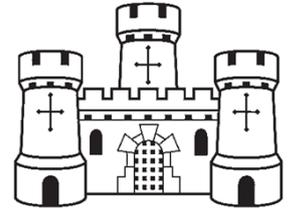


Public Document Pack

Date of meeting Tuesday, 23rd October, 2018
Time 7.00 pm
Venue Astley Room - Castle House
Contact Geoff Durham 742222



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire
ST5 1BL

Licensing & Public Protection Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 **PART 1 - LICENSING**
- 2 **APOLOGIES**
- 3 **DECLARATIONS OF INTEREST**
To receive declarations of interest from Members on items contained within the agenda
- 4 **GAMBLING ACT 2005 - REVIEW OF STATEMENT OF LICENSING PRINCIPLES (GAMBLING POLICY)** (Pages 3 - 36)
- 5 **FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2019-20** (Pages 37 - 46)
- 6 ***FIVE MINUTES BREAK***
- 7 **PART 2 - PUBLIC PROTECTION (OPEN)**
- 8 **DECLARATIONS OF INTEREST**
To receive declarations of interest from Members on items contained within the agenda
- 9 **PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2019/2020** (Pages 47 - 50)
- 10 **PART 3 - PUBLIC PROTECTION (CLOSED)**

11 DISCLOSURE OF EXEMPT INFORMATION

To resolve that the public be excluded from the meeting during consideration of the attached report, because it is likely that there will be disclosure of exempt information as defined in paragraphs 1, 2 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.

12 MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS (Pages 51 - 58)

To consider the minutes of the Public Protection Sub-Committees which have met since the previous Licensing and Public Protection Committee.

13 OUTCOME OF PROSECUTION PROCEEDINGS FOR BREACHES OF A NOISE NUISANCE ABATEMENT NOTICE ISSUED UNDER THE ENVIRONMENTAL PROTECTION ACT 1990 (Pages 59 - 62)

14 URGENT BUSINESS

To consider any business which is urgent within the meaning of Section 100B (4) of the Local Government Act 1972

Members: Councillors John Cooper, Dymond, Johnson, Kearon, Olszewski (Chair), Parker, Robinson, Sweeney, J Tagg, Walklate, J Waring, S White (Vice-Chair), G Williams, J Williams and Wright

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

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

Submitted by: Head of Environmental Health/Licensing Administration Team Manager

Portfolio: Finance & Resources

Wards Affected: All

Purpose of the Report

To consider the representations received in relation to the consultation on the draft Gambling Policy and to agree upon a final version of the draft policy for submission to Full Council on 21st November 2018.

Recommendations

1. That the Committee consider the responses received to the consultation exercise.
2. That the updated Policy be presented for approval to Full Council at its meeting on 21st November 2018.

Reasons

Under section 349 of the Gambling Act 2005 the Council has a statutory duty to review its Gambling statement set out in the Gambling Policy every 3 years.

1. Background

- 1.1 At the meeting held on 31st July 2018 the Committee determined to approve a 10 week consultation period for the Council's draft Gambling Policy. At the meeting Members requested that printed copies of the draft document should be made available at the Council Offices.
- 1.2 The Council have consulted with:
 - The Gambling Commission;
 - Staffordshire Police;
 - Staffordshire County Council;
 - Neighbouring Local Authorities;
 - Representatives of local businesses ;
 - Local residents and their representatives;
 - Town and Parish Councils in the Borough;
 - Local Members of Parliament;
 - National bodies representing the gambling trade;
 - National charities concerned with the social impact of gambling;
 - Representatives of existing licence holders;
 - Newcastle Partnership;
 - Department of Regeneration and Planning Services, Newcastle Borough Council;
 - Staffordshire County Council Trading Standards;
 - Aspire Housing; and
 - Members of the Public (via the website and printed copies at Council Offices)
- 1.3 The consultation period ended on 12th October 2018 and the Council received four responses which are attached at **Appendix A**. The responses are from:
 - The Local Compliance Manager for the Gambling Commission;

- The Head of Marketing and Communications at GamCare;
 - The Clerk from Chapel and Hill Chorlton Parish Council; and
 - The Clerk from Madeley Parish Council
- 1.4 The Compliance Manager at the Gambling Commission questioned the relevance of paragraph 19.3 in the draft, and asked that the Local Risk Assessment (LRA) for the Premises to be kept at the licensed premises. Paragraph 19.3 is obsolete and has been removed following his comments. The requirement for the PRA to be kept on site is in the draft at para 4.4 which he had missed.
- 1.5 The Head of Marketing and Communications at GamCare has submitted a general response that details the key factors of concern for the charity that relate primarily to the Council's LRA and what should be considered by operators when completing it.
- 1.6 The Clerk for Chapel and Hill Chorlton Parish Council responded to say that the draft had been discussed at a recent meeting and did not have any comments to make.
- 1.7 The Clerk for Madeley Parish Council responded to say that the draft had been discussed at a recent meeting and supported it.
- 1.8 Under section 349 of the Gambling Act 2005 the Council has a statutory duty to review its Gambling statement set out in the Gambling Policy every 3 years. It must be published by the 3rd January 2019 and in force by 31st January to ensure there is a 28 day period between publication and implementation. A copy of the proposed Policy following consultation is attached as **Appendix B**.

2. Issues

- 2.1 It is suggested that the updated draft policy be sent to Full Council on 21st November 2018 for approval, and subsequent implementation in January 2019 in line with the timetable at 3.2 of the report.
- 2.2 A list of the amendments following consultation are detailed below:
- Paragraph 19.3 has been removed following a response from the Gambling Commission;
 - The dates of the consultation period have been included in paragraph 1.4; and
 - The proposed date for approval by Full Council has been included at paragraph 1.6.

3. Options Considered

- 3.1 The Council have a statutory duty consult on, publish and implement a Gambling Policy every 3 years as required by the Gambling Act 2005. It is requested that Members agree that the Policy detailed in Appendix B may be sent to Full Council for approval, and subsequent implementation, in line with the table below:

3.2 Timetable

23 rd October 2018	Meeting of Licensing Committee to discuss responses to the consultation and amend Policy as required. Approval is given to send to Full Council for agreement
21 st November 2018	Proposed Policy to be considered by Full Council
December 2018 (or in any case before 3 rd)	Publish the Policy

January 2019)	
January 2019 (before 31 st)	Implement the new Policy

4. Recommendation

- 4.1 To receive the report
- 4.2 To approve the draft Gambling Policy for Newcastle-under-Lyme.
- 4.3 That the updated Policy be presented for approval to Full Council at its meeting on 21st November 2018 in order that the Policy is published prior to 3rd January 2019.

5. Decision Required

- 5.1. The Council have a statutory duty consult on, publish and implement a Gambling Policy every 3 years as required by the Gambling Act 2005.

6. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

- 6.1 The contents of this report relate to the following corporate priorities:
 - Growing our people and places.
 - A healthy, active and safe borough.
 - A town centre for all.

7. Legal and Statutory Implications

- 7.1 The Council have a statutory duty consult on, publish and implement a Gambling Policy every 3 years as required by the Gambling Act 2005.

8. Earlier Cabinet/Committee Resolutions

- 8.1. No Casino Resolution in 2007.
- 8.2. To implement a Gambling Policy in 2016, 2013, 2010, 2007

9. Background Papers

- 9.1 The Council Gambling Policy 2016-2018

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Burton, Matthew

From: Darren Shenton <I
Sent: 22 August 2018 12:16
To: licensing
Cc: Burton, Matthew
Subject: Draft Statement of Licensing Principles for 2019-2021

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Hi Matt.

Regarding the above.

Two things – I've no idea what you are referring to at 19.3 (could be from a previous version)?

Secondly – LRA to be kept on premises? – I couldn't see that anywhere and it's what we advise, as otherwise it won't be there.

Thanks.

Darren.

