

LICENSING COMMITTEE AGENDA



6th November 2012

at 2.00 pm

in Committee Room B, Civic Centre, Hartlepool

MEMBERS: LICENSING COMMITTEE:

Councillors Ainslie, Brash, Dawkins, Fleet, Gibbon, Griffin, Hall, Jackson, A Lilley, Loynes, Morris, Robinson, Shields, Sirs and Tempest

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 17th July 2012.

4. **ITEMS REQUIRING DECISION**

- 4.1 Additional Requirements for Taxi Drivers – *Assistant Director (Regeneration and Planning)*
- 4.2 Criminal Records Disclosures – Updates – *Assistant Director (Regeneration and Planning)*
- 4.3 Forthcoming amendments to the Licensing Act 2003 – *Assistant Director (Regeneration and Planning)*
- 4.4 Gambling Act Statement of Licensing Principles – *Assistant Director (Regeneration and Planning)*
- 4.5 Hackney Carriage and Private Hire Age Limits – *Assistant Director (Regeneration and Planning)*

5. **ITEMS FOR INFORMATION**

No items.

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



LICENSING COMMITTEE

6th November 2012



Report of: Assistant Director (Regeneration & Planning)

Subject: ADDITIONAL REQUIREMENTS FOR TAXI DRIVERS

1. PURPOSE OF REPORT

- 1.1 To consider whether all licensed hackney carriage and private hire drivers should be required to undertake an assessment of their driving ability.

2. BACKGROUND

- 2.1 On 19th January 2011 the Licensing Committee determined that new applicants for hackney carriage and private hire licences should be required to undertake and pass the Driving Standards Agency Taxi Test before a licence could be issued – bringing Hartlepool's policy into line with those of the other Tees Valley licensing authorities.
- 2.2 Existing drivers who have accumulated nine or more penalty points on their DVLA drivers licence are referred to a licensing sub-committee where their fitness to continue to hold a licence is re-assessed.
- 2.3 On such occasions, sub-committees are advised that, if considered appropriate, drivers could be required to pass the Driving Standards Agency Taxi Test or to undertake the Council's Driver Improvement Scheme.
- 2.4 The Driving Standards Agency Taxi Test currently costs £79 and results in either a pass or fail for the driver. The Driver Improvement Scheme is offered by Hartlepool Borough Council's Road Safety Team at a cost of approximately £150 and consists of a full day assessment and training but does not result in a pass or fail. A brief summary of the DSA Test is available as **Appendix 1**. A brief summary of the Driver Improvement Scheme is available as **Appendix 2**.
- 2.5 A Licensing Sub-Committee has asked that the Licensing Committee be given the opportunity to discuss whether it would be appropriate for all current licensed hackney carriage and private hire drivers to undertake one or both of the above tests as an additional assessment of their fitness to hold a drivers licence.

3. ISSUES

3.1 With the exception of the recent requirement to pass the Driving Standards Agency Taxi Test, the application process for drivers has remained the same for many years and consists of: -

- Payment of the appropriate fee (currently £67 for a one year licence)
- Production of a full DVLA drivers licence (held for at least 12 months)
- Production of a certificate, on a form approved by the Council, that is signed by the applicant's own GP or alternative GP who has access to his/her medical history to the effect that s/he is medically fit to be the driver of a hackney carriage/private hire vehicle to a standard as required by the Council.

The medical certificate shall confirm the satisfactory attainment of the current standards set by the DVLA as being appropriate for hackney carriage/private hire vehicle drivers, or in the absence of such, Class II LGV/PCV.

The medical certificate will be valid for the period stipulated by the Council or Medical Practitioner where different. The cost of obtaining a completed medical certificate shall be borne by the applicant (this cost is determined by the applicant's doctor but can vary from around £80 to £150)

- Production of an Enhanced Disclosure from the Criminal Records Bureau. Such a disclosure must be obtained for the exclusive purpose of assisting the Council with its licensing decision, unless indicated otherwise by the Council, and have been obtained through an authorised officer of the Council. Members will be aware that this requirement was temporarily reduced to a 'Standard' CRB disclosure due to legislative changes in 2011/12.
- Satisfactory completion of an examination prepared and administered by the Council that will cover areas including, but not necessarily limited to: -
 - i. Relevant legislation
 - ii. Locations
 - iii. Routes
 - iv. Disability awareness
 - v. Highway Code

Such an examination must be undertaken by each applicant without assistance from any other party.

Applicants for Private Hire or Hackney Carriage drivers licences must pass the knowledge test within five attempts. Should an applicant fail

the knowledge test on five occasions, the licence application shall be ended and the applicant will be required to wait for a period of six months from date of the last knowledge test before being allowed to re-apply.

