

# LICENSING COMMITTEE AGENDA



**Wednesday 29 July 2009**

**at 2.00 p.m.**

**in Committee Room B,  
Civic Centre, Hartlepool**

**MEMBERS: LICENSING COMMITTEE:**

Councillors Aiken, S. Akers-Belcher, Atkinson, R W Cook, Fleet, Fleming, Griffin, Hall, Jackson, Laffey, London, McKenna, Morris, Rogan and Tumilty.

**1. APOLOGIES FOR ABSENCE**

**2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

**3. MINUTES**

3.1 To confirm the minutes of the meeting held on 18 March 2009.

**4. ITEMS REQUIRING DECISION**

4.1 Gambling Act 2005 Statement of Licensing Principles - *Head of Procurement, Property & Public Protection*

4.2 Licence Applicants with Previous Criminal Convictions - *Head of Procurement, Property & Public Protection*

4.3 Licensing Committee Sub Committee Memberships – *Assistant Chief Executive*

**5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**



# **LICENSING COMMITTEE**

## **MINUTES AND DECISION RECORD**

18 March 2009

The meeting commenced at 2.00 pm. in the Civic Centre, Hartlepool

**Present:**

Councillor George Morris (In the Chair)

Councillors: Jonathan Brash, Rob Cook, Sheila Griffin, Gerard Hall, Frances London, Chris McKenna, Trevor Rogan and Victor Tumilty.

In accordance with Council Procedure Rule 4.2 (ii), Councillor Alison Lilley attended as a substitute for Councillor Geoff Lilley

Officers: Sylvia Pinkney, Consumer Services Manager  
Ian Harrison, Principal Licensing Officer  
Tony Macnab, Solicitor  
Jo Wilson, Democratic Services Officer

### **24. Apologies for Absence**

Apologies for absence were submitted from Councillors Martyn Aiken, Reuben Atkinson, Mary Fleet, Tim Fleming, Peter Jackson and Geoff Lilley.

### **25. Declarations of Interest by Members**

None.

### **26. Confirmation of the Minutes of the Meeting held on 10<sup>th</sup> December 2008**

The minutes were confirmed as a true record.

### **27. Licensing of Horse Drawn Carriages (Landau's) as Hackney Carriages** *(Head of Procurement, Property and Public Protection)*

**Purpose of report**

To consider the incorporation of additional conditions into the current hackney carriage/private hire licensing policy in order to facilitate the

licensing of horse drawn carriages as hackney carriages.

### **Issue(s) for consideration by the Committee**

The current hackney carriage/private hire licensing policy was adopted in April 2008 and there were currently no provisions within it for the licensing of horse drawn vehicles to act as hackney carriages or private hire vehicles. An enquiry had been received from Dream Day Carriages wishing to offer horse drawn tours of Hartlepool along specific routes, primarily around the Navigation Point and Marina area. If successful this would be the first licensing of a horse drawn vehicle with this authority and neighbouring authorities in modern times and could therefore be used to promote and enhance tourism in Hartlepool. A number of issues were highlighted within the report among them the use of approved routes, the need for appropriate driver qualifications and the suggested exemption of landau's from current rules relating to taxi meters and vehicle colour. In terms of animal welfare conditions were proposed requiring a means of permanent identification of the animal, a minimum age and periodic veterinary inspections. Drivers would also be required to have an appropriate knowledge of animal welfare.

A copy of the proposed additional conditions and exemptions for the licensing of landaus and their drivers was appended to the report. The Consumer Services Manager advised that a further condition relating to ensuring there was enough horsepower to pull the carriage in question would also be included.

Representatives from Dream Day Carriages were present at the meeting and gave further details of their business plan. Three routes were being considered and the price would be agreed in advance with passengers. Members were assured that the welfare of the animals would be the primary concern with horses lodged at stables which would be monitored 24 hours a day. Council officers would be welcome to visit the facility at any time without giving prior notice. The Consumer Services Manager advised that the conditions had been formulated using riding establishments as a benchmark. Specific conditions relating to hours of work and use during inclement weather were also highlighted.

Members expressed their support for the proposal but queried whether the Local Authority would have final approval of the tariffs. The Principal Licensing Officer confirmed they would.