Darren Shenton

Compliance Manager

GAMBLING

COMMISSION

Tel

www.gamblingcommission.gov.uk

Confidential Call line 0121 230 6655

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Burton, Matthew

From: Catherine Sweet <>
Sent: 08 August 2018 17:10
To: licensing
Subject: RE: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles
Attachments: GamCare Local Authorities Brochure 2018 (web-version).pdf; GamCare Training Brochure 2017.pdf

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Hello,

Thank you for your email, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an

operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact [redacted]

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,
Catherine

Catherine Sweet
Head of Marketing and Communications

T:
E:



Click here to sign up to our free, monthly e-newsletter

From: Info
Sent: 08 August 2018 14:02
To: Catherine Sweet
Subject: FW: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles

From: licensing <licensing@newcastle-staffs.gov.uk>
Sent: 07 August 2018 16:53
To: Darren Shenton <[redacted]>; 'northern.licensing@staffordshire.pnn.police.uk' <northern.licensing@staffordshire.pnn.police.uk>; Licensing <licensing@staffordshire.gov.uk>; 'HCP Licensing Administration' <HCP.Licensing@stoke.gov.uk>; 'Lewis, Stephen' <[redacted]>; 'NS, Kim' <[redacted]>; 'Licensing (SMDC)' <Licensing-1@staffsmoorlands.gov.uk>; 'Julie Wallace' <[redacted]>; 'Louise Kemplay' <[redacted]>; Sean OMeara <[redacted]>; Planning Applications <planningapplications@newcastle-staffs.gov.uk>; Moore, Sarah <[redacted]>; 'info@nulbid.co.uk' <info@nulbid.co.uk>; 'paul.farrelly' <[redacted]>; 'mail@abb.uk.com' <mail@abb.uk.com>; 'contact@beerandpub.com' <contact@beerandpub.com>; Info <Info@gamcare.org.uk>; 'Customs & Excise (nrubetting&gaming@hmrc.gsi.gov.uk)' <nrubetting&gaming@hmrc.gsi.gov.uk>; 'info@gamblingcommission.gov.uk' <info@gamblingcommission.gov.uk>; 'care@ladbrokes.com' <care@ladbrokes.com>; 'treasurer@porthillscouts.co.uk' <treasurer@porthillscouts.co.uk>; 'secretary@alaskanmalamute.org.uk' <secretary@alaskanmalamute.org.uk>; 'info@aspirehousing.org.uk' <info@aspirehousing.org.uk>
Cc: Barker, Nesta <[redacted]>; Ryles, Claire <[redacted]>; licensing <licensing@newcastle-staffs.gov.uk>
Subject: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles

This Message originated outside your organization.

[Classification: NULBC UNCLASSIFIED]

Dear all,

Burton, Matthew

From: Janet Simpson <chapelandhillchorltonpc@gmail.com>
Sent: 10 October 2018 09:40
To: Burton, Matthew
Subject: Fwd: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Dear Matthew,

I can confirm that this request for consultation was discussed at the meeting of Chapel and Hill Chorlton Parish Council on 9th October 2018 and they had no comments to make at this stage.

Yours sincerely,

Jan Simpson
Clerk to Chapel and Hill Chorlton Parish Council,

Tel:

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----- Forwarded message -----

From: Nesta Hassall <.....>
Date: Mon, 13 Aug 2018 at 21:02
Subject: Fwd: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles
To: Janet Simpson <chapelandhillchorltonpc@gmail.com>

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From: Burton, Matthew <Matthew.Burton@newcastle-staffs.gov.uk>
Sent: Monday, August 13, 2018 3:09:26 PM
To: Audley_Parish_Council; Gwyn Griffiths; Loggerheads Parish Council; Madeley Parish Council; Maer-Aston_Parish Council; Kidsgrove Town Council Admin; Silverdale Parish Council; Keele_PC1; 'parish.clerk@whitmoreparishcouncil.co.uk'; Chapel and Hill Chorlton PC
Subject: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles

[Classification: NULBC UNCLASSIFIED]

Burton, Matthew

From: Clerk to Madeley Parish Council <parish.clerk@madeley.staffslc.gov.uk>
Sent: 09 October 2018 16:46
To: Burton, Matthew
Subject: re: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Dear Matt,

I can confirm that this has been discussed at the meeting of Madeley Parish Council who support the Draft Statement of Licensing Principles as proposed by the Borough Council.

Yours sincerely,

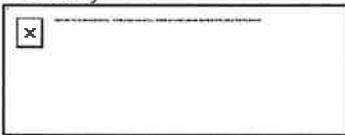
Jan Simpson

Clerk to Madeley Parish Council,

parish.clerk@madeley.staffslc.gov.uk

Tel:

Madeley Parish Council



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From: "Burton, Matthew" <Matthew.Burton@newcastle-staffs.gov.uk>
Sent: Monday, August 13, 2018 3:09 PM
To: "Audley Parish Council" <audleyparishcouncil@hotmail.co.uk>, "Loggerheads Parish Council" <loggerheadspc@btconnect.com>, "Madeley Parish Council" <parish.clerk@madeley.staffslc.gov.uk>, "Maer-Aston Parish Council" <maeraston@hotmail.com>, "Kidsgrove Town Council Admin" <admin@kidsgrovetowncouncil.gov.uk>, "Silverdale Parish Council" <Silverdaleparish@hotmail.com>, "Keele_PC1" <clerk.keelepc@gmail.com>, "parish.clerk@whitmoreparishcouncil.co.uk" <parish.clerk@whitmoreparishcouncil.co.uk>, "Chapel and Hill Chorlton PC" <
Subject: [UNCLASSIFIED] GA05 Draft Statement of Licensing Principles

[Classification: NULBC UNCLASSIFIED]

Dear Clerks to the Parish Councils,

The Council are consulting upon our Draft Statement of Licensing Principles for 2019-2021. Please the document at the link below:

<https://www.newcastle-staffs.gov.uk/all-services/business/licensing/current-licensing-consultation>

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CONTENTS

PART A - THE GAMBLING ACT 2015

1. Introduction.....	2
2. The Licensing Objectives	3
3. The Licensing Framework.....	3
4. Local Risk Assessment Assessments	4
5. Local Area Profile	5
6. Declaration	5
7. Responsible Authorities	5
8. Interested Parties	6
9. Exchange of Information	7
10. Data Protection	7
11. Licensing Authority Functions	7
12. Definition of Children and Young Persons	8

PART B - THE LICENSING OBJECTIVES

13. Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.	8
14. Ensuring that Gambling is conducted in a fair and open way	8
15. Protecting children and other vulnerable persons from being harmed or exploited by gambling.....	9

PART C - PREMISES LICENCES

16. Introduction to Premises Licences	9
• Definition	
• Location	
• Duplication with other Regimes	
• Conditions	
• Door Supervision	
17. Adult Gaming Centres	12
18. Casinos	13
19. Bingo Premises	13
20. Betting Premises	13
21. Travelling Fairs	15
22. Provisional Statements	15

PART D - PERMITS, TEMPORARY USE NOTICES AND SMALL SOCIETY LOTTERY REGISTRATION

23. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits)	16
24. Gaming Machine Permits in premises licensed for the sale of alcohol	17
25. Prize Gaming Permits - Statement of Principles on Permits	17
26. Club Gaming and Club Machine Permits	18
27. Temporary use Notices	19
28. Occasional Use Notices (for tracks).....	19
29. Small Society Lottery Registrations	19

PART E - ENFORCEMENT

30. Enforcement Principles	20
31. Reviews	20

APPENDIX 1 - LOCAL RISK ASSESSMENT TEMPLATE	22
APPENDIX 2 - LOCAL AREA MAP	24

PART A – THE GAMBLING ACT 2005

1. Introduction

1.1 Under the Gambling Act 2005 (the Act), the Borough Council of Newcastle-under-Lyme is the licensing authority for Newcastle-under-Lyme and licences premises for gambling activities as well as granting various other gambling permits. In this document unless otherwise stated any references to the Council are to the Borough Council of Newcastle-under-Lyme Licensing Authority

1.2 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions under the Act. This document fulfils this requirement. Such statement must be published every three years. The statement can also be reviewed from time to time and any amendments must be consulted upon. The statement must then be re-published