3.2 The application criteria for new drivers, as detailed above, match those of the other Tees Valley Licensing Authorities.

3.3 In addition to the above requirements for new applicants, existing licensed drivers are required to provide the Council with ongoing proof of fitness as follows: -

- An Enhanced CRB disclosure every three years (currently £44)
- An additional certificate of medical fitness on the following basis: -
 - i. If a driver is under 45 years of age, one medical certificate is required until they reach the age of 45;
 - ii. If a driver is over 45 years of age but under 65 years of age a medical certificate is required every 5 years; and
 - iii. If a driver is over 65 years of age a medical certificate is required annually.
- Annual production of the drivers DVLA driving licence. If the driver has acquired 9 penalty points or more they are referred to a licensing sub-committee for consideration.

3.4 To date, three existing drivers have been required by a sub-committee to undertake the Driver Improvement Scheme. Feedback from these drivers, despite the £150 cost, has been very favourable.

3.5 Members will be aware that representatives of the taxi trade have previously highlighted the difficulties the trade is facing in the current economic climate and the effect that the DSA Taxi Test was having on the recruitment of new drivers.

3.6 The issue was re-considered by the Licensing Committee in July 2011 and again in January 2012. On both occasions the Committee determined that the DSA Taxi Test should remain as a requirement for new drivers.

3.7 The total number of licensed drivers in Hartlepool has fallen by almost 100 over the past two years.

3.8 Hartlepool continues to have one of the cheapest rates of taxi fares in the country.

3.9 Procedures are currently in place to highlight and address those drivers who have accumulated nine or more penalty points on their DVLA drivers licence or those who have received complaints about their driving standards. Sanctions could include, amongst other things, a requirement to undertake the DSA Taxi Test and/or the Driver Improvement Scheme.

- 3.10 There are approximately 450 current drivers who have not previously taken either the DSA Taxi Test or the Council's Driver Improvement Scheme.
- 3.11 If these drivers were required to undertake the DSA test or Driver Improvement Scheme the total cost to the trade would be significant.
- 3.12 Should Members be minded to amend the licensing policy so as to require existing licensed drivers to undertake an assessment of their driving skills it would be necessary to consult with those that may be affected.

4. EQUALITY AND DIVERSITY CONSIDERATIONS

- 4.1 There are no equality or diversity implications.

5. SECTION 17

- 5.1 There are no implications under Section 17.

6. RECOMMENDATIONS

- 6.1 Members are invited to consider this report and determine whether it would be necessary and appropriate to amend the current hackney carriage and private hire licensing policy so as to require existing drivers to undertake an assessment of their driving ability.

7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

- 7.1 **Appendix 1** – Summary of Driving Standards Agency Taxi Test
Appendix 2 – Summary of the Driver Improvement Scheme

8. BACKGROUND PAPERS

- 8.1 Agenda & Minutes – Licensing Committee 19th January 2011

9. CONTACT OFFICER

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APPENDIX 1

DRIVING STANDARDS AGENCY TAXI TEST

All new applicants for hackney carriage and private hire drivers licences must first pass the Driving Standards Agency Taxi Test. This document details what the test involves:

The standard of the taxi or private hire vehicle driving assessment is set at a level suitable for a full driving licence holder. It is more demanding than the learner test.

Before the assessment, you are advised to:

- take lessons with a professional driving instructor
- read the Highway Code
- familiarise yourself with the content of the assessment

The eyesight test

At the start of your practical assessment, you will be asked to read in good daylight a vehicle registration number fixed to a motor vehicle with letters and figures 79.4 millimetres high at a distance of 20.5 metres (20 metres for a new-style number plate). You can use glasses or contact lenses if you wear them.

If you fail the eyesight test, you will be unable to take the driving part of the assessment. However, you will still be able to continue with the wheelchair section if appropriate.

The practical assessment

The practical assessment will last for about 35 to 40 minutes, depending on traffic. Some elements are specific to taxi driving, such as:

- a taxi manoeuvre
- the requirement to stop in a safe position as if picking up or dropping off passengers

The driving assessment will include approximately ten minutes of independent driving where you will be asked to drive without examiner guidance.

To pass the assessment, no more than nine errors are permitted. Serious or dangerous errors will result in failure of the assessment.