### **Decision**

That the conditions of licence as detailed in Appendix 1 be incorporated into the current hackney carriage/private hire licensing policy and be applied to relevant horse drawn carriages and drivers of the same subject to the addition of a clause ensuring that there was enough horsepower to pull the carriage in question.

## **28. Local Government (Access to Information) Act 1985**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006

Minute 29 – Review of Recent Licensing Decisions Appealed to Hartlepool Magistrates Court – This item contains exempt information under Schedule 12A Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of any particular person (including the authority holding that information (para 3)

## **29. Review of Recent Licensing Decisions Appealed to Hartlepool Magistrates Court** *(Head of Procurement, Property and Public Protection)*

### **Purpose of report**

To review the result of recent licensing decisions appealed to Hartlepool Magistrates Court

### **Issue(s) for consideration by the Committee**

In February 2009 members of a Licensing Sub-Committee had requested that a report be presented to the next full Licensing Committee detailing the outcome of recent licensing decisions that had been appealed to Hartlepool Magistrates Court. The report gave details of 2 licensing decisions appealed since January 2008 and their subsequent outcome. Further details were included within the exempt section of the minutes

### **Decision**

That the report be noted and the issues raised be incorporated as standing entries in future sub-committee reports.

The meeting concluded at 3.30 pm

CHAIR

**Report of:** Head of Procurement, Property & Public Protection

**Subject:** GAMBLING ACT 2005 STATEMENT OF LICENSING PRINCIPLES

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## **1. PURPOSE OF REPORT**

- 1.1 To consider a draft Statement of Licensing Principles as required by the Gambling Act 2005.

## **2. BACKGROUND**

- 2.1 The Gambling Act 2005 came into force in 2007 and transferred a range of licensing responsibilities from the Gaming Board and local Magistrates Courts to local authorities and the newly formed Gambling Commission.
- 2.2 Licensable activities that fall within local authority control include bingo halls, betting shops, amusement arcades and casinos.
- 2.3 The Gambling Act 2005 also requires licensing authorities to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Act – commonly referred to as a licensing policy.
- 2.4 Hartlepool's first licensing policy was published in January 2007 and, as such, a new policy must be published no later than January 2010.
- 2.5 A draft policy has been prepared that meets the requirements of the Act's statutory guidance and follows closely a best practice licensing policy produced by the Local Authority Co-ordinating Body for Regulatory Services (LACORS). The draft policy is attached as Appendix I.
- 2.6 In order to meet the Government's suggested 3 month consultation period and to meet Council deadlines the draft policy has been circulated amongst a range of consultees at both a local and national level with a closing date for responses of 18<sup>th</sup> September 2009.
- 2.7 A further report will be brought to Members following the conclusion of the consultation exercise with a view to the policy being recommended to full Council at its meeting in October 2009.

**3. ISSUES**

- 3.1 There are no substantive changes to the policy that was originally approved by full Council in 2007 but it is now a requirement for licensing authorities to give its reasons for adopting a 'No Casino' resolution.
- 3.2 The 2007 policy includes a 'No Casino' resolution which states that the Council will not issue casino licences but it does not give reasons. The review of the policy provides Members with an opportunity to consider whether such a resolution should remain and, if so, to give reasons.

**4. RECOMMENDATIONS**

- 4.1 That Members note the contents of this report and consider the draft Statement of Licensing Principles.



# STATEMENT OF PRINCIPLES

## Gambling Act 2005

*(To be Published January 2010)*

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*This Statement of Licensing Principles was approved by Hartlepool Borough Council on [date]*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3<sup>rd</sup> Edition, published May 2009.*



**PART A****1. The Licensing Objectives**

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- 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 authority’s statement of licensing policy

**2. Introduction**

Hartlepool is situated on the North East coast of England. The Borough consists of the town of Hartlepool and a number of small outlying villages. The total area of the Borough is 9,390 hectares.

Hartlepool is a unitary authority, providing a full range of services. It adjoins Easington District Council to the north, Sedgefield District Council to the west and Stockton on Tees Borough Council to the south. The residential population is 90,161 of which ethnic minorities comprise 1.2% (2001 census).

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

Hartlepool Borough Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.

List of persons this authority consulted:

- The Cleveland police service
- Hartlepool Borough Council Social Services
- trade association
- [name] residents association

Our consultation took place between [x date and x date] and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

<http://www.berr.gov.uk/files/file47158.pdf>

The full list of comments made and the consideration by the Council of those comments is available by request to: Principal Licensing Officer, Hartlepool Borough Council, Civic Centre, Hartlepool, TS24 8AY or via the Council's website at: [www.Hartlepool.gov.uk/licensing](http://www.Hartlepool.gov.uk/licensing).