1.3 The Council consulted widely upon this Policy Statement before finalising and publishing it. A list of the consultees is given below:

- Staffordshire Police
- Staffordshire County Council
- Neighbouring Local Authorities
- Representatives of local businesses
- Local residents and their representatives
- Town and Parish Councils in the Borough
- Local Members of Parliament
- National bodies representing the gambling trade
- National charities concerned with the social impact of gambling
- Representatives of existing licence holders
- Newcastle Partnership
- Department of Regeneration and Planning Services, Newcastle Borough Council
- Staffordshire County Council Trading Standards
- Aspire Housing
- Members of the Public (via the website)

Should you have any comments as regards this policy please send them via e-mail or letter to the following contact:

Licensing Department
Environmental Health
Castle House
Barracks Road
Newcastle-under-Lyme
ST5 1BL
or via email: licensing@newcastle-staffs.gov.uk
tel: 01782 717717

1.4 The consultation took place between 7th August 2018 and 12th October 2018 and followed the Government's Consultation Principles updated in March 2018. This document is available from the www.gov.uk website at <https://www.gov.uk/government/publications/consultation-principles-guidance> www.cabinetoffice.gov.uk

1.5 A copy of the consultation report containing a summary of the comments received and the consideration by the Council of those comments is available on request

1.6 The original Policy was approved at a meeting of the Full Council on 20th December 2006 (resolution 563/06) and the most recent Policy was approved by Full Council on *(proposed date 21st November) 2018*

2. The Licensing Objectives

2.1 The Council will carry out its functions under the Act with a regard to the three licensing objectives set out at Section 1 of the Act. The licensing objectives are:

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

2.2 More information can be found about how the Council will promote the licensing objectives in Parts B and C of this document

2.3 The Council will also follow any regulations and statutory guidance issued in accordance with the Act and have regard to any Codes of Practice issued by the national gambling regulator, the Gambling Commission

2.4 The Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling insofar as it thinks it is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the Council's Statement of Gambling Policy.

3. The Licensing Framework

3.1 The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with Central Government and local authorities to regulate gambling activity

3.2 The Gambling Commission issues operators' licences and personal licences. Any operator wishing to provide gambling at certain premises must have applied for the requisite personal licence and operator's licence before they can approach the Council for a premises licence. In this way, the Gambling Commission is able to screen applicants and organisations to ensure they have the correct credentials to operate gambling premises. The Council's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any Codes of Practice issued by the Gambling Commission. The Council also issues various permits and notices to regulate smaller scale and/or ad hoc gambling in other locations such as pubs, clubs and hotels

3.3 The Council does not licence large society lotteries, remote gambling through websites or the National Lottery. These areas fall to the Gambling Commission.

4. Local Risk Assessments

4.1 The Gambling Commission's Licence Conditions and Code of Practice (LCCP) which were revised and published in February 2015 formalised the need for Operators to consider local risks. The LCCP was most recently revised in April 2018

4.2 The Social Responsibility (SR) code requires licensees to assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.

4.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- When applying for a variation of a premises licence
- To take account of significant changes in local circumstances, including those identified in this policy statement
- Where there are significant changes at a licensee's premises that may affect their mitigation of local risks.

4.4 The Council requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise. It must also be kept at each premises that holds a licence with the authority and produced to officers upon request.

4.5 The risk assessment should set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of license conditions are required.

4.6 Where this policy statement sets out its approach to regulation with clear reference to local risks, the licensing authority will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

4.7 An example of a risk assessment is attached at Appendix 1.

4.8 The Council will expect the local risk assessment to include the below considerations as a minimum:

- The location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- The demographics of the area in relation to vulnerable groups;
- Whether the premises is in an area subject to high levels of crime and/or disorder;
- How vulnerable people, including those with gambling dependencies are protected;
- Any information held regarding self-exclusions and incidences of underage gambling;
- Gaming trends that reflect pay day or benefit payments;

- Known problems in the area such as problems arising from street drinkers, individuals involved in areas such as ASB, drug dealing etc
- Areas or premises where children are known to congregate including bus stops, cafes etc;
- Areas or premises that may be frequented by vulnerable adults such as hospitals, residential care homes, medical facilities, addiction clinics, places where alcohol or drug dependant individuals may congregate.

5. Local area profile

5.1 The Licensing Authority will complete an assessment of the local environment as a means of 'mapping out' local areas of concern, which can be reviewed and updated to reflect changes to the local landscape. Such an assessment is known as the local area profile. There is no statutory duty on the Licensing Authority to complete an area profile; however benefits for both the Licensing Authority and Operators would be in having a better awareness of the local area and risks. Importantly, risk in this context includes potential and actual risk, thereby taking into account possible future emerging risks, rather than reflecting current risks only. The Local Area Profile document will be available on the Council's website alongside this Statement of Principles.

5.2 The Borough is the second largest district in Staffordshire and has a population of 126,000. The majority of the population live in the urban centres of Newcastle-under-Lyme and Kidsgrove which are located in close proximity to the City of Stoke-on-Trent and form part of the North Staffordshire Conurbation. The areas around the urban centre to the north, south and west are mainly rural comprising mostly Green Belt and Areas of Special Landscape where new development is restricted and population density is low. A map of the Borough can be found at Appendix 2.

6. Declaration

6.1 This Policy Statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005

6.2 In producing the final Statement of Gambling Policy, the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the Policy Statement.

7. Responsible Authorities

7.1 The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible authorities are able to make representations about licence applications or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants

7.2 The Council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The 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 etc.

7.3 In accordance with the regulations, the Council designates the Staffordshire Safeguarding Children Board for this purpose

7.4 The contact details of all the responsible authorities under the Gambling Act 2005 can be found on the Council's website at www.newcastle-staffs.gov.uk and are listed below:

- The Licensing Authority itself
- The Gambling Commission;
- The chief officer of police/chief constable for the area in which the premises is wholly or partially situated
- The fire and rescue authority for the same area
- The local planning authority;
- An authority with functions in relation to pollution of the environment or harm to human health
- A body designated in writing by the Licensing Authority as competent to advise about the protection of children from harm (see paragraphs 11.3 and 11.4 set out below)
- HM Revenue & Customs; and
- Any other person prescribed in regulations by the Secretary of State.

The Act also provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is to be used for licensable activities.

8. Interested Parties

8.1 Interested parties are certain types of people or organisations that have the right to make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as set out below.

8.2 For the purposes of this part, a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) has business interests that might be affected by the authorised activities, or
- (c) represents persons who satisfy paragraphs (a) or (b).

8.3 The Council is required by regulations to state the principles it will apply to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Local Authorities. Within this framework, the Council will accept representations made on behalf of residents and tenants' associations

- In order to determine if an interested party lives or has business interests sufficiently close to the premises to be likely to be affected by the gambling activities, the Council will consider factors such as the size of the premises and the nature of the activities taking place.

9. Exchange of Information

9.1 Licensing authorities are required to include in their Policy Statement the principles to be applied by the Authority with regard to the exchange of information between it and the Gambling Commission, as well as other persons listed in Schedule 6 to the Act

9.2 The principle that the Council applies is that it will act in accordance with the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection legislation will not be contravened. The Council will also have regard to any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

10. Data Protection

10.1 When an individual or an organisation provides information to the Council, it is held in accordance with the Data Protection legislation. Data provided to the Council is used for processing applications, recording licence holders and for regulatory and enforcement purposes.

10.2 The Council may share data with other departments and partners of the Council and other agencies where required by the licensing/registration procedure and for regulation /enforcement but data will not otherwise be passed on to any other party.

10.3 While certain information may be disclosed under the Freedom of Information Act, some information will be held on a publicly available register, and may be posted onto the Council website; personal data will be protected unless it is also official business data (eg. a trader whose registered business address is also his home).

10.4 The Council has a duty to protect the public funds it administers and to this end, may use the information provided for the prevention and detection of fraud. It may also share information with other bodies responsible for auditing or administering public funds for these purposes, eg. National Fraud Initiative.

10.5 The Council holds and uses data in accordance with Data Protection legislation. Stakeholders should be aware that information provided may be used and shared with other departments and agencies in order to assist in the prevention and detection of crime and to protect public funds.