You will be assessed on:

- awareness and anticipation

APPENDIX 1

- effective planning of prevailing road and traffic conditions
- correct use of speed
- observation and mirror use
- control of the vehicle
- passenger safety and comfort

The assessment will include:

- A taxi or private hire manoeuvre where you will be asked to turn your vehicle to face the opposite direction.
- Approximately ten minutes of independent driving.
- Stops at the side of the road if a passenger is getting in or out of the vehicle.
- Related 'cabology' questions. Examples may include the dimensions of your vehicle, tyre pressures and what to do if a passenger leaves property in your vehicle.
- Questions from the Highway Code and identification of a number of traffic signs and road markings.

APPENDIX 2

Hartlepool Borough Council – Driver Improvement Scheme

Course Content and Details

Taxi drivers can be referred to the Defensive Driving scheme through Taxi Licensing Authorities giving approximately 2 weeks notice. Note – any taxi drivers referred from the Police through speed enforcement or via the driver improvement process must attend the full national course applicable to their offence.

The Defensive Driver Course has been developed by using good practice from IAM, RoSPA and other training organisations in the fleet sector.

Hartlepool Borough Councils Road Safety Unit are responsible for the booking of trainers, the hiring of vehicles, the issuing of reports/assessments and certificates.

At the end of the course a comprehensive report will be issued to taxi licensing for audit purposes.

Aims and Objectives

- Improve safety and awareness of road danger
- Identify and rectify driving faults
- Enhance the customer experience
- Identify cause and consequences of crashing
- Improve ability to identify and cope with hazards.

Client/Trainer Ratios

1 trainer to 2 clients delivered over 1 full day or an alternative half day course can be delivered to clients on a 1:1 basis.

Cost.

£150 per driver.

Typical Course – 1:1

Course Length

4 hours

Theory Session

Classroom based.

Duration – 45 minutes

APPENDIX 2

Theory Content

Document checks (licence)

What is expected and what do they want from the course – aims and objectives

Describe 'defensive driving',

Highlight the importance of attitude and behaviour,

Outline the principles of 'system' driving,

General tips on safe driving,

Identify typical journeys taken.

Customer care skills – what does the customer want.

Speed limits

Hazard awareness and perception (COAST)

Attitude and behaviour.

Knowledge check.

Practical Session

Duration approximately 3 hours in car.

Note the vehicle is hired in by Hartlepool Borough Council.

Pre- driving

Vehicle checks

Eyesight check

Driving Element

Driver assessed driver 20 minutes

Debrief driver by trainer – highlighting areas of strength and those requiring additional coaching.

Demonstration drive by trainer reflecting on areas for improvement including full commentary element followed by a debrief, questions and answers.

Driver coaching session – covers all aspects of driving, concentrating on fault rectification, identifying speed limits and hazards on urban/semi rural/rural roads. Identification, analysis and rectification of faults followed by a debrief.

Second assessed drive followed by a comprehensive debrief. Driver must show improvement in performance and attitude in order to successfully complete the course.

Return to centre to undertake knowledge check, review of the course and completion of paperwork (15mins).

Taxi driver receives a certificate and their assessment forms.

A detailed report will be issued to the relevant Taxi Licensing Authority detailing performance and areas covered.

Oct 2011.PW

LICENSING COMMITTEE

6th November 2012



Report of: Assistant Director, Regeneration & Planning

Subject: CRIMINAL RECORDS DISCLOSURES - UPDATE

1. PURPOSE OF REPORT

- 1.1 To update members on the progress made to secure funding to finance Enhanced Criminal Records Bureau (CRB) checks for the 241 taxi drivers whose most recent CRB checks were at the lower 'Standard' level.
- 1.2 To consider what action, if any, should be taken with regard to the 241 hackney carriage and private hire drivers who obtained their licence on the basis of a Standard CRB disclosure.
- 1.3 To propose an amendment to the current Hackney Carriage & Private Hire Licensing Policy so as to reflect a change in the name of the Criminal Records Bureau.

2. BACKGROUND

- 2.1 At a meeting of this Committee on 13th April 2011 Members were advised that the Criminal Records Bureau (CRB) had issued instructions to local authorities indicating that drivers of hackney carriages and private hire vehicles were not eligible for Enhanced CRB checks but rather must obtain the less detailed 'Standard' check.
- 2.2 This was contrary to the approach taken by almost all licensing authorities in the country which had, until then, requested enhanced CRB checks for drivers as a matter of routine.
- 2.3 A 'Standard' CRB check contains details of all spent and unspent convictions, cautions, reprimands and warnings from the Police National Computer (PNC).
- 2.4 An 'Enhanced' CRB check is the highest level of criminal check. It will contain the same PNC information as the 'Standard' check but also includes a check of police records held locally, and for certain positions working with children and adults, information held by the Independent Safeguarding Authority.

