

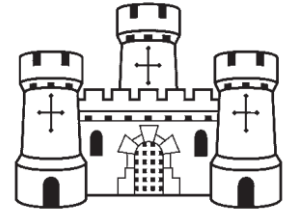
Public Document Pack

Date of meeting Tuesday, 2nd November, 2021

Time 7.00 pm

Venue Astley Room - Castle

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

PART 1 - LICENSING

1 APOLOGIES

2 DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS

To receive declarations of interest from Members on items contained within the agenda

3 MINUTES OF PREVIOUS MEETING (Pages 5 - 8)

4 GAMBLING ACT 2005 - REVIEW OF STATEMENT OF LICENSING PRINCIPLES (GAMBLING POLICY) (Pages 9 - 40)

5 FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2022-23 (Pages 41 - 48)

PART 2 - PUBLIC PROTECTION (OPEN)

6 DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS

To receive declarations of interest from Members on items contained within the agenda

7 PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2022/2023 (Pages 49 - 56)

PART 3 - PUBLIC PROTECTION (CLOSED)

8 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.

9 MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS (Pages 57 - 62)

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

10 URGENT BUSINESS

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

Members: Councillors Simon White (Chair), Graham Hutton (Vice-Chair), Sylvia Dymond, Dave Jones, Tony Kearon, Mark Olszewski, Gillian Williams, John Williams, Ruth Wright, John Cooper, Andrew Parker, Stephen Sweeney, Gill Heesom, Jill Waring and June Walklate

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.

SUBSTITUTE MEMBER SCHEME (Appendix 9, Section 4 of Constitution)

The Constitution provides for the appointment of Substitute members to attend Committees. The named Substitutes for this meeting are listed below:-

Substitute Members:	Julie Cooper	Gary White
	Trevor Johnson	Marion Reddish
	John Tagg	Sue Moffat
	Paul Northcott	Silvia Burgess
	Ian Wilkes	

If you are unable to attend this meeting and wish to appoint a Substitute to attend in your place you need to:

- Identify a Substitute member from the list above who is able to attend on your behalf
- Notify the Chairman of the Committee (at least 24 hours before the meeting is due to take place) NB Only 2 Substitutes per political group are allowed for each meeting and your Chairman will advise you on whether that number has been reached

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.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

LICENSING & PUBLIC PROTECTION COMMITTEE

Tuesday, 27th July, 2021
Time of Commencement: 7.00 pm

Present: Councillor Graham Hutton (Chair)

Councillors:	Tony Kearon	John Cooper	Jill Waring
	Gillian Williams	Andrew Parker	June Walklate
	John Williams	Stephen Sweeney	Sue Moffat
	Ruth Wright	Gill Heesom	

Officers:	Geoff Durham	Mayor's Secretary / Member Support Officer
	Nesta Barker	Head of Environmental Health Services
	Daniel Dickinson	Head of Legal & Governance /Monitoring Officer

Also in attendance:

1. **APOLOGIES**

Apologies were received from Councillors Sylvia Dymond, Mark Olszewski and Simon White.

2. **DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS**

There were no declarations of interest stated.

3. **MINUTES OF PREVIOUS MEETING**

Resolved: That the Minutes of the meeting held on 16 March, 2021 be agreed as a correct record.

4. **BUSINESS AND PLANNING ACT 2020 UPDATE**

Consideration was given to a report informing members of updates that were planned for the Business and Planning Act, 2020 relating to the relaxations in respect of pavement licences, alcohol off-sales and the temporary increase in Temporary Event Notice limits for 2022 and 2023.

The Head of Environmental Health Services, Nesta Barker introduced the report drew Members' attention to paragraphs 1 and 2 of the report which outlined the provisions of the Act and issues relating to the relaxations.

Resolved: (i) That the proposed amendments to the Business and Planning Act, 2020 and the contents of the Regulations be noted.

(ii) That it be noted that, if Regulations be passed, then all

Pavement Licences be granted to expire on 30 September, 2022.