The policy was approved at a meeting of the Full Council on [X] date and was published via our website on [x date]. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

Principal Licensing Officer  
Hartlepool Borough Council  
Civic Centre  
Hartlepool  
TS24 8AY

[Ian.Harrison@Hartlepool.gov.uk](mailto:Ian.Harrison@Hartlepool.gov.uk)

It should be noted that this statement of licensing principles 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.

### **3. Declaration**

In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

### **4. Responsible Authorities**

**The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:**

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and**
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.**

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.Hartlepool.gov.uk/licensing](http://www.Hartlepool.gov.uk/licensing)

## **5. Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“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 applications 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 paragraph (a) or (b)”

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority 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 Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate /relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department at the Civic Centre, Hartlepool.

## **6. Exchange of Information**

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour 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; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department, Hartlepool Borough Council, Civic Centre, Hartlepool, TS24 8AY. Our risk methodology is also available upon request.

## 8. Licensing authority functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*

- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on ‘information exchange’)
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

## PART B

### PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

#### 1. General Principles

Premises licences are subject to the requirements 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 others, where it is believed to be appropriate.

#### (i) Decision-making

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- 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 authority's statement of licensing policy.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

**(ii) Definition of "premises"** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could 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. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should 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 they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be

separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.

- Customers should be able to participate in the activity names on the premises licence.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**The Gambling Commission’s relevant access provisions for each premises type are reproduced below:**

7.25:

**Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

**Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

**Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

**Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

**Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

#### **(iii) Premises "ready for gambling"**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

**(iv) Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority 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. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

#### **(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.



This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

**(vi )Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority 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 though, 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.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

**Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.**

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this 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 licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, 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.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it 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 a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

**Conditions** - 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;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated 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 these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

This licensing authority 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. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third 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.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible 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, winning or prizes.

**Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## 2. Adult Gaming Centres

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## 3. (Licensed) Family Entertainment Centres:

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

**4. Casinos (Hartlepool Council adopted a No Casino Resolution in 2007. Whether the resolution will be retained will be discussed by the Council during and following the conclusion of the consultation process)**

This licensing authority has passed a 'no casino' resolution on the basis that..... *(insert details of how the decision was arrived at and on what basis) and it comes into effect on ... (insert date).*

Potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

**5. Bingo premises**

This licensing authority notes that the Gambling Commission's Guidance states:

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

**6. Betting premises**

*Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, 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, when considering the number/nature/circumstances of betting machines an operator wants to offer.

**7. Travelling Fairs**

This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, 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. This licensing authority will work with its

neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

### 8. Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow 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 authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

### 9. Reviews:

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- 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 authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to

alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

## PART C

### Permits / Temporary & Occasional Use Notice

#### 1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it 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. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications 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. (24.7)

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles This licensing authority 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 efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants 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.

#### 2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

##### **Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority 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.

### **Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will 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. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that 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.

### **3. Prize Gaming Permits**

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should 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
- Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority 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.

#### **4. Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 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 (3 machines of categories B, C or D).

Gambling Commission Guidance states: "Members clubs 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. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The Commission Guidance also notes that "licensing authorities 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 it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

#### **5. Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

#### **6. Occasional Use Notices:**

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

## PART D

## SUMMARY OF LICENSING AUTHORITY DELEGATIONS PERMITTED UNDER THE GAMBLING ACT

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

**CONTACT DETAILS/ADVICE & GUIDANCE**

Further details regarding the licensing application process, including application forms, can be obtained from:

The Licensing Team  
Hartlepool Borough Council  
Civic Centre  
Victoria Road  
Hartlepool  
TS24 8AY

Tel No: 01429 523354  
Fax No: 01429 523308  
Email: [licensing@hartlepool.gov.uk](mailto:licensing@hartlepool.gov.uk)  
Web Site: [www.hartlepool.gov.uk/licensing](http://www.hartlepool.gov.uk/licensing)

## CONSULTATION

The following organisations were consulted prior to the publication of this Gambling Policy. Consultation was carried out between 22<sup>nd</sup> June 2009 and 18<sup>th</sup> September 2009.

