

LICENSING COMMITTEE

AGENDA



Friday 1st October 2021

at 1.00pm

**in the Council Chamber,
Civic Centre, Hartlepool.**

A limited number of members of the public will be able to attend the meeting with spaces being available on a first come, first served basis. Those wishing to attend the meeting should phone (01429) 523568 or (01429) 523019 by midday on Thursday 30th September and name and address details will be taken for NHS Test and Trace purposes.

MEMBERS: LICENSING COMMITTEE:

Councillors Brown, Cassidy, Cook, Elliott, Feeney, Fleming, Jackson, Little, B Loynes, Picton, Prince and Richardson

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To approve the minutes of the Licensing Committee meeting held on 25th June 2021
- 3.2 To approve the minutes of the Regulatory Sub-Committee meeting held on 21st July 2021

4. ITEMS REQUIRING DECISION

- 4.1 House to House Collections – *Assistant Director (Regulatory Services)*
- 4.2 Gambling Act – Statement of Licensing Principles – *Assistant Director (Regulatory Services)*
- 4.3 Mobile Home Sites (Fit and Proper Person) Licensing - *Assistant Director (Regulatory Services)*

CIVIC CENTRE EVACUATION AND ASSEMBLY PROCEDURE

In the event of a fire alarm or a bomb alarm, please leave by the nearest emergency exit as directed by Council Officers. A Fire Alarm is a continuous ringing. A Bomb Alarm is a continuous tone. The Assembly Point for everyone is Victory Square by the Cenotaph. If the meeting has to be evacuated, please proceed to the Assembly Point so that you can be safely accounted for.

4.4 Taxi Licensing Policy - *Assistant Director (Regulatory Services)*

5. ITEMS FOR INFORMATION

5.1 No items.

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

Date of next meeting – Friday 7th January 2022 at 1.00pm



LICENSING COMMITTEE

MINUTES AND DECISION RECORD

Friday 25th June

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

Present:

Councillor: Tom Cassidy (In the Chair)

Councillors: Paddy Brown, Rob Cook, Jennifer Elliott, Tom Feeney,
Tim Fleming, Peter Jackson, Brenda Loynes, Stephen Picton,
Amy Prince and Carl Richardson

Officers: Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Neil Wilson, Assistant Chief Solicitor
Jo Stubbs, Democratic Services Officer

1. Apologies for Absence

Apologies were submitted by Councillor Sue Little

2. Declarations of interest by Members

None

3. Approval of the minutes of the meeting held on 1st October 2020.

Minutes approved

4. Approval of the minutes of the Licensing sub-committee meetings held on 8th September 2020, 17th November 2020, 20th November 2020, 21st January 2021, 27th April 2021 and 28th April 2021.

Minutes approved

5. Approval of the minutes of the Regulatory sub-committee meetings held on 28th September 2020 and 15th January 2021.

Minutes approved

6. Licensing Sub-Committee and Regulatory Sub-Committee Memberships *(Chief Solicitor)*

There were four Licensing sub-committees of three members dedicated to considering licences for premises and three Regulatory sub-committees of four members dedicated to considering licences for hackney carriage and private hire drivers. Following a discussion with the Chair the following proposed subcommittee memberships were set out for Members consideration / discussion.

Licensing Sub Committees: -

1. Councillors Rob Cook (Chair) Tom Feeney and Brenda Loynes
2. Councillors Amy Prince (Chair), Jennifer Elliott and Tim Fleming
3. Councillors Peter Jackson (Chair), Stephen Picton and Carl Richardson
4. Councillors Sue Little (Chair), Paddy Brown and Tom Cassidy

Regulatory Sub Committees: -

1. Councillors Tom Cassidy (Chair), Paddy Brown, Sue Little and Stephen Picton
2. Councillors Tim Fleming (Chair), Jennifer Elliott, Peter Jackson and Amy Prince
3. Councillors Brenda Loynes (Chair), Rob Cook, Tom Feeney and Carl Richardson

It was acknowledged that political balance was difficult to maintain on sub committees of three or four members but there should at least be two parties represented on each subcommittee. The proposals set out meet that requirement as far as practicable.

Decision

That the proposed sub-committees as set out above be approved.

7. Gambling Act – Statement of Licensing Principles *(Assistant Director (Regulatory Services))*

Members were advised that the Council's current statement of licensing principles in relation to gambling activities was due for renewal in January 2022. A draft statement was appended to the report for members'

attention. Consultation on the proposed draft statement would take place and a further report be brought back to Committee in October before formal recommendation to Council in December. The draft statement continued to include a no casino resolution which stated that the Council would not consider any application for a casino in Hartlepool.

Decision

That the draft statement of licensing principles be approved for consultation.

8. Taxi Licensing Policy *(Assistant Director (Regulatory Services))*

The Trading Standards and Licensing Manager informed Members of a number of proposed amendments to the Council's Taxi Licensing Policy. These were due to the publication by the Government of statutory standards for the taxi trade which must be incorporated into local policies by December 2021. While Hartlepool already complied with most of the requirements there were a number of amendments needed to comply with them all. It was proposed that the draft document be consulted upon and any responses be brought back to the next Licensing Committee meeting in October. The proposed changes were as follows:

Criminal records check – drivers – previously drivers were required to provide an enhanced DBS check every year at a cost of £44. As an alternative drivers were encouraged to enrol on the DBS update service for an annual fee of £13 which would allow Council officers to view their DBS history at any time. However new government requirements that a drivers' record should be checked every 6 months had led to a proposal that enrolment on the DBS update service be mandatory. If drivers refused to they would be required to pay £44 every 6 months for a full DBS check. Members queried how comprehensive the update service checks were. The Trading Standards and Licensing Manager advised that these checks would advise whether or not the most recent DBS certificate was still accurate. If the driver in question had been convicted of an offence this update check would not give the detail but would advise that the certificate was no longer accurate. A new DBS check would then need to be carried out at a £44 cost to the driver. Members noted that both hackney carriage and private hire drivers needed an enhanced DBS check but private hire operators and vehicle owners only needed a basic DBS check. The Trading Standards and Licensing Manager explained that the enhanced check was more thorough than the basic check and was passed on to the Chief of Police for comments. The onus was still on drivers to inform the licensing authority of any subsequent convictions regardless of the DBS check timeline.