5. GAMBLING ACT 2005 - REVIEW OF STATEMENT OF LICENSING PRINCIPLES (GAMBLING POLICY)

Consideration was given to a report seeking Members' agreement on the consultation process for the Council's Gambling Policy.

Nesta Barker introduced the report, drawing Members' attention to some minor amendments to the Gambling Policy which were outlined at paragraph 2.2 of the report. Members' attention was also drawn to the timetable outlined at paragraph 5.2 of the report. A copy of the Act was appended to the report.

The Chair stated that the consultation needed to be carried out as soon as possible to ensure that the Council was within its legal limits for publication in due time.

- Resolved:**
- (i) That the report be received.
 - (ii) That the draft Gambling Policy for Newcastle-under-Lyme be approved.
 - (iii) That the commencement of the 6 week consultation be approved.
 - (iv) That any responses received to the consultation be considered by the Committee at the meeting to be held on 2nd November 2021 and that recommendations of this Committee to be included in the final report to Full Council
 - (v) That the updated Policy be presented for approval to Full Council at its meeting on 17th November 2021.

6. FOOD SAFETY SERVICE PLAN 2021-22

Consideration was given to a report advising Members on work planned by the Council's Food and Safety Team on 2021/22 and a review of last year's performance.

Nesta Barker introduced the report advising that a copy of the Service Plan for 2021/22 was appended, which outlined the work in the current year. Members were advised that, as seen within the report, last years' performance was significantly lower than previous years and that had been due to the Coronavirus pandemic. Many of the premises that the Council inspect were closed and officers that would usually undertake routine food inspections and food safety work were diverted to undertake Covid related work. Therefore this year there was a significant backlog of work to catch up on.

The Chair made reference to the National Food Hygiene Rating Scheme on page 55 of the agenda which showed the number of premises rated from 'Very Good' down to 'Urgent Improvement Necessary'. The Chair asked if a list was published of the 914 premises to allow people to identify the ones needing improvement.

Nesta Barker confirmed that they were all published on a Website at food.gov.uk and either search by the name of the premises or by rating and the Borough Council.

Councillor Parker asked if inspections were done through random spot checks or were they carried out after a number of complaints had been received.

Nesta Barker advised that routine inspections were typically done unannounced although procedures had been modified slightly in light of Covid as the Council needed to undertake its own risk assessment to ensure that officers were operating in a correct way. Members' attention was drawn to paragraph 3.1 on page 54 of the agenda which showed the risk band and the number of inspections. Visits were not announced unless there was a particular reason to do so and went on the basis of what was found during a previous visit. If a lot of complaints were received on a premises then that would be investigated separately.

Councillor Parker enquired whether, for a higher risk premises, visits would be more frequent.

Nesta Barker confirmed this stating that it was a risk based inspection programme

Resolved: That the report be received and the Food Safety Service Plan for 2021/22 be endorsed.

7. DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS

There were no declarations of interest stated.

8. PUBLIC PROTECTION SUB-COMMITTEE ARRANGEMENTS

Consideration was given to a report seeking approval of the Public Protection Sub-Committee arrangements.

Members' attention was drawn to the table at paragraph 2.4 which set out the rota to 30 March, 2022.

The table had been amended following concerns at the previous meeting from Members who were unable to attend the daytime or evening slots scheduled for them.

Resolved:

- (i) That the report be received and the date and time that Members' proposed attendance at subcommittee is necessary, be noted.
- (ii) That, should Members be unable to attend the sub-committee that they notify Democratic Services of an available substitute.

9. DISCLOSURE OF EXEMPT INFORMATION

Resolved:- That the public be excluded from the meeting during consideration if the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs 1,2 and 7 contained within Part 1 of Schedule 12A of the Local Government Act, 1972

10. **MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS**

Resolved: That the Minutes of the meetings held on 24 March, 2021, 13 April, 2021, 5 May, 2021, 26 May, 2021, 16 June, 2021 and 14 July, 2021 be received.