Local licensed premises  
Local premises engaged in gambling activities  
Local Parish Councils  
Local Licensing Solicitors  
GAMCARE  
Gamblers Anonymous  
National Institute for Health and Clinical Excellence  
Mencap  
Sompriti  
The Salvation Army  
Hartlepool Mencap  
Hartlepool CAB  
Hartlepool Magistrates Court  
Hartlepool Primary Care Trust  
Association of British Bookmakers  
The Bingo Association  
Remote Gambling Association  
Responsibility in Gambling Trust  
BACTA  
British Pub and Beer Association  
NSPCC  
National Association of Local Councils  
Working Men's Club and Institute Union  
Federation of Licensed Victuallers Association  
Hartlepool Licensees Association  
Internet Gambling, Gaming and Betting Association  
Cameron's Brewery  
Rubicon Pastimes  
Mason Organisation Limited  
Arthur Turner Limited  
Ladbrokes Betting & Gaming Limited  
All Responsible Authorities detailed under the Gambling Act

**Report of:** Head of Procurement, Property & Public Protection

**Subject:** LICENCE APPLICANTS WITH PREVIOUS CRIMINAL CONVICTIONS

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## 1. PURPOSE OF REPORT

- 1.1 To update Members on the effect of a change to the procedure for the consideration of taxi applicants who have previous criminal convictions.

## 2. BACKGROUND

- 2.1 At your meeting on 2<sup>nd</sup> July 2008 Committee approved a change to the procedure for the consideration of hackney carriage and private hire drivers who had previous criminal convictions.
- 2.2 Members were advised that the procedure at that time required any applicant who had previous criminal convictions to be brought to a licensing sub-committee for consideration.
- 2.3 Members felt that some applicants were being brought before committee who had offences that were either so insignificant or so old that granting the licence was, in effect, inevitable.
- 2.4 Members approved the adoption of a new procedure whereby, in certain circumstances, the suitability of applicants would be considered by a panel of officers representing Adult & Community Services, Children's Services and Public Protection. The Head of Procurement, Property & Public Protection was authorised to grant licences where it was considered appropriate.
- 2.5 Decisions about who should be considered by the 'officer panel' and who should be brought to the licensing sub-committee are based on the guidance used by Members for considering the relevance of previous convictions which is attached as **Appendix 2**
- 2.6 This new policy has been in place for one year and this report provides details of those drivers approved by the new system and allows Members to consider its effectiveness.
- 2.7 **Appendix 1** provides details of ten drivers who have been interviewed by the new 'officer panel' and have had their licences granted without reference to a

licensing sub-committee. In each of these cases the panel believed that the applicant posed no risk to their client groups.

- 2.8 Appendix I also contains details of one driver who was interviewed by the panel but who was then referred to the licensing sub-committee for further consideration. At the licensing hearing Members determined that the licence should be granted.
- 2.9 In addition to those drivers who are interviewed by the officer panel, there are some occasions where, because of the seriousness of the offences disclosed, an applicant is not interviewed by the officer panel but is instead brought straight to a licensing sub-committee. In such circumstances both Adult & Community Services and Children's Services are invited to the sub-committee meeting to provide Members with their views on the apparent fitness of the applicant.

### **3. ISSUES**

- 3.1 Hackney Carriage and Private Hire drivers are exempt from the Rehabilitation of Offenders Act and, as such, every conviction, regardless of when it occurred can be considered as relevant by a licensing committee.
- 3.3 During its first year of operation ten drivers have been granted licences by the officer panel who would otherwise have been brought before a licensing sub-committee.
- 3.4 Whilst the adoption of the new procedure has resulted in ten fewer drivers being brought before a sub-committee and therefore saved both Council and Member time and resources, the primary consideration is the protection of the public.

### **4. RECOMMENDATIONS**

- 4.1 That Members consider this report and determine whether the current procedure on the consideration of previous criminal convictions should remain in force.