11. Licensing Authority Functions

11.1 Licensing authorities are responsible under the Act for:

- Licensing premises where gambling activities are to take place by issuing premises licences
- Issuing provisional statements

- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to commercial clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises under the Licensing Act 2003, where more than two machines are required
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices (for tracks)
- Providing information to the Gambling Commission regarding details of licences issued (see section above on information exchange)
- Maintaining registers of the permits and licences that are issued under these functions

11.2 The Council will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operators' licences.

12. Definition of Children and Young Persons

12.1 In this policy "child" means an individual who is less than 16 years old. In this policy "young person" means an individual who is not a child but who is less than 18 years old.

PART B –THE LICENSING OBJECTIVES

13. Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

13.1 The Gambling Commission will take a lead role in keeping gambling crime-free by vetting all applicants for personal and operators' licences. The Council's main role is to try and promote this area with regard to actual premises. So, where an area has known high levels of organised crime the Council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be required such as the provision of door supervision

13.2 There is a distinction between disorder and nuisance. In order to make the distinction when incidents of this nature occur, the Council will consider factors such as whether Police assistance was required and how threatening the behaviour was to those who could see it

13.3 Issues of nuisance cannot be addressed by the Gambling Act provisions. However, problems of this nature can be addressed through other legislation as appropriate.

13.4 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

14. Ensuring that Gambling is conducted in a fair and open way

14.1 The Council is aware that the Gambling Commission does not generally expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

14.2 The Council will however familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other information.

14.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document, and also in Part D which covers permits and notices.

15. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

15.1 This licensing objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children). The Council will therefore consider whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

15.2 Regarding the term 'vulnerable persons', the Council is not seeking to offer a definition but will, for regulatory purposes, assume that this group includes 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 due to mental health needs, learning disability or substance misuse relating to alcohol or drugs. The Council will consider this licensing objective on a case by case basis having regard to any guidance issued by the Gambling Commission. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

15.3 The Council will pay particular attention to any Codes of Practice which the Gambling Commission issues regarding this licensing objective in relation to specific premises

15.4 The Council will promote this objective by publishing information on the Council website about the symptoms of problem gambling and the various support organisations which are available to help problem gamblers. These web pages will be prepared in conjunction with these support agencies

15.5 The Council will also familiarise itself with operator licence conditions related to this objective which may include a requirement for operators to provide information to their customers on how to gamble responsibly and how to access information about problem gambling. The Council will communicate any concerns to the Gambling Commission about any absence of this required information

15.6 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

PART C – PREMISES LICENCES

16. Introduction to Premises Licensing

16.1 The Council will issue premises licences to allow those premises to be used for certain types of gambling. For example, premises licences will be issued to amusement arcades, bingo halls, bookmakers and casinos

16.2 Premises licences will be subject to the provisions set out in the Gambling Act 2005 and regulations as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach other conditions, where it is believed to be necessary and proportionate.

Definition of 'Premises'

16.3 Premises is defined in the Act as 'any place'. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances

16.4 The Council will take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other non-gambling purposes. In particular, the Council will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area

16.5 The Council will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues that the Council will consider before granting such applications include whether children can gain access; compatibility of the two establishments and the ability to comply with the requirements of the Act. In addition, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act

16.6 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to 'the premises' are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued by the Council in relation to premises that are ready to be used for gambling. Whether a premises is finished to a degree that it can be considered for a premises licence will always be a question of fact in the circumstances. Requiring a building to be complete ensures that the Council can, if necessary, inspect it fully, as can other responsible authorities with inspection rights

16.7 Where a premises is not yet built or is about to be altered for the purpose of providing gambling and ultimately a premises licence will be required, the applicant should in the first instance consider making an application for a provisional statement

Location

16.8 The Council is aware that demand issues (e.g. the likely demand or need for gambling facilities in the area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder

16.9 With regard to these objectives, it is the Council's policy, upon receipt of any relevant representations, to look at specific location issues including:

- The proximity of the premises to schools and vulnerable adult centres
- The proximity of the premises to residential areas where there may be a high concentration of families with children
- The size of the premises and the nature of the activities taking place
- Any levels of organised crime in the area.

Such information may be used to inform the decision the Council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application

16.10 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

Duplication with other regulatory regimes

16.11 The Council will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of it. It will listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Conditions

16.12 Any conditions attached to licences will be proportionate and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility
- Directly related to the premises and the type of licence applied for, and/or related to the area where the premises is based
- Fairly and reasonably related to the scale and type of premises and
- Reasonable in all other respects

16.13 Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each of the licence types below. The Council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively

16.14 There are conditions which the Council cannot attach to premises licences which are:

- Any condition on the premises licence which makes it impossible for the applicant to comply with an operating licence condition
- Conditions relating to gaming machine categories, numbers or method of operation
- Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- Conditions in relation to stakes, fees, winnings or prizes.

Door supervision

16.15 The Council will consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It should be noted that the Gambling Act 2005 has amended the Private Security Industry Act 2001 and that door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are required at these premises, it is the operator's responsibility to ensure that any persons employed in this capacity are fit and proper to carry out such duties. Normally door supervisors will only be required in betting offices if there is clear evidence from the history of trading that it is necessary and proportionate. Possible ways to achieve this could be to carry out a criminal records (DBS) check on potential staff and also to ensure that staff members have attended Security Industry recognised training

17. Adult Gaming Centres (AGCs) and Licensed Family Entertainment Centres (LFECs)

17.1 Adult Gaming Centres (AGCs) are a category of premises introduced by the Act that are most closely related to what are commonly known as adult only amusement arcades, seen in many city centres. Licensed Family Entertainment Centres (LFECs) are those premises which usually provide a range of amusements such as computer games and penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.

17.2 Under the Act a premises holding an adult gaming centre licence will be able to make certain numbers of category B, C and D gaming machines available and no-one under 18 will be permitted to enter such premises. LFECs will be able to make available a certain number of category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located.

17.3 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling in the above premises. The Council will expect applicants to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises or in the case of LFECs to the adult only gaming machine areas

17.4 The Council will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes (e.g. PASS schemes)
- The use of Challenge 25 policy
- The use of 'No ID No Entry' policy
- To train staff in the law and challenge people as to their age
- CCTV
- Door supervision
- Supervision of machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The appointment of a single senior named point of contact to assist in compliance.

This list is not mandatory nor exhaustive and is merely indicative of examples

17.5 The Council will refer to the Gambling Commission's website to familiarise itself with any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Council will also make itself aware of any mandatory or default conditions on these premises licences when they have been published.

18. Casinos

18.1 The Gambling Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games whereby casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or bank at different odds to their fellow players

Casino Resolution

18.2 Each local authority is required to publish information in its Statement of Gambling Policy about how the Authority has taken or will take a decision to pass (or not to pass) a casino resolution. A casino resolution is a judgment made by a local authority about whether it will allow any small, large or the regional casino to be located in its authority area. The Council has passed a resolution that there will be no casinos in the Newcastle-under-Lyme town centre.

19. Bingo Premises

19.1 There is no official definition for bingo in the Gambling Act 2005. However, from a licensing point of view there will be a new category of premises licence specifically for bingo premises which will be used by traditional commercial bingo halls for both cash and prize bingo. In addition, they will also be able to provide a limited number of gaming machines in line with the provisions of the Act.