11. **URGENT BUSINESS**

There was no urgent business.

CLLR GRAHAM HUTTON
Chair

Meeting concluded at 7.14 pm

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S

REPORT TO

Licensing and Public Protection Committee

02 November 2021

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

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

Portfolio: Finance, Town Centre & Growth

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 17th November 2021.

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 17th November 2021.

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 27th July 2021 the Committee determined to approve a 6 week consultation period for the Council's draft Gambling Policy.
- 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 17th September 2021 and the Council received one response which is attached at **Appendix A**. The response was from:
- The Company Secretary of charity Gamble Aware.
- 1.4 The Company Secretary stated that they did not have the resource to offer any specific feedback however provided information on their recently published interactive map tools that show the prevalence of problem gambling severity and reported demand for treatment and support for gambling harms in each local authority and ward area.
- 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 2022 and in force by 31st January 2022 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 17th November 2021 for approval, and subsequent implementation in January 2022 in line with the timetable at 3.2 of the report.
- 2.2 Due to the lack of responses the policy proposed for implementation is the same as the draft document consulted upon during the summer.

3. **Options Considered**

- 3.1 The Council have a statutory duty to 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**

2 nd November 2021	Meeting of Licensing Committee to discuss response to the consultation and amend Policy as required. Approval is given to send to Full Council for agreement
17 th November 2021	Proposed Policy to be considered by Full Council
December 2021 (or in any case before 3 rd January 2022)	Publish the Policy
January 2022 (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 17th November 2021 in order that the Policy is published prior to 3rd January 2022.

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 2019, 2016, 2013, 2010, 2007

9. Background Papers

- 9.1 The Council Gambling Policy 2019-2022

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Matthew Burton

From: Info <info@gambleaware.org>
Sent: 06 August 2021 14:52
To: Matthew Burton
Subject: RE: Gambling Act 2005 Policy Consultation

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.

Information - This external email has been identified as fulfilling the necessary security standard for PSN compliance.

Dear Matt,

Thank you for consulting us on your draft Statement of Principles under the Gambling Act 2005.

Due to resource constraints on a small charity, we are not able to offer specific feedback on your policy. However, you may find GambleAware's recently published [interactive maps](#) useful, which have been designed for use by local authorities. The maps show the prevalence of problem gambling severity in each local authority and ward area as well as usage of, and reported demand for, treatment and support for gambling harms.

GambleAware also strongly commends two publications by the Local Government Association which set out the range of options available to local authorities to deal with gambling-related harms using existing powers:

- <https://www.local.gov.uk/tackling-gambling-related-harm-whole-council-approach>
- <https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales>

GambleAware is also fully supportive of local authorities which conduct an analysis to identify areas with increased levels of risk for any reason. In particular we support those who also include additional licence requirements to mitigate the increased level of risk. Areas where there are higher than average resident or visiting populations from groups we know to be vulnerable to gambling harms include children, the unemployed, the homeless, certain ethnic-minorities, lower socio-economic groups, those attending mental health (including gambling disorders) or substance addiction treatment services.

Finally, GambleAware is a leading commissioner of prevention and treatment services for gambling harms. It provides these functions across England, Scotland and Wales and its work is underpinned by high quality research, data and evaluation. We encourage all local authorities to signpost people to the **National Gambling Helpline on 0808 8020 133** and also www.begambleaware.org. Both are part of the **National Gambling Treatment Service** and offer free, confidential advice and support for those who may need it.

Best regards,
Natalie

Natalie Simpson
Company Secretary

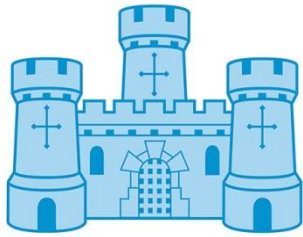
GambleAware®

Phone +44 (0) 20 7287 1994 - *note that we are currently remote working so please contact us by email*

Email natalie.simpson@gambleaware.org

Website begambleaware.org

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NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

Gambling Act 2005

Statement of Licensing Principles

2022-2025

Published on 3rd January 2022

Implementation date: 31st January 2022

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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 and public notices)

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 6th August 2021 and 17th September 2021 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>

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 17th November 2021.