**APPLICANTS APPROVED BY OFFICER PANEL WITHOUT REFERENCE TO LICENSING SUB-COMMITTEE**

<b>Initials</b>	<b>Date of Offence</b>	<b>Offence</b>	<b>Court</b>	<b>Disposal</b>
LAS	17 June 2004	Using threatening, abusive, insulting words or behaviour w/l to cause fear or provocation of violence on 13 March 2004 – Public Order Act 1986 S.4(1)(A)	Hartlepool Magistrates	Fine 150.00 Costs 70.00 Football Banning Order 3 yrs
	3 August 2005	Football spectator failing to comply with Banning Order on 29 July 2005 Football Spectators Act 1989 S.14J	Hartlepool Magistrates	Fine 20.00 Costs 17.00
DW	6 February 2005	Caution – Using threatening, abusive, insulting words or behaviour w/l to cause fear or provocation of violence on 6 February 2005 Public Order Act 1986 S.4(1)(A)	Caution by Cleveland Police Force	
WAR	5 May 2001	Caution – Use disorderly behaviour or threatening/abusive/insulting words likely to cause harassment alarm or distress on 4 May 2001 Public Order Act 1986 S.5(1)(A)	Caution by Cleveland Police Force	
PW	6 February 2005	Caution – Using threatening, abusive, insulting words or behaviour w/l to cause fear or provocation of violence on 6 February 2005 Public Order Act 1986 S.4(1)(A)	Caution by Cleveland Police Force	
RTW	30 December 2003	Breach of the Peace on Common Law	Dundee District	Admonished
PTB	8 April 2003	Caution - Destroy or damage property (value of damage 5000 or less –offence against Criminal Damage Act 1971 only) on 8 April 2003 Criminal Damage Act 1971 S.1(1)	Caution by West Midlands Police	



Name	Date	Offence	Court	Disposal
SR	10 July 1975	Assault occasioning actual bodily harm on Offences against the Person Act 1861 S.47	Hartlepool Juvenile Court	Fine 25.00
	27 May 1977	Assault occasioning bodily harm on Offences against the Person Act 1861 S.47	Hartlepool Magistrates Court	Fine 40.00 Bound over 12 mths in the sum of 50
	30 April 1979	Breach of Binding over Order Pre 1980  Theft on Theft Act 1968 S.1	Hartlepool Magistrates Court	Estreat 100.00 Resulting from original conviction of 2/11/78 (for offence for which he was not convicted)  Fine 20.00
BTFL	22 December 2002	Caution - Destroy or damage property at a value unknown on 22 December 2002 Criminal Damage Act 1971 S.1(1)	Caution by Cleveland Police Force	
KF	15 October 1980	Assault occasioning actual bodily harm on Offences against the Person Act 1861 S.47	Hartlepool Magistrates Court	Fine 50.00

## 4.2 Appendix 1

Name	Date	Offence	Court	Disposal
MJW	11 July 1974	Obtaining property by deception on Theft Act 1968 S.15	Hartlepool Juvenile Court	Supervision Order 2 yrs to probation officer Restitution 3.90
		Burglary & Theft – Dwelling on Theft Act 1968 S.9(1)(B)		Supervision Order 2 yrs to probation officer Restitution 3.90
	25 June 1976	Burglary & Theft – Non Dwelling on Theft Act 1968 S.9(1)(B)	Hartlepool Magistrates Court	Fine 40.00
	10 September 1976	Burglary & Theft – Non dwelling on Theft Act 1968 S.9(1)(B)	Hartlepool Magistrates Court	Fine 20.00 Compensation 43.00
		Taking conveyance without Authority on Theft Act 1968 S.12(1)		Fine 25.00 Driving licence endorsed
		No insurance on Road Traffic Act 1972 S.143		Fine 10.00
		Taking conveyance without Authority on Theft Act 1968 S.12(1)		Fine 25.00 Driving licence endorsed
		Taking conveyance without Authority on Theft Act 1968 S.12(1)		Fine 25.00 Driving licence endorsed
				Fine 25.00 Compensation 200.00

## 4.2 Appendix 1

	19 January 1977	Criminal Damage on Criminal Damage Act 1971 S.1(1)	Hartlepool Magistrates Court	Community Service Order 100 hrs concurrent Compensation 26.70
	19 October 1979	Burglary & Theft – Dwelling on Theft Act 1968 S.9(1)	Hartlepool Magistrates Court	Community Service Order 100 hrs
		Theft on Theft Act 1968 S.1		Otherwise dealt with- appeal against sentence allowed/varied No order made
	12 May 1980	Obtaining property by deception on Theft Act 1968 S.15	Hartlepool Magistrates Court	Otherwise dealt with- appeal against sentence allowed/varied No order made
		Obtaining property by deception on Theft Act 1968 S.15		Conditional discharge 12 mths Driving licence endorsed
	20 August 1980	No insurance on Road Traffic Act 1972 S.143	Hartlepool Magistrates Court	Community Service Order 100 hrs consecutive Probation Order to continue
		Driving whilst disqualified on Road Traffic Act 1972 S.99(B)		Community Service Order 100 hrs