19.2 The Council is aware that it is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted then the Council will ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- Only adults are admitted to the area where the machines are located
- Access to the area where the machines are located is supervised
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder, and
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

20. Betting Premises

20.1 Betting premises are premises such as bookmakers where various types of gambling are authorised to take place. The Act contains a single class of licence for betting premises. However, within this single class there are different types of premises which require licensing

such as normal high street bookmakers, bookmakers located in self-contained facilities at racecourses as well as the general betting premises licences that track operators will require

20.2 Betting machines – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines and the nature and circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises the Council, amongst other things, will take into account the size of the premises, the number of counter positions available for person to person transactions and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

20.3 Tracks

20.4 Tracks are sites where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the ‘totaliser’ or ‘tote’), and also general betting, often known as ‘fixed odds’ betting. Multiple betting outlets are usually located on tracks such as ‘on course’ betting operators who come on to the track just on race days to provide betting for the races taking place on that track. There can also be ‘off course’ betting operators who may operate self-contained facilities at the tracks which offer customers the chance to bet on other events, not just those taking place on the track. All tracks will require an overriding ‘general betting premises licence’ that the track operator will hold

20.5 The Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Council is also aware that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track who will need to hold their own operator licences. The Council will consider the impact upon the protection of children licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter

20.6 Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when racing takes place, although they are still prevented from entering areas where gaming machines (other than Category D machines) are provided

20.7 The Council will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes (e.g. PASS schemes)
- The use of Challenge 25 policy
- The use of ‘No ID No Entry’ policy
- To train staff in the law and challenge people as to their age
- CCTV
- Door supervision
- Supervision of machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The appointment of a single senior named point of contact to assist in compliance.

This list is not mandatory nor exhaustive and is merely indicative of examples.

20.8 Betting machines – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council, amongst other things, will take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people. The Council will also consider the special implications that may arise at a track due to the size of the premises and the possibility that machines may be scattered around the site making it more difficult for the track operator to comply with the law and prevent children from betting on the machines

20.9 The Council agrees with the Commission's view that it is preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This ensures that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises

20.10 Condition on rules being displayed – the Council will consider any Gambling Commission guidance about the application of conditions regarding rules being displayed. The Council may require the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that the rules are displayed in the race card or made available in leaflet form from the track office.

21. Travelling Fairs

21.1 Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit provided that certain conditions are met and this provision continues in similar fashion under the new Act

21.2 Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair (see Appendix 1)

21.3 The Council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair

21.4 The Council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

22. Provisional Statements

22.1 A provisional statement application is a process which allows a developer to examine the likelihood of whether a building which has yet to be constructed or is about to be altered for the purpose of gambling would be granted a premises licence when the building work is complete. A provisional statement is not a licence and merely gives the holder some form of guarantee that a premises licence would be granted so the project can be started. Once works are complete a full premises licence would still be required

22.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage or they reflect a change in the applicant's circumstances. In addition, the Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- a) which could not have been raised by objectors at the provisional licence stage; or
- b) which in the Authority's opinion reflect a change in the operator's circumstances

22.3 When determining a provisional statement application the Council will operate in accordance with the Act and will not have regard to any issues related to planning consent or building regulations, e.g. the likelihood that planning consent will be granted.

PART D – PERMITS, TEMPORARY/OCCASIONAL USE NOTICES AND SMALL SOCIETY LOTTERY REGISTRATIONS

23. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits)

23.1 The term 'Unlicensed Family Entertainment Centre' (uFEC) is one defined in the Act and refers to premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises are 'unlicensed' in that they do not require a premises licence but do require a permit to be able to provide category D machines. It should not be confused with a 'Licensed Family Entertainment Centre' which does require a premises licence because it contains both category C and D gaming machines

23.2 The Gambling Act 2005 contains a provision for local authorities to prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, paragraph 7 of the Act states: "In preparing this Statement and/or considering applications, it [the Council] need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25"

23.3 In accordance with Gambling Commission guidance, the Council will give weight to child protection issues when considering applications for permits

23.4 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The Council will assess these policies and procedures on their merits. However, they may include appropriate measures/training for staff regarding suspected truant schoolchildren on the premises, measures/training covering how staff would deal with unsupervised children being on the premises, or children causing problems on or around the premises. The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs, that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act), and that staff are trained to have a full understanding of the maximum stakes and prizes

23.5 The Council is aware that an application for a permit may only be granted if the Chief Officer of Police has been consulted on the application

23.6 In line with the Act the Council cannot attach conditions to this type of permit and the statement of principles only applies to initial applications and not to renewals.

24. Gaming Machine Permits in premises licensed for the sale of alcohol

24.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines of categories C and/or D. The premises merely need to notify the Council. The Council can remove the automatic authorisation in respect of any particular premises 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 Section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant Code of Practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

24.2 If a premises wishes to have more than two machines, then it needs to apply for a permit and the Council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under Section 25 of the Gambling Act 2005, and 'such matters as it thinks relevant'. The Council considers that 'such matters' will be decided on a case by case basis, but generally regard will be had to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will also expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines

24.3 Measures which may satisfy the Council that there will be no access could include the adult machines being situated in close proximity to the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18 years of age. Notices and signage may also help. Regarding the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

24.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be dealt with under the relevant provisions of the Act

24.5 The Council can decide to grant the application with a smaller number of machines and/or a different category of machines from that applied for. Conditions (other than these) cannot be attached

24.6 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine

25. Prize Gaming Permits – Statement of Principles on Permits

25.1 The Council will expect the applicant to set out the types of gaming that he or she is intending to offer and be able to demonstrate:

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

25.2 In making its decision on an application for prize gaming permits, the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance

25.3 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but the Council cannot attach conditions. The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated, and the result of the game must be made public in the premises on the day that it is played
- The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- Participation in the gaming must not entitle the player to take part in any other gambling.

26. Club Gaming and Club Machines Permits

26.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club gaming machines permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A club gaming machine permit will enable the premises to provide gaming machines (three machines of categories B, C or D)

26.2 To qualify for these special club permits, a members' club must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include workingmen's clubs, branches of the Royal British Legion and clubs with political affiliations

26.3 Before granting the permit, the Council will need to satisfy itself that the premises meet the requirements of a members' club and that the majority of members are over 18 years of age

26.4 The Council may 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 they have 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; or
- e) an objection has been lodged by the Gambling Commission or the Police.

27. Temporary Use Notices

27.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be useful for a temporary use notice would include hotels, conference centres and sporting venues

27.2 The Act makes a special reference, in the context of temporary use notices, to a 'set of premises' to try and ensure that large premises which cannot reasonably be reviewed as separate are not used for more temporary use notices than permitted under the Act. The Council considers that the determination of what constitutes a 'set of premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a 'set of premises', the Council will look at, amongst other things, the ownership/occupation and control of the premises. The Council will be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

28. Occasional Use Notices (for Tracks)

28.1 There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice

28.2 The Council has very little discretion regarding these notices apart from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Council will however consider the definition of a 'track' and whether the applicant is entitled to benefit from such notice.

29. Small Society Lottery Registrations

29.1 The Act creates two principal classes of lotteries - licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries, there are four sub classes, one of which is small society lotteries

29.2 A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These may be administered by the Council for small societies who have a principal office in the area and wish to run such a lottery

29.3 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less

29.4 To be 'non-commercial', a society must be established and conducted:

- For charitable purposes
- For the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than that of private gain.

29.5 The other types of exempt lotteries are 'incidental non-commercial lotteries', 'private lotteries' and 'customer lotteries'

PART E – ENFORCEMENT

30. Enforcement Principles

30.1 The Council will work closely with the responsible authorities in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following Government guidance around better regulation

30.2 In carrying out its enforcement duties with regard to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council will try to be:

Proportionate:

Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised

Accountable:

Regulators must be able to justify decisions, and be subject to public scrutiny

Consistent:

Rules and standards must be joined up and implemented fairly

Transparent:

Regulators should be open and keep regulations simple and user friendly

Targeted:

Regulation should be focused on the problem and minimise side effects

30.3 The Council will endeavour to avoid duplication with other regulatory regimes as far as possible

30.4 The Council has adopted a risk-based inspection programme for Gambling premises

30.5 The main enforcement and compliance role for the Council 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. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission. In circumstances where the Council believes a premises requires a premises licence for gambling activities and no such licence is in force, the Council will notify the Gambling Commission

30.6 The Council's enforcement policy is available at: <https://www.newcastle-staffs.gov.uk/all-services/your-council/policies-and-strategies-z/corporate-enforcement-policy>

31. Reviews

31.1 A review is a process defined in the legislation which ultimately leads to a licence being reassessed by the Licensing Committee with the possibility that the licence may be revoked or suspended or that conditions may be amended or new conditions added

31.2 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the Council to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives; and
- In accordance with this Authority's Statement of Gambling Policy.