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 October 2020

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 A Licensing Authority may 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 include 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. Any 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 129,441. 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 are not involved in licensing remote gambling. This falls 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 and betting shops.

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 at a track** – 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:

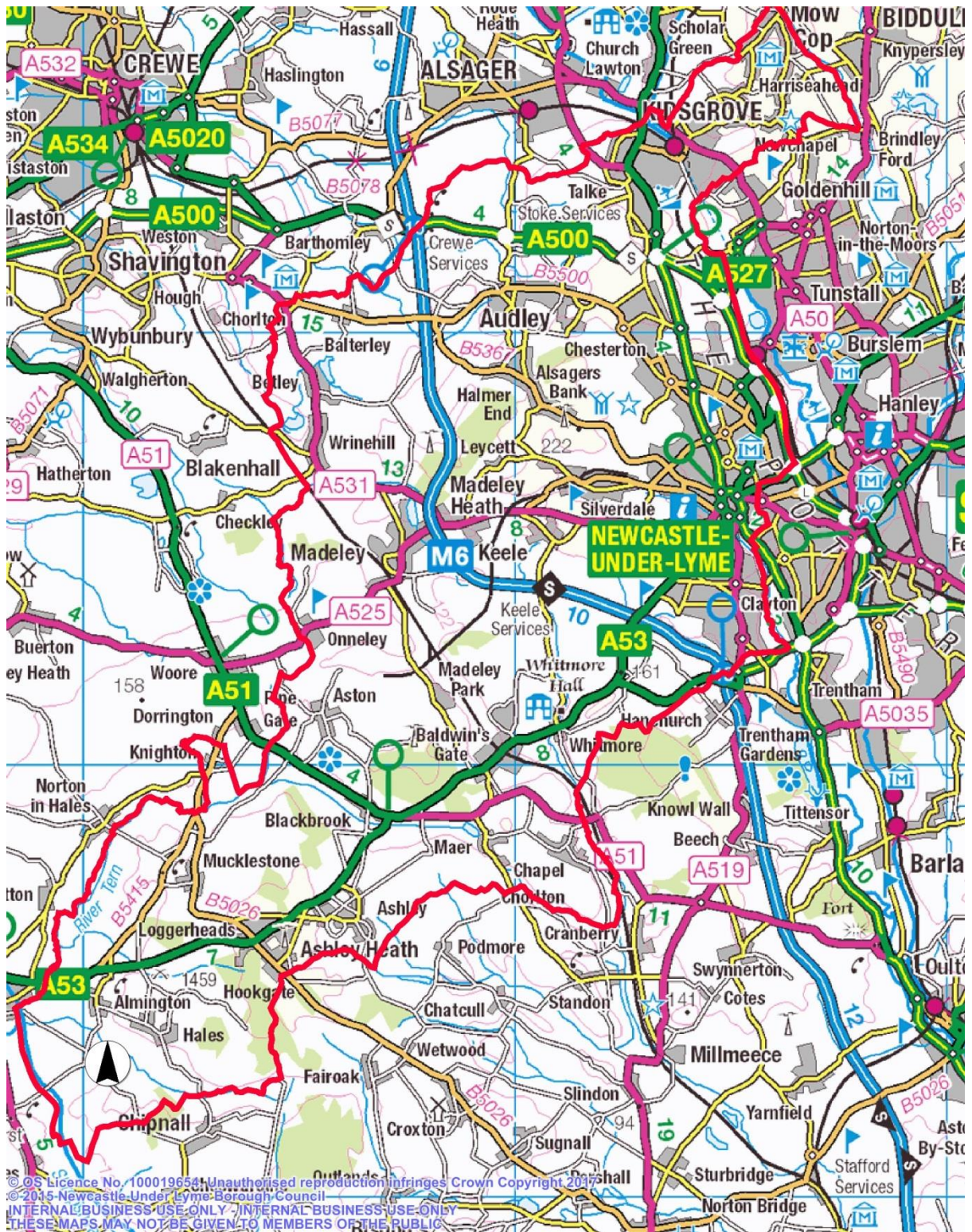
ACTIONS FOLLOWING ASSESSMENT

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

Signed:	Date:
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: <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