- 2.5 Following representations made by this authority and many others, including trade bodies and child protection agencies, the Government implemented legislation allowing licensing authorities to once again require Enhanced Checks for drivers.
- 2.6 At its meeting on 17th July 2012 this Committee was informed that during the period where Enhanced CRB checks were not permitted a total of 241 drivers licences had been issued – 19 of which related to new drivers and 222 were renewals of existing drivers.
- 2.7 Two of the new drivers have subsequently been granted school contracts by the Council and have been required to obtain 'Enhanced' CRB checks as part of the contract tendering process. There are therefore 17 new drivers who have not been subjected to an Enhanced CRB check.
- 2.8 Committee were advised that the cost of converting the 'Standard' checks to 'Enhanced' checks would be approximately £10,500 for the 241 drivers or approximately £800 for the new drivers only.
- 2.9 Committee asked officers to seek additional funding of £10,500 from Government in order to cover this cost.
- 2.10 A letter was sent to the Secretary of State for Communities and Local Government on 21st August 2012 but, to date, no response has been received.

3. ISSUES

- 3.1 It must be considered unlikely that additional government funding will be made available and, as such, Members may wish to consider whether 'Enhanced' checks should be required for some, or all, of the 241 drivers who obtained their current licence on the basis of a 'Standard' CRB check only.
- 3.2 Members will be aware that the Council's licensing policy requires a CRB check every 3 years and, as such, anyone who obtained their current licence on the basis of a 'Standard' check will be required to obtain a further 'Enhanced' check on the third anniversary of their current licence.
- 3.3 Being a hackney carriage or private hire driver is regarded as a 'notifiable occupation' which means that the licensing authority should be notified whenever a licensed driver is cautioned or prosecuted through the courts.
- 3.4 Members may wish to note that it is extremely rare for the authority to receive information on an 'Enhanced' CRB check that would not also have been disclosed on a 'Standard' check.
- 3.5 The 222 existing drivers who obtained a 'Standard' check will have originally supplied an 'Enhanced' check when they first obtained their licence and,

taking paragraph 3.3 above into consideration, Members may feel that there is minimal risk in allowing these drivers to continue without the need for an additional check being obtained immediately.

- 3.6 Whilst there is no legal obligation to take any further action in relation to any current licensed driver, Members may feel that the 17 new drivers who obtained their licence on the basis of a 'Standard' check only, and have never had an 'Enhanced' check, represent the greatest potential risk and, as such, should be required to obtain an 'Enhanced' check immediately. The cost of doing this, £748, would result in an overspend in the relevant service budget.
- 3.7 If Members were minded to require some, or all, of the identified drivers to obtain 'Enhanced' checks it is likely that this could only be legally enforced at the time of licence renewal. Drivers could be requested to obtain 'Enhanced' checks immediately but for those who refused, the authority would be required to wait until licence renewal before the 'Enhanced' check could be insisted on. It is unlikely that a driver's refusal to obtain an additional CRB check, in the absence of any grounds for suspicion, would constitute a reasonable cause for the suspension or revocation of the licence that was in force.
- 3.8 If Members were minded to require an 'Enhanced' CRB on licence renewal for those new drivers the process would not be completed until August 2013.
- 3.9 Disclosure & Barring Service
- 3.10 As of 1st November 2012 the Criminal Records Bureau will be merging with the Independent Safeguarding Authority and forming the new Disclosure & Barring Service (DBS). This is an organisational change at a national level but will not affect the content of the disclosures that are provided.
- 3.11 CRB checks will become known as DBS checks and, as such, it will be necessary to amend the current Hackney Carriage & Licensing Policy to account for this change.

4. EQUALITY AND DIVERSITY CONSIDERATIONS

- 4.1 There are no equality or diversity implications.

5. SECTION 17

- 5.1 There are no implications under Section 17.

6. RECOMMENDATIONS

- 6.1 That Members consider this report and determine whether any further action should be taken in respect of those taxi drivers who obtained their current

hackney carriage or private hire drivers licence on the basis of a Standard Criminal Records Bureau Disclosure.

- 6.2 That Members approve an amendment to the Hackney Carriage & Licensing Policy so as to replace references to the Criminal Records Bureau with the Disclosure & Barring Service.

7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

- 7.1 There are no appendices.

8. BACKGROUND PAPERS

- 8.1 There are no background papers.

9. CONTACT OFFICER

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LICENSING COMMITTEE

6th November 2012



Report of: Assistant Director (Regeneration & Planning)

Subject: FORTHCOMING AMENDMENTS TO THE
LICENSING ACT 2003

1. PURPOSE OF REPORT

- 1.1 To update Members about forthcoming amendments to the Licensing Act 2003 and to seek approval to begin consultation on their potential implementation in Hartlepool.

