept of people being disabled by society's barriers and attitudes. It highlights the role an organisation and individuals play in removing these barriers, while also including awareness elements such as customer care, etiquette and appropriate communication. It thereby helps people understand disability from both a human rights and equality perspective.<sup>5</sup>
- 1.6. Many of the positive experiences disabled people report when using taxis and PHVs come about following disability equality training.<sup>6</sup> Councils that have introduced disability equality training report positive results with fewer refusals and drivers feeling more confident in assisting passengers with disabilities.
- 1.7. To enable taxi and PHV drivers to deliver the best and most inclusive service possible, we therefore recommend that all drivers undertake disability equality training. This will ensure they are knowledgeable on disability issues, have discussed barriers in their service and how to overcome them, and are informed about their legal obligations.

**For more information please contact Guide Dogs Public Affairs Manager Chris Theobald on [chris.theobald@guidedogs.org.uk](mailto:chris.theobald@guidedogs.org.uk) or 0118 983 8162.**

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<sup>4</sup> Guide Dogs, [Access All Areas](#), 2015.

<sup>5</sup> For more information on disability equality training and the social model of disability see [http://www.un.org/disabilities/documents/egms/2015/Kenji\\_Kuno\\_Change.pdf](http://www.un.org/disabilities/documents/egms/2015/Kenji_Kuno_Change.pdf)

<sup>6</sup> Minutes of Guide Dogs focus group, Nottingham, Wales, August 2015.

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**UPDATE ON THE SITUATION REGARDING WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

Licensing Committee has previously considered reports regarding the availability of wheelchair accessible Hackney Carriage and Private Hire Vehicles and has requested that an update report be provided to them on this subject. This report provides that update.

**2. RECOMMENDATIONS**

**2.1 That Members note the contents of the report.**

**3. KEY ISSUES**

**Financial Implications**

3.1 There are no direct financial implications arising from this report.

**Legal Implications**

3.2 None

**Service / Operational Implications**

3.3 On 18<sup>th</sup> January 2017, Licensing Committee considered a report that set out a number of different options that the Council could take with a view to increasing the number of wheelchair accessible vehicles licensed by the Council to be used as Hackney Carriages.

3.4 At the time of the preparation of that report, the Council licensed 124 vehicles to be used as Hackney Carriages, of which seven were wheelchair accessible vehicles. In this context “wheelchair accessible vehicle” means a vehicle that is constructed or adapted to carry a wheelchair user whilst they remain seated in their wheelchair.

## **LICENSING COMMITTEE**

**12<sup>th</sup> March 2018**

- 3.5 Having considered and discussed the content of this report Members resolved to take no further steps to increase the number of wheelchair accessible vehicles, but asked officers to work with the taxi trade to raise public awareness of those taxi companies that were able to provide wheelchair accessible vehicles.
- 3.6 Members also resolved that an update report be presented to them on the situation with wheelchair accessible vehicles after twelve months.
- 3.7 Following the Licensing Committee meeting, officers wrote to the proprietors of all Hackney Carriage and Private Hire Vehicles that were identified as being wheelchair accessible. The proprietors were asked to give their consent to their personal data, including telephone numbers, being publicised by the Council to raise public awareness of the availability of which taxi providers could supply a wheelchair accessible vehicle.
- 3.8 Unfortunately only one private hire operator responded to this request and they indicated that as their wheelchair accessible vehicles were committed to contracted work for much of the time, they were therefore not normally available without at least 24 hours notice.
- 3.9 Meanwhile, on 7th February 2017, the Department for Transport (DfT) announced their intention to implement sections 165 – 167 of the Equality Act 2010 and made the Equality Act 2010 (Commencement No. 12) Order 2017 which subsequently took effect on 6th April 2017.
- 3.10 As a result of this change to the law, drivers of designated wheelchair accessible taxi and private hire vehicles are now obliged to:
  - transport wheelchair users in their wheelchair
  - provide passengers in wheelchairs with appropriate assistance
  - charge wheelchair users the same as non-wheelchair users
- 3.11 The new rules apply in England, Wales and Scotland, apply to both taxis and private hire vehicles and affect vehicles that are designated as wheelchair accessible.
- 3.12 The new powers only apply in those areas where the licensing authority has decided to maintain a list of designated vehicles under section 167 of the Equality Act 2010, and where the driver is driving a vehicle included on the list of designated vehicles maintained by the licensing authority.
- 3.13 On 21<sup>st</sup> June 2017 Council, following a recommendation from the Licensing Committee, adopted a position statement on sections 165 – 167 of the Equality Act 2010. This position statement committed the Council to publishing and maintaining a list of those vehicles it has

designated as wheelchair accessible for the purposes of sections 165 – 167 from 1<sup>st</sup> December 2017. A copy of the position statement can be seen at **Appendix 1**.

3.14 The designated list of wheelchair accessible vehicles has now been published and is maintained as part of the Council's public register of Hackney Carriage and Private Hire vehicles, which is hosted on the Worcestershire Regulatory Services website and accessible via a link on the Bromsgrove District Council website.

3.15 At the time that this report was prepared, the public register identifies six Hackney Carriages and six Private Hire Vehicles that are designated as wheelchair accessible vehicles. This is out of a total of 123 Hackney Carriages and 42 Private Hire Vehicles licensed by the Council.