**APPENDIX 2
MAP OF NEWCASTLE-UNDER-LYME BOROUGH**



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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

Licensing and Public Protection Committee 02 November 2021

Report Title: FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2022-23

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

Portfolios: Finance, Town Centres & Growth

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.

Recommendation

That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues for 2022-23

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 (SEVs) 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 implemented in January 2019, following approval from the Licensing Committee and 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. We do not currently have any Sex Establishment Venues.

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.”

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 2022-2023. All proposed license fees and charges are detailed in table below:

<u>Licences:</u>	<u>2021-22</u> <u>Fee</u>	<u>2022-23</u> <u>Proposed</u> <u>Fee</u>	<u>Difference</u>
General			
Sex establishments - application fee	3,289.00	3,388.00	3%
Sex establishments - renewal	3,289.00	3,388.00	3%
Sex establishments - variation	1,114.00	1,147.00	3%
Sex establishments – transfer	1,114.00	1,147.00	3%

General			
Scrap metal dealer site licence	281.00	289.00	3%
Scrap metal dealer collectors licence	222.00	229.00	3%
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	
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	1,200.00	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	950.00	950.00	
Track betting – application to reinstate	950.00	950.00	
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	1,200.00	1,200.00	
Family entertainment centre - application fee	2,000.00	2,000.00	
Family entertainment centre - annual fee	750.00	750.00	
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	950.00	950.00	
Adult gaming centre - application fee	2,000.00	2,000.00	
Adult gaming centre - annual fee	1,000.00	1,000.00	
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	1,200.00	1,200.00	
Copy of any of the above licences (lost, stolen, damaged)	25.00	25.00	
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 permit)	300.00	300.00	
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	
NEW - Temporary Use Notice (TUN)	N/A	200.00	
Occasional Use Notice (OUN)	0.00	0.00	
Casino Small – New application	7,138.00	7,352.00	3%
Casino Small – Annual Fee	3,569.00	3,676.00	3%
Casino Small - Variation	2,379.00	2,450.00	3%
Casino Small – Application for Transfer	1,530.00	1,576.00	3%
Casino Small – application to reinstate	1,530.00	1,576.00	3%

3.2 There is one new fee that has been added, which is for Temporary Use Notices (TUN). The Council have never received a TUN previously but a fee has been proposed to ensure we are able to recover the costs should we receive one. A TUN allows a person or organisation, which holds an operating licence issued by the Gambling Commission, to temporarily provide facilities for gambling in a premises that is not licensed. The can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner. For example a hotel or conference centre being used to hold a poker tournament.

4. **Reasons for Proposed Solution**

4.1 The locally set 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. Options Considered

5.1 The Council has a duty to set fees for certain regimes where the amount is not set by statute. The SEV and Scrap Metal licensing regimes, alongside part of the Gambling Act, have such fees that can be set locally. All fees set must be proportionate and seek only to recover those areas set out in statute that we may recover. If the Council chose not to set fees then the applications made under these regimes would be subsidised by tax payer funds. This option has not been considered as it is felt that applicants for licences should be able to meet the costs of any application once they have been issued with the appropriate permission.

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) is also relevant, 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. **Equality Impact Assessment**

7.1 Not applicable

8. **Financial and Resource Implications**

8.1 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

9. **Major Risks**

9.1 As detailed under Legal and Statutory Implications

10. **UN Sustainable Development Goals (UNSDG)**

10.1



11. **Key Decision Information**

11.1 Not applicable

12. **Earlier Cabinet/Committee Resolutions**

12.1 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.