## 4.2 Appendix 1

		Using documents under Road Traffic Act w/I to deceive (specify document) on Road Traffic Act 1972 S.169(1)(A)  Minor Road Traffic Offence		Conditional Discharge 12 mths  Fine 25.00  Otherwise dealt with- appeal against sentence allowed/varied No Order made
	8 September 1980	Criminal Damage on Criminal Damage Act 1971 S.1(1)	Hartlepool Magistrates Court	Otherwise dealt with- appeal against sentence allowed/varied
	3 July 1981	Handling on Theft Act 1968 S.22	Hartlepool Magistrates Court	Imprisonment 1 mth wholly suspended 2 yrs
	7 December 1981	Driving whilst disqualified on Road Traffic Act 1972 S.99(B)	Hartlepool Magistrates Court	Conditional discharge 1 yr Driving licence endorsed  Resulting from original conviction 12/5/80  Conditional Discharge 1 yr Driving Licence Endorsed  Resulting from original conviction of 3/7/81
		No insurance on Road Traffic Act 1972 S.143		Conditional Discharge 1yr

## 4.2 Appendix 1

		Breach of Probation Order		Diving Licence endorsed
		Minor Road Traffic Offence		Imprisonment 6 mths
		Breach of suspended sentence on Power of Criminal Courts Act 1973 S.23		Conditional Discharge 12 mths
		Minor Road Traffic Offence		Costs 30.00
				Imprisonment 3 mths wholly suspended 1 yr
				Driving Licence endorsed
				Resulting from original conviction of 9/5/84
				No action on Breach
				Fine 10.00
	8 October 1982	Burglary & Theft – dwelling on Theft Act 1968 S.9(1)(B)	Hartlepool Magistrates Court	Fine 100.00
				Driving Licence endorsed
	9 May 1984	Assault occasioning actual bodily harm on Offences against the Person Act 1861 S.47	Hartlepool Magistrates Court	Fine 50.00
				Costs 20.00
	2 January 1985	Driving whilst disqualified on Road Traffic Act 1972 S.99(B)	Hartlepool Magistrates Court	

		<p>Breach of conditional discharge on Powers of Criminal Courts Act 1973 S.1(B)</p> <p>Minor Road Traffic Offence</p> <p>No insurance on Road Traffic Act 1972 S.143</p>		
	18 December 1985	<p>Burglary &amp; Theft – non dwelling on Theft Act 1968 S.9(1)(B)</p>	Hartlepool Magistrates Court	

**DRIVER REFUSED BY OFFICER PANEL BUT GRANTED BY SUB-COMMITTEE**

JEM	1 April 2004	Driving a motor vehicle with excess alcohol on 30 March 2004 Road Traffic Act 1988 S.5(1)(A)	Hartlepool Magistrates Court	Fine 100.00 Costs 40.00 Disqualification from driving 12mths reduced by 3 mths if course completed by 30/10/04. Driving licence endorsed
	25 June 2007	Battery on 9 April 2007 Criminal Justice Act 1988 S.39  Destroy or damage property (value of damage 5000 or less-Offence against Criminal Damage Act 1971 only) on 9 April 2007 Criminal Damage Act 1971 S.1(1)	Hartlepool Magistrates Court	Conditional discharge 6 mths  Conditional discharge 6 mths Compensation 500.00

## **POLICY FOR THE CONSIDERATION OF PREVIOUS CRIMINAL CONVICTIONS**

### **(a) Minor Traffic Offences**

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire vehicle licence may be granted after its restoration but a warning should be issued as to future conduct.

### **(b) Major Traffic Offences**

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

Members may feel that applicants who have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

### **(c) Drunkenness**

#### **With Motor Vehicle**

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If the applicant is a suspected alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is a confirmed alcoholic a period of 5 years should elapse after treatment is complete before a further licence application is considered.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

#### **Not in Motor Vehicle**



An isolated conviction for drunkenness need not debar an applicant for gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

**(d) Drugs**

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

**(e) Indecency Offences**

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport unaccompanied passengers in safety.