2. BACKGROUND

- 2.1 When the Licensing Act was implemented in 2004 its primary purpose was to tackle problems associated with the misuse of alcohol. At that time it was the belief of the Government that late night alcohol related crime and disorder was being caused by the requirement for all licensed premises to close at the same time – producing a surge of drunken people onto the streets – fighting to order pizzas and flag down taxis to get home.
- 2.2 The Licensing Act removed ‘prescribed’ licensing hours and effectively permitted ‘24 hour drinking’ if licensees requested it.
- 2.3 Statutory guidance that accompanied the Act made it very clear that licensing authorities should sign up to the presumption that longer hours would mean less trouble and that there should be an assumption that any licence should be granted unless there were exceptional reasons for it to be refused. Any refusal of a licence application could be appealed to the Magistrates who were also bound to take into consideration the Government’s guidance.
- 2.4 This resulted in there being over 20 licences granted (excluding takeaways) that authorised trading until at least 0400 hours (this has subsequently been reduced to 13 – partly due to proactive action by the Council and the Police and partly due to the current economic climate).
- 2.5 Since the implementation of the Act alcohol related crime and disorder has continued at a significant level and, as such, the previous Government began to soften its stance – recognising through its statutory guidance that longer hours were not, necessarily, an answer to all problems and allowing licensing

authorities more discretion in their approach to the management of licensed premises in their area.

- 2.6 This change in Government guidance was embraced by the Licensing Committee which recommended amendments to the Licensing Policy to full Council in 2011. These were subsequently adopted and the Licensing Policy now states that new licences will not be issued to permit trading after 0200 hours (this does not however affect licences already in existence).
- 2.7 The Government has now taken this further, through the Police Reform and Social Responsibility Act (PRSR Act), and a number of significant amendments to the Licensing Act have been introduced, or are planned for the forthcoming year.
- 2.8 On 31st October 2012 further parts of the PRSR Act were implemented that will allow licensing authorities to adopt new measures for the management of their night time economies. These are Early Morning Restriction Orders (EMRO's) and Late Night Levy.
- 2.9 As this report has been prepared prior to the publication of the new legislation and its accompanying guidance a verbal update will be provided by officers to address any additional issues not detailed below.
- 2.10 Early Morning Restriction Orders (EMRO's)
- 2.11 Once a licence to sell alcohol has been granted it remains in force until it is either surrendered by the licence holder or revoked by the licensing authority. The hours of trade permitted by the licence can only be amended by either a voluntary variation or by order of a licensing sub-committee following a review of the licence.
- 2.12 Hartlepool currently has 13 premises that are licensed to supply alcohol until 4:00 a.m. and, unless there are specific problems associated with a particular premises, the licensing authority has no power to reduce their operating hours. Any attempt to do so by means of a licence review can be appealed to a Magistrates Court.
- 2.13 This essentially means that licensing authorities are limited in their ability to manage their night time economies where problems such as crime and disorder cannot be linked to a specific premises but are more the result of there being a concentration of premises in a specific area.
- 2.14 Once adopted by a licensing authority an EMRO would allow the authority to restrict the sale of alcohol from all premises in a defined area within any time between midnight and 6:00 a.m. This could, for example, allow Hartlepool to prohibit the sale of alcohol between 2:00 a.m. and 6:00 a.m. in the town centre area.
- 2.15 The exact process to be followed for the adoption of an EMRO will be published on 31st October 2012 but it is likely that it will require the licensing authority to

consult with its residents and businesses and to be able to demonstrate that an EMRO would be 'appropriate' for the promotion of the licensing objectives. If representations are received the Council would be required to hold a hearing and any final decision to adopt an EMRO would require approval by full Council.