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

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 LGA Guidance on Local Fee Setting

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

**Licensing and Public Protection Committee
2 November 2021**

PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2022/2023

Submitted by: **Head of Environmental Health & Licensing Administration Team Manager**

Portfolio: **Finance, Town Centre & Growth**

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

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

1. **Background**

- 1.1 The approval of certain fees and charges relating to the licensing of Private Hire and Hackney Carriage licensing regimes are Council functions
- 1.2 Council at their meeting on 22nd February 2017 delegated this function to Public Protection Committee.
- 1.3 Section 70 of 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.

1.4 Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Driver licence fees:

(2) Notwithstanding the provisions of the Act of 1847, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.

1.5 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.

1.6 **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.

1.7 In December 2019 the Court of Appeal in the case “R (on the application of Abdul Rehman, on behalf of the Wakefield District Hackney Carriage and Private Hire Association) v The Council of the City of Wakefield and The Local Government Association (Intervening) [2019] EWCA Civ 2166” confirmed that there is no general principle that the taxi licensing fee regime should be self-financing and that the costs associated to enforcing the behaviour of licensed drivers could be recovered via the licence fee set under s53(2) LGMPA76. The judgement stated (para 46):

“In any event, we consider that the costs of enforcing the behaviour of licensed drivers can be recovered through the driver’s licence fee under section 53(2). The relevant words in that provision are “the costs of issue and administration”. The costs of “administration” must be something other than, and in addition to, the costs of “issue”. There is no difficulty in interpreting “administration” in its statutory context as extending to administration of the licence after it has been issued. It naturally includes the costs of suspension and revocation, which are events expressly mentioned in Part II of the 1976 Act. Suspension and revocation rest on non-compliance with the requirements and conditions for continuing to hold the licence. As we have said, it would therefore have been obvious to Parliament, when enacting the 1976 Act, that costs would be incurred by the district council in monitoring compliance with such requirements and conditions.”

2. **Proposal:**

2.1 In January 2021 the Committee determined to reject the proposed fees for 2021-22 following public consultation and retain the fees agreed for 2020-21. The Licensing Department have undergone the annual review and fee setting methodology to propose fees for 2022-23. The table at 2.2 shows:

- Column a – The licence/process the fee is for;
- Column b – The 2020-21 and current fee structure;
- Column c – The fees proposed and rejected for 2021-22;
- Column d – This years proposed fees for 2022-23; and
- Column e – the percentage difference between columns b (current) and d (proposed).

2.2 The proposed fees and charges for 2022-23 are:

a	b	c	d	e
Private Hire/Hackney Carriage (subject to consultation)	Fee/Charge 2020-21 and 2021-22 (£)	Proposed Fee/Charge 2021-22 (£)	Proposed Fee/Charge 2022-23 (£)	% Change
<u>OPERATORS</u>				
PHO Application fee	£250.00	£266.00	£267.00	7%
Add/Remove Director	£38.00	£41.00	£41.00	8%
Copy/Replacement Licence	£6.00	£7.00	£7.00	17%
Basic DBS	£23.00 (set by DBS)	£23.00	£23.00	0%
<u>DRIVERS</u>				
Dual Driver Badge - 3 years	£257.00	£273.00	£273.00	6%
Change of address	£16.00	£17.00	£17.00	6%
Replacement badge	£12.00	£13.00	£13.00	8%
Replacement vehicle badge	£12.00	£13.00	£13.00	8%
Reissue/replacement badge (with amended details)	£26.00	£28.00	£29.00	12%
DBS (CRB check)	£40.00 (set by DBS)	£40.00	£40.00	0%
DBS (CRB check) online	£60.34 (set by DBS and provider)	£60.34	£60.34	0%
Safeguarding training	£38.00	£39.00	£33.00	-13%
Fail to attend Safeguarding Training	£38.00	£39.00	£33.00	-13%
Exemption certificates	£12.00	£12.00	£13.00	8%
Knowledge test	£25.00	£27.00	£25.00	0%
Fail to attend Knowledge Test	£25.00	£27.00	£25.00	0%
Replacement Safeguarding training certificate	£6.00	£7.00	£7.00	17%
Change of Name	£16.00	£17.00	£18.00	13%
Replacement vehicle badge holder	£5.00	£5.00	£5.00	0%
Disability Training	£35.00+VAT	35.00+VAT	£35.00	0%
Disability Training (fail to attend)	£35.00+VAT	35.00+VAT	£35.00	0%
DE Training replacement cert	£0.00 (met by provider)	0.00 (met by provider)	£0.00	0%
Copy of Paper Licence	£6.00	£7.00	£7.00	17%
<u>VEHICLES</u>				
Transfer of vehicle	£38.00	£41.00	£41.00	8%
Change of vehicle registration	£43.00	£46.00	£47.00	9%
Failure to attend for vehicle test	£104.00	£104.00	66.00	-37%
Retest	£42.00	£42.00	30.00	-29%
Replacement plate carrier – front	£8.00	£9.00	£9.00	13%
Replacement plate carrier – rear	£10.00	£11.00	£11.00	10%