In addition the Council may also reject the application on the grounds that the request is frivolous, vexatious, will not cause the Authority to wish to alter, revoke or suspend the licence, or is substantially the same as previous representations or requests for review

31.3 The Council can also initiate a review of a licence on the basis of any reason which it thinks appropriate.

APPENDIX 1 - Licensing Authority’s Guidance to Operators with Regards to Local Area Risk Assessments - SAMPLE

Premises Name:	Premises Licence Number (If Applicable):
Premises Address:	
Post Code:	
Category of gambling premises licence:	
Name of person completing the assessment:	
Date original assessment carried out:	

This risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

Complete **a) - c)** with areas that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises having regard to Local Area, Gambling Operation and premises design.

a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

b) Ensuring that gambling is conducted in a fair and open way

c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

d) Control measures (based on the information above for a) – c), state the control measures you will put in place, e.g. systems, design and physical)

Describe the steps you intend to take to promote the three licensing objectives:

ACTIONS FOLLOWING ASSESSMENT

AREA e.g local area, gambling premises design	PERSON/DEPT TASKED	DATE TASKED	DATE TASK COMPLETED

Signed:	Date:
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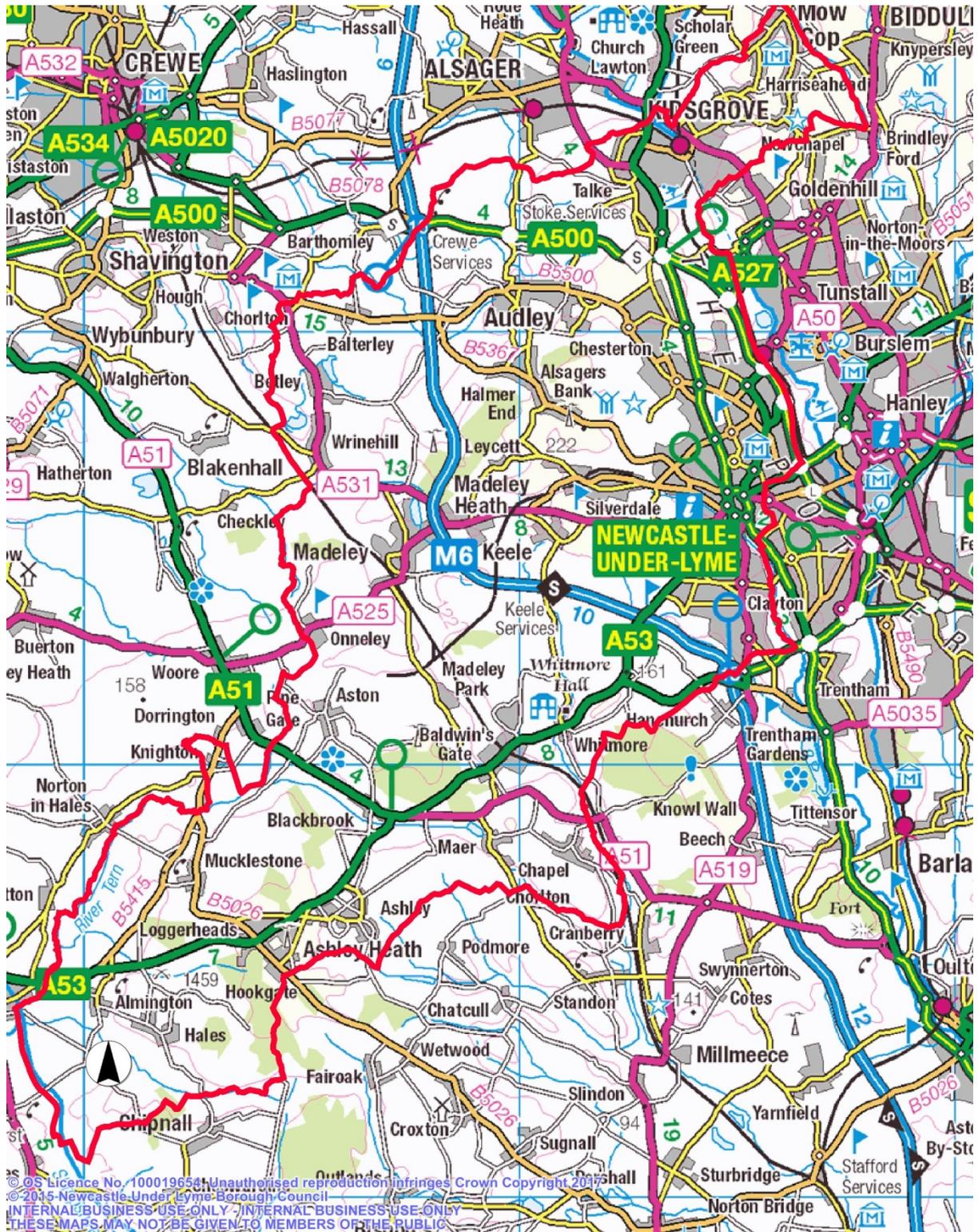
PRINT NAME:

For further guidance on completing this assessment or when this assessment must be reviewed please refer to Gambling Commission Guidance on Undertaking Gambling Local Area Risk Assessments para 6.41-6.46:

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

APPENDIX 2

MAP OF NEWCASTLE-UNDER-LYME BOROUGH



FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2019-20

Submitted by: Head of Environmental Health

Portfolio: Finance & Resources

Ward(s) affected: ALL

Purpose of the Report

For Members to consider the fees to be charged in relation to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues.

Recommendations

That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues for 2019/2020.

Reasons

Decisions relating to the setting of non-statutory fees and charges for licensing have been delegated from Council to Licensing Committee.

1. Background

- 1.1 The approval of certain fees and charges relating to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues licensing regimes are Council functions.
- 1.2 Council at their meeting on 22nd February 2017 delegated this function to Licensing Committee.

Gambling:

- 1.3 The Gambling Act 2005 allows Licensing Authorities to set their own fees for premises licenses, subject to maximum levels which have been specified by Central Government.
- 1.4 The Councils Gambling Policy was recently widely consulted upon between August and October 2018 and the updated policy will be implemented in January 2019, pending approval from the Licensing Committee and Full Council.

Sexual Entertainment Venues:

- 1.5 The Local Government (Miscellaneous Provisions) Act 1982 ('the Act') introduced a licensing regime to control sex establishments. The Council adopted schedule 3 of the Act on the 31st March 2010 and the schedule took effect on the 3rd August 2010. This means the Council can control and regulate the operation of certain kinds of sex establishments within its area. No sex establishment can operate unless it has obtained a licence from the Council. Any licence may contain conditions that will restrict how that sex establishment may trade.
- 1.6 The setting of fees for the licensing of sex establishment remains with the Local Authority. The licence is for a one year period.

Scrap Metal Dealers:

1.7 The Scrap Metal Dealers Act 2013 ('the SMDA13') introduced a licensing regime to control Scrap Metal Dealers, replacing the registration scheme used previously. The SMDA13 allows Licensing Authorities to set their own fees for both Site and Collectors licences.

2. Issues

2.1 The European Services Directive states (Art 12.2):

“Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures”

The Directive includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme.

Councils must not use fees covered by the Directive to make a profit or act as an economic deterrent to deter certain business types from operating within an area.

2.2 Guidance for Local Authorities on the Provision of Service Regulations States (2nd Edition June 2009 Para 12d):

“Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should the service provider feel that the level of fees are being used as an economic deterrent or to raise funds for local authorities Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.”