2.16 The Late Night Levy

- 2.17 If adopted, the Late Night Levy would allow licensing authorities to raise a contribution from late night opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off-trade) throughout the licensing authority's area, which are authorised to sell or supply alcohol in the time period set by the licensing authority which can be any time between midnight and 6:00 a.m.
- 2.18 The Government has proposed that a maximum of 30% of any Late Night Levy generated would be retained by the local authority (after the deduction of administrative costs) and the remaining 70% would be allocated to the Police.
- 2.19 The exact amount of the levy has not yet been determined but the Government has indicated that it is likely to be between £299 and £1493 per year, based on the rateable value of the premises. Hartlepool currently has approximately 30 premises that operate after midnight but, due to the low rateable value of premises in the town, the average levy per premises would be around £500. This would generate a total annual income of approximately £15000 which would, before the deduction of administrative costs, equate to £4500 for the Council and £10500 for the Police.
- 2.20 However, these figures could be misleading as some retailers who currently trade after midnight may choose to amend their opening hours in order to be excluded from the levy. The Government is also proposing a number of discounts that would reduce the amount of levy payable where the trader was operating a range of best practice initiatives – these discounts could amount to as much as 30% of the initial levy due.
- 2.21 The process for the adoption of a Late Night Levy scheme is similar to that of EMRO's but the Police and Crime Commissioner (PCC) must be specifically included in consultation.
- 2.22 There is no requirement for a licensing authority to adopt either or both of the above measures and, taking into account the current economic climate, it may be inappropriate to consider the immediate adoption of either or both EMRO's and the Late Night Levy.
- 2.23 Regular discussions with on-licensees would suggest that a move back to a terminal hour of 0200 for all alcohol licensed premises, through the adoption of an EMRO, would generally be welcomed. The introduction of a levy would have serious financial consequences for many businesses, some of which currently operate for only 6-8 hours a week.

3. ISSUES

3.1 Crime and disorder continues to be a significant issue for the night time economy with an average of approximately 20 violent incidents in the town centre area each month.

3.2 A wide range of measures have been introduced over recent years in an attempt to address these problems including: -

- Introduction of a taxi marshalling system in Church Street
- Installation of a taxi shelter on Church Street
- Support for the introduction of ‘town pastors’
- Removal of some street furniture in Church Street that was impeding CCTV coverage or being regularly abused
- Installation of alleygates next to pubs in the Victoria Road area – the alleyways, which were poorly lit, had been the location of a number of assaults
- Early use of Drink Banning Orders – a legal measure imposed by the Courts on those who have been found to be involved in alcohol related disorder in the town centre area
- Use of ‘Directions to Leave’ by the Police. The power enables the police to issue an individual with a Direction to leave a locality. The Direction prohibits their return to that locality for a period not exceeding 48 hours. The power allows the police to target particular problem areas that need action or early intervention and to reduce the likelihood of alcohol-related crime or disorder arising.
- Close working with Hartlepool Licensees Association including support for their ‘Barred From One Barred From All’ scheme

3.3 The adoption of EMRO’s and/or the Late Night Levy should be considered as additional tools to help address the problems associated with the night time economy.

3.4 There are however a number of potential risks associated with the adoption of EMRO’s and/or the Late Night Levy: -

- Displacement – If Hartlepool returns to, for example, a terminal hour of 0200 hours, many revelers may choose to travel out of town to an area with later opening hours. This could have a significant impact on local business.
- Earlier closing may mean fewer trading hours. For example, if a premises that currently closes at 0400 hours is made to close at 0200 hours there is no guarantee that their customers will arrive earlier to compensate for this. A number of premises in the town centre currently trade for only a few hours per week – a reduction of 2 hours could have a significant impact.
- The imposition of a terminal hour could be seen as a return to the position the town centre was in prior to the implementation of the

Licensing Act in 2005. There are currently 23 premises in the town centre area with a terminal hour of 0200 hours or later and there may be concerns that many, or all, of these premises would close at the same time - resulting in a surge of people onto the streets.

3.5 There are also a number of potential benefits associated with the adoption of EMRO's and/or a Late Night Levy: -

- The adoption of an earlier terminal hour may result in revelers beginning their night out earlier. It is accepted that many revelers now purchase cheap alcohol from supermarkets and drink it at home prior to 'going out' (known as 'pre-loading'). Information from local licensees and taxi companies suggests that many people do not begin their night out until midnight or later. As many people will have been drinking at home some licensees believe these people go on to make use of their facilities for the remainder of the night but actually spend little money.

Introducing an earlier closing time may lead to revelers coming to the town centre earlier and potentially spending more money in the town centre premises.

- An earlier closing time will result in people returning home earlier. This will, in turn, reduce any noise nuisance as revelers either walk or are taken home by taxi.
- Police resources would be freed up earlier and could be allocated elsewhere.
- The availability of taxis working on an evening may increase as a number of drivers currently refuse to work until 4 or 5 o'clock.
- Additional revenue could be generated via the Late Night Levy which could be used to finance additional night time economy initiatives.

3.6 As the adoption of EMRO's and/or the Late Night Levy are potentially very significant for both local licensees and residents of the town it is proposed that a comprehensive consultation exercise be carried out.

3.7 As detailed in paragraph 2.21 above, consultation must include the newly appointed Police and Crime Commissioner.

3.8 It is proposed that the results of the consultation be brought back to a future Licensing Committee meeting for consideration.

4. EQUALITY AND DIVERSITY CONSIDERATIONS

4.1 There are no equality or diversity implications.

5. SECTION 17

5.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the

impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.