**(f) Violence**

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

**(g) Dishonesty**

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. In addition to this, taxi drivers often collect holidaymakers from their homes and transport them to airports or railway stations. This gives them a unique insight into which premises may be vacant for periods of time and therefore possible targets for burglary. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant’s trustworthiness – an attribute that is considered essential when transporting passengers or unaccompanied goods.

**Report of:** Assistant Chief Executive

**Subject:** LICENSING COMMITTEE SUB COMMITTEE  
MEMBERSHIPS

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**1. PURPOSE OF REPORT**

- 1.1 To re-appoint and fill vacancies in the Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees.

**2. BACKGROUND**

- 2.1 Following the recent Annual Council and changes to the membership of the Licensing Committee some amendments to the sub committee memberships are required. There are two newly appointed members to the Licensing Committee, Councillors S Akers Belcher and Laffey.
- 2.2 There are five Licensing Act Sub Committees each consisting of three members and three Hackney Carriage and Private Hire Sub Committees each of five members.
- 2.3 The sub committee memberships for 2008/09 are as follows with the vacancies highlighted due to the change in membership approved by Annual Council:

Licensing Act Sub Committees: -

- 1 – Councillors Hall (Ch.), McKenna and Tumilty
- 2 – Councillors R. Cook (Ch.), Atkinson and Rogan
- 3 – Councillors Griffin (Ch.), Jackson and London
- 4 – Councillors **Vacancy** (Ch.), Fleet and Fleming.
- 5 – Councillors **Vacancy** (Ch.), Aiken and Morris

While it is accepted that political balance is difficult to maintain on sub committees of three, there should at least be two parties represented on each sub committee. The Committee may wish to simply slot the two new members into the vacancies or undertake a wider review of the sub committee memberships.

Hackney Carriage and Private Hire Licensing Sub Committees: -

1 – Councillors Tumilty (Chair) Fleming, Hall, McKenna and Rogan

2 – Councillors Morris (Chair), Aiken, Jackson and 2 Vacancies.

3 – Councillors R Cook (Chair), Atkinson, Fleet, Griffin and London.

### **3. LEGAL CONSIDERATIONS**

- 3.1 As new members to the Licensing Committee, Councillors S Akers Belcher and Laffey are required to undergo appropriate training before they can be involved in the Licensing Act Sub Committees. I am advised that this has taken place.

### **4. RECOMMENDATION**

The Committee is requested to nominate Councillors from the overall Committee membership to fill the existing vacancies in the sub committee memberships.

### **5. REASONS FOR RECOMMENDATIONS**

Without the vacancies being filled the Licensing Sub Committees cannot operate properly as three members need to be present for a Licensing Act hearing to proceed. The situation is similar for Hackney Carriage Sub Committees where a quorum of three is required.

### **6. BACKGROUND PAPERS**

Licensing Act Committee Minutes 7 January 2005

Licensing Act Committee Minutes 27 July 2005

Licensing Committee Minutes 15 March 2006

Licensing Committee Minutes 2 July 2008

### **7. CONTACT OFFICER**

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**Report of:** Assistant Chief Executive

**Subject:** LICENSING COMMITTEE SUB COMMITTEE  
MEMBERSHIPS

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## **SUPPLEMENTARY**

### **1. SUB COMMITTEE MEMBERSHIPS**

- 1.1 In the main report Members will see that there are two new members to the Committee to be appointed to the Licensing Act and Hackney Carriage and Private Hire Sub Committees.
- 1.2 The Chair and the Vice-Chair have held an informal meeting to discuss the sub committee memberships and have suggested the following potential memberships -
- 1.3 Licensing Act Sub-Committees
  1. Chair – Councillor Morris; Councillors Laffey and Aiken
  2. Chair – Councillor Tumilty; Councillors Fleet and McKenna
  3. Chair – Councillor Cook; Councillors Griffin and Atkinson
  4. Chair – Councillor Hall; Councillors Fleming and S Akers-Belcher
  5. Chair – Councillor Rogan; Councillors Jackson and London
- 1.4 Hackney Carriage Sub-Committees
  1. Chair – Councillor Tumilty; Councillors Fleet, McKenna, Morris and Aiken.
  2. Chair – Councillor Hall; Councillors Fleming, S Akers-Belcher, London and Laffey.
  3. Chair – Councillor Cook; Councillors Griffin, Atkinson, Jackson and Rogan.
- 1.5 The Committee is requested to consider these suggestions put forward by the Chair and Vice-Chair when considering the report attached with the original agenda papers.