Replacement vehicle plate - front	£7.00	£7.00	£8.00	14%
Replacement vehicle plate - rear	£10.00	£10.00	£10.00	0%
Replacement vehicle sticker signage	£5.00	£5.00	£5.00	0%
Copy of paper part of licence	£6.00	£7.00	£7.00	17%
Change of Vehicle Colour	£43.00	£46.00	£47.00	9%
HCV test	£108.00	£109.00	70.00	-35%
HCV test 10yrs+	£108.00	£109.00	70.00	-35%
PHV test	£108.00	£109.00	70.00	-35%
PHV test 10yrs+	£108.00	£109.00	70.00	-35%
HCV application fee	£230.00	£242.00	234.00	2%
PHV application fee	£228.00	£240.00	231.00	1%
Basic DBS	£23.00 (set by DBS)	£23.00	£23.00	0%
Change of Name/Address	£38.00	£41.00	£41.00	8%
Spot check	£25.00	£26.00	19.00	-24%
Replacement Internal Plate	£7.00	£8.00	£7.00	0%

2.3 It is recommended that the fees are set in line with the provisions of the 1976 Act, the Local Government Association fee setting guidance, the Council's taxi licensing policy and the principles outlined in section 7.3 below.

2.4 The majority of the fees have increased due to the two year time frame when they were last set, but all of the fees that relate to vehicle testing have been dramatically reduced. It should be noted that due to changes within the service and efficiencies that have been made the total cost to licence vehicles will be reduced by £34.00 (£338.00 to £304.00) for Hackney Carriages and £35.00 (£336.00 to £301.00) for Private Hire which equates to just over 10%.

3. **Reason for Proposed**

- 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. **Options Considered**

4.1 The Council is required to set fees for private hire and hackney carriage licenses for 2022/2023. The fees proposed are based on cost recovery.

5. **Legal and Statutory Implications**

5.1 The Local Government (Miscellaneous Provisions) Act 1976 contains the legal provisions and process relating to the setting of fees, this is detailed in sections 1.1-1.7 of this report.

6. **Equality Impact Assessment**

6.1 Not applicable

7. **Financial and Resource Implications**

- 7.1 The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, sections 53(2) and 70.
- 7.2 There will be financial implications for the Council if full cost recovery is not achieved.
- 7.3 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.

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.

Enforcement – This includes action required when investigating and enforcing against licensed drivers, vehicle proprietors and private hire operators.

8. **Major Risks**

- 8.1 The Council will be open to challenge should the calculation of the fees and charges prove to be contrary to the Act.
- 8.2 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

9. **Sustainability and Climate Change Implications**

9.1 Not applicable

10. **Key Decision Information**

10.1 Not applicable

11. **Earlier Cabinet/Committee Resolutions**

11.1 Not applicable

12. **List of Appendices**

12.1 Not applicable

13. **Background Papers**

13.1 LGA Guidance on Local Fee Setting

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