- 5.2 It is expected that adoption of the Late Night Levy and/or EMRO's will positively contribute to Section 17 as they would allow for more effective management of the night time economy.

6. RECOMMENDATIONS

- 6.1 That Members authorise the commencement of a comprehensive consultation exercise relating to the potential adoption of a Late Night Levy and/or Early Morning Restriction Orders.

7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

- 7.1 There are no appendices to this report.

8. BACKGROUND PAPERS

- 8.1 Licensing Committee Agenda & Minutes – 17th July 2012

9. CONTACT OFFICER

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LICENSING COMMITTEE

6th November 2012



Report of: Assistant Director (Regeneration & Planning)

Subject: GAMBLING ACT STATEMENT OF LICENSING PRINCIPLES

1. PURPOSE OF REPORT

- 1.1 To consider a draft Statement of Licensing Principles for 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 Amongst other things, the Gambling Act 2005 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 current licensing policy was published in January 2010 and, as such, a new policy must be published no later than January 2013.
- 2.5 The current policy (available as **Appendix 1**) meets the requirements of the Act's statutory guidance and follows closely a best practice licensing policy initially produced by the Local Authority Co-ordinating Body for Regulatory Services (LACORS).
- 2.6 As there has been no national or local developments that would necessitate a change to the current policy Licensing Committee determined at its meeting on 17th July 2012 that it would be appropriate for it to be retained for a further three years, subject to the result of consultation at a local and national level.
- 2.7 The consultation period ended on 8th October 2012 and one response was received from the British Beer & Pub Association. The response was a

generic response, dated 2009, and did not raise any issues that apply to Hartlepool's draft policy.

3. ISSUES

- 3.1 Licensing authorities are required to publish a Statement of Licensing Principles (a licensing policy) every three years.
- 3.2 Hartlepool's current licensing policy was published in January 2010 and, as such, a new policy must be published no later than January 2013.
- 3.3 The final policy must be approved by full Council and published no later than 3rd January 2013.
- 3.4 Consultation at a local and national level did not generate any relevant responses. This is likely to be due to there being no substantive changes to the 2010 policy which was based around a nationally accepted framework that was produced after extensive consultation at a national level.
- 3.5 Whilst the draft policy follows a nationally accepted framework, licensing authorities are permitted to adopt a 'local' policy on the provision of casinos. A licensing authority may, if it considers it appropriate, adopt a 'No Casino' resolution which, in effect, prevents applications for casino licences from being granted.
- 3.6 Hartlepool's 2010 gambling policy contained a 'No Casino' resolution and Members are required to consider whether such a resolution should continue.
- 3.7 As there have been no national or local developments that would necessitate a change to the current policy it is proposed that it be retained for a further three years.

4. EQUALITY AND DIVERSITY CONSIDERATIONS

- 4.1 There are no equality or diversity implications.

5. SECTION 17

- 5.1 There are no implications under Section 17.

6. RECOMMENDATIONS

- 6.1 That Members consider the draft Statement of Licensing Principles as detailed in **Appendix 1** and, if appropriate, agree to its recommendation to full Council.

- 6.2 That Members consider whether a 'No Casino' resolution should be incorporated into the draft Statement of Licensing Principles.

7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

- 7.1 **Appendix 1** – Draft Statement of Licensing Principles

8. BACKGROUND PAPERS

- 8.1 Agenda & Minutes – Licensing Committee 17th July 2012

9. CONTACT OFFICER

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STATEMENT OF PRINCIPLES
Gambling Act 2005
(To be Published January 2013)



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This Statement of Licensing Principles was approved by Hartlepool Borough Council on XXXXX.

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 4th Edition, published September 2012.

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 contained in Appendix I.

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.

Our consultation took place between 17th July 2012 and 8th October 2012 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 Trading Standards & Licensing Officer, Hartlepool Borough Council, Hanson House, Hartlepool, TS24 7BT or via the Council's website at: www.Hartlepool.gov.uk/licensing.

The policy was approved at a meeting of the Full Council on XXXXX date and was published via our website on XXXXX. 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 Trading Standards & Licensing Officer
Hartlepool Borough Council
Hanson House
Hartlepool
TS24 7BT

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

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 MPs. 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 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 gambling 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 whilst it recognises that gambling can be an enjoyable and harmless activity for many, it believes that a casino may provide an environment that may harm vulnerable persons who may gamble beyond their means.

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, which 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 to 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.