## **RISK MANAGEMENT**

4.1 None

## **5. APPENDICES**

Appendix 1 – Position Statement on Sections 165 – 167 of the Equality Act 2010

## **AUTHOR OF REPORT**

Name: Dave Etheridge – Senior Practitioner (Licensing)  
Worcestershire Regulatory Services

E Mail: [dave.etheridge@worcsregservices.gov.uk](mailto:dave.etheridge@worcsregservices.gov.uk)

Tel: (01905) 822799

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## SECTIONS 165 – 167 OF THE EQUALITY ACT 2010

### POSITION STATEMENT

#### Introduction

The Government commenced sections 165 and 167 of the Equality Act 2010, in so far as they were not already in force, on 6<sup>th</sup> April 2017.

Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then place duties on the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.

The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act.

This allows Local Authorities to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.

In adopting this position statement, Bromsgrove District Council has had regard to the guidance issued by the Secretary of State under section 167(6) of the Equality Act 2010.

#### Maintaining a List of Designated Vehicles

Section 167 of the Act permits, but does not require, licensing authority to maintain a designated list of wheelchair accessible hackney carriage and private hire vehicles.

Whilst not being under a specific legal duty to maintain a list of designated vehicles, Bromsgrove District Council has decided that it will do so.

The list of designated vehicles will be published and maintained by Bromsgrove District Council with effect from **1<sup>st</sup> December 2017**. This will provide a reasonable amount of time for drivers to make applications for exemption from the duties that will be placed upon them once a list of designated vehicles is published.

Once published, the list of designated vehicles will be available to access via the Bromsgrove District Council website. A hard copy of the list of designated vehicles will also be provided on request. To request a hard copy of the list of designated vehicles you will need to contact Worcestershire Regulatory Services by emailing [wrsenquiries@worcsregservices.gov.uk](mailto:wrsenquiries@worcsregservices.gov.uk) or telephoning 01905 822799.

## **Accessibility Requirements for Vehicles Included on the List of Designated Vehicles**

The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.

Bromsgrove District Council has decided that a vehicle will only be included in the authority's list if it would be possible for the user of a "reference wheelchair" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. For this purpose, a "reference wheelchair" is as defined in Schedule 1 of the Public Service Vehicle Accessibility Regulations 2000.

## **The Duties Placed on Drivers of Designated Vehicles**

Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible hackney carriage and private hire vehicles.

The duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

The Act then goes on to define mobility assistance as assistance:

- To enable the passenger to get into or out of the vehicle;
- If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- To load the passenger's luggage into or out of the vehicle;
- If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

It is an offence for the driver (unless exempt) of a hackney carriage or private hire vehicle which is on the licensing authority's designated list to fail to comply with these duties.

## **Exemptions from the Duties Placed on Drivers of Designated Vehicles**

Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows licensing authorities to grant exemptions from the duties to individual drivers.

Section 166 allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties.

If a licensed driver wishes to obtain an exemption from the duties placed on them under section 165, they must complete the relevant application form and submit this to the licensing authority alongside relevant supporting evidence. The supporting evidence must include a letter or report from the licensed driver's general practitioner.

If required, a licensed driver seeking to obtain an exemption from the duties, must submit to an examination by an independent medical practitioner appointed by the licensing authority. The decision as to whether an exemption is granted and for how long, will be taken by the Head of Worcestershire Regulatory Services.

If the exemption application is successful then the licensing authority will issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle.

If the exemption application is unsuccessful, the applicant will be informed in writing within a reasonable timescale and provided with a clear explanation of the reasons for the decision.

Section 172 of the Act enables drivers to appeal against the decision of the licensing authority not to issue an exemption certificate. That appeal should be made to the Magistrate's Court and must be made within 28 days beginning with the date of the refusal.

## **Enforcement**

It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the licensing authority that licensed them, and the licensing authority has not provided them with an exemption certificate, regardless of where the journey starts or ends.

Bromsgrove District Council will look to take firm action where drivers breach their duties under section 165 of the Act and will use all their available powers to ensure that drivers who discriminate against disabled passengers are held accountable for their actions.

If a driver receives a conviction for breaching their duties under section 165 of the Act, the authority will review whether or not they remain a fit and proper person to hold a licence to drive hackney carriage or private hire vehicles.

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## **LICENSING COMMITTEE**

**12<sup>th</sup> March 2018**

### **12<sup>th</sup> MARCH 2018**

Gambling Act 2005 – Approval for consultation on revised Statement of Principles

Results of consultation on proposed amendments to Hackney Carriage and Private Hire Licensing Policies

12 month review following the public awareness raising campaign (Jan / Feb 2017) on Wheelchair Accessible Vehicles (WAV's) – Update report.

### **To Be Allocated To Suitable Available Dates in 2018/2019**

Licensing Act 2003 — Approval for consultation on revised Statement of Licensing Policy

Gambling Act 2005 – Consideration of responses to consultation on revised Statement of Principles

Licensing Act 2003 — Consideration of responses to consultation on revised Statement of Licensing Policy

Hackney Carriage and Private Hire Penalty Points Scheme – review of the scheme

Hackney Carriage and Private Hire Penalty Points Scheme – regular update reports on the scheme to continue into 2018/2019

Review of Policy on the Relevance of Convictions for Hackney Carriage and Private Hire Drivers

Reform of Animal Activities Licensing Legislation – Information Report

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