2.3 All proposed license fees and charges are detailed in table below:

Licences:	2018/19 fees	2019/20 fees	Difference
General			
Sex establishments - application fee	3,000.00	3,100.00	3%
Sex establishments - Renewal	3,000.00	3,100.00	3%
Sex establishments - variation	1,000.00	1,050.00	5%
Sex establishments – transfer	1,000.00	1,050.00	5%
Scrap metal dealer site licence	265.00	265.00	2%
Scrap metal dealer collectors licence	210.00	210.00	2%
Gambling Act 2005			
Lotteries - application fee	40.00	40.00	All Frozen or Set by Statute unless stated otherwise
Lotteries - annual fee	20.00	20.00	
Bingo - application fee	3,500.00	3,500.00	NEW
Bingo - annual fee	1,000.00	1,000.00	
Bingo - application to vary	1,750.00	1,750.00	
Bingo – application for transfer	1,200.00	1,200.00	
Bingo – application to reinstate	NEW	1,200.00	
Track betting - application fee	2,500.00	2,500.00	
Track betting - annual fee	1,000.00	1,000.00	

Track betting - application to vary	1,250.00	1,250.00	
Track betting - application to transfer	920.00	950.00	3%
Track betting – application to reinstate	NEW	950.00	NEW
Betting premises - application fee	3,000.00	3,000.00	
Betting premises - annual fee	600.00	600.00	
Betting premises - application to vary	1,500.00	1,500.00	
Betting premises - application to transfer	1,200.00	1,200.00	
Betting premises – application to reinstate	NEW	1,200.00	
Family entertainment centre - application fee	2,000.00	2,000.00	
Family entertainment centre - annual fee	750.00	750.00	NEW
Family entertainment centre - application to vary	1,000.00	1,000.00	
Family entertainment centre - application to transfer	950.00	950.00	
Family entertainment centre – application to reinstate	NEW	950.00	
Adult gaming centre - application fee	2,000.00	2,000.00	
Adult gaming centre - annual fee	1,000.00	1,000.00	NEW
Adult gaming centre - application to vary	1,000.00	1,000.00	
Adult gaming centre - application to transfer	1,200.00	1,200.00	
Adult gaming centre – application to reinstate	NEW	1,200.00	
Copy of any of the above licences (lost, stolen, damaged)	25.00	25.00	NEW
Notice of Intention – 2 or less gaming machines	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines	150.00	150.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Variation	100.00	100.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Transfer	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Annual Fee	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Change of Name	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Copy (lost, stolen, damaged)	15.00	15.00	
Club Gaming/Club Machine Permits – New/Renew	200.00	200.00	
Club Gaming/Club Machine Permits for holders of Club Premises Certificates (under LA03) – New/Renew	100.00	100.00	
Club Gaming/Club Machine Permit – Annual Fee	50.00	50.00	
Club Gaming/Club Machine Permit – Variation	100.00	100.00	
Club Gaming/Club Machine Permit – Copy (lost, stolen, damaged)	15.00	15.00	
UFEC (Unlicensed family entertainment Centre – 10 year licence)	300.00	300.00	

Commented [MB1]: Removed as duplicated below. They also appear twice in F&C spreadsheet

Prize Gaming Permit – New/Renewal	300.00	300.00	
Prize Gaming Permit – Change of Name	25.00	25.00	
Prize Gaming Permit – Copy (lost, stolen, damaged)	15.00	15.00	
Temporary Use Notice (TUN)	125.00	125.00	
Casino Small – New application	6,000.00	6,300.00	
Casino Small – Annual Fee	3,000.00	3,150.00	
Casino Small - Variation	2,000.00	2,100.00	
Casino Small – Application for Transfer	1,300.00	1,350.00	5%
			5%
			5%
			4%

3. **Proposal**

- 3.1 That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venue Licensing for 2019/2020.

4. **Reasons for Preferred Solution**

- 4.1 The fees can be used to cover the cost of the following:

Administration – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

Initial visit/s – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include ‘on-costs’ in this calculation. Councils will need to consider whether ‘on-costs’ include travel costs and management time.

Third party costs – Some licensing processes will require third party input from experts,

Liaison with interested parties – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

Management costs – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the ‘on-costs’ attached to officer time referenced below.

Local democracy costs – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – The cost of consultation and publishing policies can be fully recovered.

Web material – The EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

Advice and guidance – This includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

5. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

5.1 The proposals relate to the adoption of fees and charges which would contribute to the following:

A Healthy, Active and Safe Borough

- The negative impacts that the Council, residents and local businesses have on the environment will be reduced.

Growing our People and Places

- Fair, proportionate and consistent fees create an equal opportunity for business to thrive.

Local Services that Work for Local People

- High performing services and support will be delivered for businesses and customers.

6. Legal and Statutory Implications

6.1 **Hemming v Westminster**

The degree to which fees and processes are proportionate has been tested in a legal challenge brought against the fee charged by Westminster City Council for licensing sex establishments. The case established a number of key points about setting fees under the Services Directive.

In Hemming v Westminster, the Court of Appeal ruled that the fees set must not exceed the costs of administering the licensing regime. This means the council was no longer able to include the cost of enforcement against unlicensed sex establishment operators when setting the licence fee, although the cost of visits to licensed premises to monitor compliance could be recovered through fees.

The judgement found that the annual reviews conducted by an officer of Westminster City Council were no substitute for determinations by the council. The judge rejected the council's submission that the fee had been fixed on an open-ended basis in 2004 so that the fee rolled over from one year to the next. Westminster City Council was consequently ordered to repay fees charged over that period.

Annual reviews allow for the fine tuning of fees and allow councils to take steps to avoid either a surplus or deficit in future years. This will not immediately benefit licence holders where the licence has been granted for a number of years and paid for in a lump sum, but will ensure new entrants to the licensing scheme are charged appropriately.

Where fees charged result in a surplus, Hemming v Westminster stated that this surplus must be used to reduce the fees charged in the following year. It is possible to extend the reinvestment of the surplus over more than one year, but this will need careful consideration about whether contributors may leave the licensing system over that period and therefore lose out on the return. Deficits can similarly be recovered, although where there is a significant deficit, councils may want to consider how recovery can be undertaken over more than one year so as not to financially harm otherwise viable businesses.

The case of R v Tower Hamlets LBC (1994) may also be of relevance, as the High Court indicated that “a council has a duty to administer its funds so as to protect the interests of what is now the body of council tax payers”.

7. **Financial and Resource Implications**

- 7.1 Should a challenge be made in relation to the fee level as detailed in the Hemming v Westminster there could be detrimental financial implications for the Council

8. **Major Risks**

- 8.1 As detailed under Legal and Statutory Implications

9. **Earlier Council/Committee Resolutions**

- 9.1 The Council adopted schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 on 31st March 2010 which came into effect on 3rd August 2011.

- 9.2 Council delegated the function of setting fees and charges to Licensing Committee on 22nd February 2017.

10. **Recommendations**

- 10.1 That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues for 2019/20

11. **Background Papers**

LGA Guidance on Local Fee Setting

PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2019/2020

Submitted by: **Head of Environmental Health Services**

Portfolio: **Finance, IT & Customer**

Ward(s) affected: **All**

Purpose of the Report

To request the Public Protection Committee to consider the proposed taxi and private hire fees prior to consultation, as referred to in the report.

Recommendations

- a) That the Public Protection Committee considers the proposed fees.
- b) That the proposed fees be sent out for consultation.
- c) That following consultation a further report is brought to Committee.

Reasons

The setting of Private Hire and Hackney carriage fees is a Council function

1. Background

1.1 The Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Operator and Vehicle licence fees:

(1) Subject to the provisions of subsection (2), a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:

- (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
- (b) the reasonable cost of providing hackney carriage stands; and
- (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

- (a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;
 - (b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds;
- and
- (c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

- 1.2 The Deregulation Act 2015 amended the Local Government (Miscellaneous Provisions) Act 1976 in relation to the duration of licences for hackney carriage and private hire drivers and private hire operators.

Section 10, subsection 2 of the Deregulation Act 2015 changed the law in such a way as to establish a standard duration of three years for hackney carriage and private hire driver licences. The section specifies that a licence may be granted for a period of less than three year but only in circumstances of an individual case, not because of a blanket policy.

Subsection 3 of the Act changed the law in such a way as to establish a standard duration of five years for a private hire vehicle operator licence. The section specifies that a licence may be granted for a period of less than five years but only in the circumstances of an individual case, not because of blanket policy.