DRAFT**DRAFT****4.4 APPENDIX 1****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/representati ons have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representati ons 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/representati ons 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
Web Site: www.hartlepool.gov.uk/licensing

CONSULTATION

The following individuals/agencies and organisations were consulted about this Statement of Licensing Principles between July and September 2012: -

The Mayor of Hartlepool
Hartlepool Borough Council councillors
Parish Councils
Chief of Cleveland Police
Cleveland Fire Service
Hartlepool Borough Council Planning Department
Hartlepool Borough Council Trading Standards Service
Hartlepool Borough Council Environmental Health
HMRC
Hartlepool Borough Council Safeguarding Board
Gamblers Anonymous
GamCare
British Beer and Pub Association
Association of British Bookmakers
Bingo Association
Remote Gambling Association
Business in Sport & Leisure
Casino Operators Association
BACTA
British Holiday & Home Parks Association
British Race Courses Association Ltd
British Casino Association

LICENSING COMMITTEE

6th November 2012



Report of: Assistant Director (Regeneration & Planning)

Subject: HACKNEY CARRIAGE & PRIVATE HIRE AGE LIMITS

1. PURPOSE OF REPORT

- 1.1 To consider whether the current licensing policy for hackney carriage and private hire vehicles should be amended so as to allow older cars to be licensed.

2. BACKGROUND

- 2.1 The current hackney carriage and private hire licensing policy was adopted in January 2011 and retained a long standing requirement that vehicles (except purpose built wheelchair accessible vehicles) must be less than 3 years old when first licensed.
- 2.2 Paragraph 2.6 (d) of the current licensing policy states that a vehicle submitted for initial licensing must: -
- ‘Be below the age of 3 years from the date of first registration and the vehicle will normally be required to be replaced when it reaches six years of age unless the proprietor can demonstrate that it has been, during the course of its lifetime, exceptionally well-maintained. (see exception for stretched limousines)’*
- 2.3 Representations have been received from some vehicle owners asking for the current policy to be amended so as to permit older vehicles to be licensed for the first time.
- 2.4 The request specifically relates to the difficulties created by the enforcement of a strict 3 year age limit as this has the effect of excluding a significant source of used cars – namely fleet hire vehicles that are routinely sold off as soon as they are 3 years old.
- 2.5 It is generally accepted that fleet hire cars are well maintained and can represent good value for money but as they may be just weeks older than 3

years when they are made available they are currently classed as being too old to be used as a licensed vehicle in Hartlepool.

3. ISSUES

- 3.1 Prior to being licensed for the first time, hackney carriage and private hire vehicles are subjected to a mechanical test, carried out at the Council's garage, and then at six monthly intervals until it is 6 years old when it would usually be replaced. Vehicles that do not pass both of these tests do not receive a licence.
- 3.2 The mechanical test covers issues of mechanical fitness similar to a standard MOT but with some additional checks specific to licensed vehicles.
- 3.3 In addition to the mechanical test, vehicles are also visually inspected by a licensing officer prior to being licensed for the first time and then periodically throughout its lifetime as a licensed vehicle.
- 3.4 If a vehicle fails either a mechanical or visual inspection its licence may be suspended until such time as it is considered satisfactory once again.
- 3.5 The minimum and maximum age of licensed vehicles is a matter for local licensing authorities and there are no national standards.
- 3.6 Members will be aware that some progress has been made in harmonising certain aspects of taxi licensing policies across the Tees Valley region but this has not yet extended to vehicle licensing. There is therefore only a certain degree of consistency at present with Hartlepool, Darlington, Middlesbrough and Redcar & Cleveland all currently enforcing a 3 year age limit for newly licensed vehicles. Stockton Borough Council does not operate such an age policy but rather requires vehicles to pass an emissions standard relating to air quality.
- 3.7 Hartlepool's hackney carriage and private hire fleet is generally considered to be of high quality and Members may feel that this may be partly attributed to the strict application of the current age policy.
- 3.8 Members may feel that the current 3 year age limit unnecessarily limits the availability of affordable vehicles and that there are sufficient additional quality controls incorporated into the licensing procedures to ensure that the overall standard of the fleet would not be detrimentally affected by a partial relaxation of the minimum age policy.

4. EQUALITY AND DIVERSITY CONSIDERATIONS

- 4.1 There are no equality or diversity implications.

5. SECTION 17

- 5.1 There are no implications under Section 17.

6. RECOMMENDATIONS

- 6.1 That Members consider the issues detailed in this report and consider whether it is appropriate to amend the hackney carriage and private hire licensing policy relating to the maximum age a vehicle may be when first licensed.

7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

- 7.1 There are no appendices.

8. BACKGROUND PAPERS

- 8.1 No background papers were used in the preparation of this report.

9. CONTACT OFFICER

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