### **2. CONTACT OFFICER**

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## LICENSING COMMITTEE

29<sup>th</sup> JULY 2009



**Report of:** Head of Community Safety and Prevention

**Subject:** DESIGNATED PUBLIC PLACES ORDER –  
BOROUGH WIDE COVERAGE

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### 1. PURPOSE OF REPORT

To provide the Licensing Committee with evidence of anti-social drinking and nuisance across the Borough, in order that the introduction of a Borough wide Designated Public Places Order can be considered.

### 2. BACKGROUND

- 2.1 At the Licensing Committee meeting held on 24<sup>th</sup> September 2008, Members received a report on the legal implications of introducing a town-wide Designated Public Places Order (DPPO).
- 2.2 The report explained that there had already been declarations of 2 DPPOs covering various areas across the town, including residential streets, open spaces, parks, shopping parades, cemeteries and foreshore areas. The report also stated that there are a number of additional areas where evidence exists of anti-social drinking, and so a third DPPO could be considered.
- 2.3 Members have consistently asked about the possibility of introducing a Borough wide DPPO, which would cover all public places in Hartlepool. At the Licensing Committee meeting on 24<sup>th</sup> September 2008, it was agreed and minuted that “evidence be sought from the Police and Anti-Social Behaviour Unit of alcohol fuelled anti-social behaviour in all areas of Hartlepool to assist in achieving a town wide designation” (Minute No. 16 refers).

### **3. GUIDANCE AND APPROACH TAKEN BY OTHER AREAS**

- 3.1 The Home Office guidance on DPPOs, which was updated in December 2008, states that DPPOs should only be used in areas that have experienced alcohol related disorder or nuisance. They are not intended to disrupt peaceful activities, for example, families having a picnic with a glass of wine in a park or on a beach. It is considered inappropriate for the Police to challenge drinkers who are not causing a problem. Although the guidance indicates Borough wide orders are not prohibited, the DPPO must be proportionate and therefore only target those areas where there is evidence of alcohol related anti-social behaviour – local authorities must be able to show that there is a problem in every part of their area before making a widespread order.
- 3.2 Research shows that there are City/Borough wide DPPOs across the country at, for example, Coventry, Brighton, Hull, Portsmouth, Crewe and Nantwich.
- 3.3 Portsmouth Council's approach to the city wide DPPO has been praised as a model of good practice, in that a protocol has been agreed with the Police on enforcement. Individuals would only be approached and be asked to stop drinking if:
- They were engaged in anti-social behaviour or disorder
  - The police were of the view that there was likely to be anti-social behaviour or disorder or
  - Complaints had been received from other members of the public

This approach allows Portsmouth to target those individuals causing nuisance related to the consumption of alcohol while leaving undisturbed those who were not causing a nuisance.

- 3.4 When examining evidence of anti-social drinking and nuisance, if a DPPO is to be considered, the possibility of displacement to other areas can be taken into account and these areas included within the DPPO boundary.

### **4. EVIDENCE**

- 4.1 Evidence will be presented in the form of a power-point presentation to the Licensing Committee covering April 2006 – March 2009.

### **5. ENFORCEMENT**

- 5.1 The enforcement powers for DPPOs are contained in the Criminal Justice and Police Act 2001, giving the Police (and other accredited persons) powers to seize open and unopened containers of alcohol.

- 5.2 Failure to comply with a request without reasonable excuse can result in the issuing of a penalty notice for disorder of £80; arrest and prosecution with a maximum fine of £500 (shortly to be increased to £2,500) and the use of bail conditions to stop the individual from drinking in public.

**6. RECOMMENDATION**

- 6.1 Members of the Licensing Committee are invited to consider the evidence presented on anti-social drinking and nuisance and determine if a Borough wide Designated Public Places Order should be introduced.

**7. CONTACT OFFICER**

Alison Mawson, Head of Community Safety & Prevention.

**Background Papers**

Guidance on designated public places orders (DPPOs) for local authorities in England & Wales, Home Office, December 2008.