2. **Proposal:**

- 2.1 The proposed fees and charges for 2019-20 are:

Private Hire/Hackney Carriage (subject to consultation)	Fee/Charge 2018-19 (£)	Proposed Fee/Charge 2019-20 (£)	Difference (£)
OPERATORS			
Private hire operators 5 year licence			
1 vehicle	180.00	187.00	7.00
2-5 vehicles	365.00	380.00	15.00

6-15 vehicles	640.00	665.00	25.00
16-25 vehicles	1,710.00	1,780.00	70.00
26-35 vehicles	2,750.00	2,850.00	100.00
36-50 vehicles	3,810.00	3,950.00	140.00
Additional vehicle after 50 vehicles	23.00	24.00	1.00
DRIVERS			
Dual Driver Badge (Hackney Carriage and Private Hire) 3 years	240.00	250.00	10.00
Change of Address	20.00	21.00	1.00
Replacement badge	16.00	17.00	1.00
Reissue/Replacement badge (with amended details)	35.00	36.50	1.50
DBS (CRB check)	44.00	44.00	0.00
DBS (CRB (online))	58.00	64.50	6.50
Safeguarding Training	35.00	36.50	1.50
Exemption Certificates	25.00	26.00	1.00
Knowledge Test	45.00	45.00	0.00
Replacement Safeguarding training certificate (NEW)	N/A	5.00	0.00
VEHICLES			
Hackney carriage - vehicles	310.00	322.00	12.00
Private hire – vehicles	305.00	317.00	12.00
Transfer of vehicle	45.00	47.00	2.00
Change of Vehicle Registration	45.00	47.00	2.00
Failure to attend for vehicle test	110.00	114.00	4.00
Retest	40.00	41.50	1.50
Replacement plate carrier - front	10.00	10.00	0.00
Replacement plate carrier - rear	15.00	15.00	0.00
Replacement Vehicle plate - Front	10.00	10.50	0.50
Replacement Vehicle plate - Rear	15.00	15.50	0.50
Replacement Vehicle Signage (each)	3.00	3.00	0.00
Copy of paper part of licence	11.00	11.50	0.50
Exception Vehicle Test	70.00	73.00	3.00
6 Monthly Test following an Exception Test	120.00	125.00	5.00

2.2 It is recommended that a new fee is introduced for issuing a replacement Safeguarding training certificate. Since the training was introduced the Council have received a significant

number of requests to issue a replacement certificate and currently there is no recourse to make a charge for this.

3. **Recommendation**

- 3.1 a) That the Public Protection Committee considers the proposed fees.
b) That the proposed fees be sent out for consultation.
c) That following consultation a further report is brought to Committee

4. **Financial and Resource Implications**

- 4.1 The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, section 70
4.2 There will be financial implications for the Council if full cost recovery is not achieved.

5. **Links to Corporate Priorities**

- 5.1 In line with the Council's objectives –
a) Local services that work for local people.
b) Growing our people and places.
c) A healthy, active and safe borough

6. **Risks**

- 6.1 The Council will be open to challenge in the High Court should the calculation of the fees and areas charged for prove to be contrary to the Act.
6.2 Judicial Review of a decision may be made on the following grounds:
• Ultra vires – no power to levy a particular fee, or fees used to raise revenue unlawfully, or
• Wednesbury rules – decision was unreasonable or irrational

PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2019/2020

Submitted by: Head of Environmental Health Services

Portfolio: Finance, IT & Customer

Ward(s) affected: All

Purpose of the Report

To request the Public Protection Committee to consider the proposed taxi and private hire fees prior to consultation, as referred to in the report.

Recommendations

- a) That the Public Protection Committee considers the proposed fees.
- b) That the proposed fees be sent out for consultation.
- c) That following consultation a further report is brought to Committee.

Reasons

The setting of Private Hire and Hackney carriage fees is a Council function

1. Background

1.1 The Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Operator and Vehicle licence fees:

(1) Subject to the provisions of subsection (2), a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:

- (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
- (b) the reasonable cost of providing hackney carriage stands; and
- (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

- (a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;
 - (b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds;
- and
- (c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

- 1.2 The Deregulation Act 2015 amended the Local Government (Miscellaneous Provisions) Act 1976 in relation to the duration of licences for hackney carriage and private hire drivers and private hire operators.

Section 10, subsection 2 of the Deregulation Act 2015 changed the law in such a way as to establish a standard duration of three years for hackney carriage and private hire driver licences. The section specifies that a licence may be granted for a period of less than three year but only in circumstances of an individual case, not because of a blanket policy.

Subsection 3 of the Act changed the law in such a way as to establish a standard duration of five years for a private hire vehicle operator licence. The section specifies that a licence may be granted for a period of less than five years but only in the circumstances of an individual case, not because of blanket policy.

2. **Proposal:**

- 2.1 The proposed fees and charges for 2019-20 are:

Private Hire/Hackney Carriage (subject to consultation)	Fee/Charge 2018-19 (£)	Proposed Fee/Charge 2019-20 (£)	Difference (£)
OPERATORS			
Private hire operators 5 year licence			
1 vehicle	180.00	187.00	7.00
2-5 vehicles	365.00	380.00	15.00

6-15 vehicles	640.00	665.00	25.00
16-25 vehicles	1,710.00	1,780.00	70.00
26-35 vehicles	2,750.00	2,850.00	100.00
36-50 vehicles	3,810.00	3,950.00	140.00
Additional vehicle after 50 vehicles	23.00	24.00	1.00
DRIVERS			
Dual Driver Badge (Hackney Carriage and Private Hire) 3 years	240.00	250.00	10.00
Change of Address	20.00	21.00	1.00
Replacement badge	16.00	17.00	1.00
Reissue/Replacement badge (with amended details)	35.00	36.50	1.50
DBS (CRB check)	44.00	44.00	0.00
DBS (CRB (online))	58.00	64.50	6.50
Safeguarding Training	35.00	36.50	1.50
Exemption Certificates	25.00	26.00	1.00
Knowledge Test	45.00	45.00	0.00
Replacement Safeguarding training certificate (NEW)	N/A	5.00	0.00
VEHICLES			
Hackney carriage - vehicles	310.00	322.00	12.00
Private hire – vehicles	305.00	317.00	12.00
Transfer of vehicle	45.00	47.00	2.00
Change of Vehicle Registration	45.00	47.00	2.00
Failure to attend for vehicle test	110.00	114.00	4.00
Retest	40.00	41.50	1.50
Replacement plate carrier - front	10.00	10.00	0.00
Replacement plate carrier - rear	15.00	15.00	0.00
Replacement Vehicle plate - Front	10.00	10.50	0.50
Replacement Vehicle plate - Rear	15.00	15.50	0.50
Replacement Vehicle Signage (each)	3.00	3.00	0.00
Copy of paper part of licence	11.00	11.50	0.50
Exception Vehicle Test	70.00	73.00	3.00
6 Monthly Test following an Exception Test	120.00	125.00	5.00

2.2 It is recommended that a new fee is introduced for issuing a replacement Safeguarding training certificate. Since the training was introduced the Council have received a significant

number of requests to issue a replacement certificate and currently there is no recourse to make a charge for this.

3. **Recommendation**

- 3.1 a) That the Public Protection Committee considers the proposed fees.
b) That the proposed fees be sent out for consultation.
c) That following consultation a further report is brought to Committee

4. **Financial and Resource Implications**

- 4.1 The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, section 70
4.2 There will be financial implications for the Council if full cost recovery is not achieved.

5. **Links to Corporate Priorities**

- 5.1 In line with the Council's objectives –
a) Local services that work for local people.
b) Growing our people and places.
c) A healthy, active and safe borough

6. **Risks**

- 6.1 The Council will be open to challenge in the High Court should the calculation of the fees and areas charged for prove to be contrary to the Act.
6.2 Judicial Review of a decision may be made on the following grounds:
• Ultra vires – no power to levy a particular fee, or fees used to raise revenue unlawfully, or
• Wednesbury rules – decision was unreasonable or irrational

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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