Criminal record checks – vehicle owners – there would now be a requirement that a basic DBS check be carried out annually. In reality given that the majority of licensed vehicles in Hartlepool were owned by a

company or a licensed driver, who already need a DBS check, this was unlikely to result in an additional financial burden.

Criminal record checks – private hire operators – Private hire operators would now be required to submit a basic DBS certificate for each owner/director annually. There would also be a requirement that operators maintain a register of call handlers/despatchers and a basic DBS check for all these employees. The register must be available for inspection by licensing officers. The Trading Standards and Licensing Manager felt this could be an issue for existing/longstanding employees who do not have the requirement for a DBS included in their employment contracts.

Use of non-licensed drivers – Members had previously been advised that anyone driving passenger vehicles capable of carrying more than 8 passengers were not subject to the same rigorous checks to ensure they were fit and proper to undertake the role as other drivers. Previously there had been no requirement to inform customers that their driver had not been vetted to the same high standard however under new government guidance this would now be a requirement. To not do so would be a breach of Council policy and could result in a private hire operator being brought before a sub-committee. Members suggested that this requirement be publicised so that customers were aware that they could refuse to get into a large taxi or minibus if they felt robust checks had not been carried out on the driver.

Transfer of vehicles and taxi plates – The Trading Standards and Licensing Manager gave details of the current 'trade' in taxi plates whereby existing drivers could transfer their vehicle and plate to another driver at an agreed price (potentially as much as £5000). It was proposed that this no longer be allowed and any plates which were no longer required be submitted to the licensing authority to be passed on to the next person on a waiting list. Members accepted that this would be of benefit to new drivers but could leave existing drivers who may have paid a lot of money for their plate significantly out of pocket. They also queried whether plates really were being transferred for such large amounts, The Trading Standards and Licensing Manager acknowledged these concerns but felt that the current system was allowing the trade to set the value of plates which did not seem correct. This seemed a fairer way than the current behind the scenes negotiations. He stressed that Members were being asked to allow this to be consulted upon at this time. The results of the consultation would be brought to them in October when they could make a final decision based on that.

A member asked if more taxi ranks could be provided across town as the current ranks were very close together. The Trading Standards and Licensing Manager indicated that such requests would generally come through his quarterly meeting with members of the taxi trade and such requests were not normally made apart from on private land which the Council was unable to grant. A member queried whether the notes of the previous taxi trade meeting were available and when the next meeting was

due to take place. They also asked if elected members could be involved. The Trading Standards and Licensing Manager commented that elected members currently had no involvement and while they could attend these meetings if they wished he would prefer to keep these meetings as informal as possible. Other members felt it would be inappropriate for elected members to be involved as drivers and officers might be reluctant to speak openly.

A member asked if installing a camera in a private hire or hackney carriage car was Council policy. The Trading Standards and Licensing Manager indicated that it was encouraged but mandated due to the potential high costs involved.

A member suggested that a dress code be part of the policy such as a requirement to wear trousers and a shirt. They also asked that drivers be spoken to about their tendency to stand on the road next to taxi ranks rather than on the pavement. The Trading Standards and Licensing Manager confirmed that the Council policy did include a dress code but it was strongly advisory rather than legally enforceable. Drivers were more likely to adhere to such a code if customers exercised their right to refuse to use a vehicle driven by someone who was not appropriately dressed. In terms of drivers standing in the road he would ask that these concerns be passed on by the licensing team. A member felt it was unreasonable to ask drivers to wear a shirt and trousers in Summer.

Decision

That a consultation process on the attached draft taxi licensing policy commence.

That an additional requirement around the transfer method for unwanted licence plates be included in the consultation.

The meeting concluded at 3:10pm

CHAIR

REGULATORY SUB COMMITTEE

MINUTES AND DECISION RECORD

21 JULY 2021

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

Present:

Councillor: Tim Fleming (In the Chair)

Councillors: Jennifer Elliott, and Amy Prince.

Also Present: Councillor Rob Cook as substitute for Councillor Peter Jackson in accordance with Council Procedure Rule 4.2.

Officers: Ian Harrison, Trading Standards and Licensing Manager
Tony Macnab, Solicitor
David Cosgrove, Democratic Services Team

1. Apologies for Absence

Councillor Peter Jackson.

2. Declarations of interest by Members

None.

3. Local Government (Access to Information) (Variation Order) 2006

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

Minute 4 – Private Hire Drivers Licence IW – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of a particular person (including the authority holding that information) (para. 1).

- 4. Private Hire Drivers Licence IW** (*Assistant Director, Regulatory Services*) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information)

Decision

Details of the sub committee's decision is set out in the confidential section of the minutes.

The meeting concluded at 3.30 pm

CHAIR

LICENSING COMMITTEE

1st October 2021



Report of: Assistant Director (Regulatory Services)

Subject: HOUSE TO HOUSE COLLECTIONS

1. PURPOSE OF REPORT

- 1.1 To seek approval for the continuation of a three year exemption from the Council's House to House collections policy for the Great North Air Ambulance.

2. BACKGROUND

- 2.1 By virtue of the House to House Collections Act 1939 and the House to House Regulations 1947 anyone wishing to carry out a house to house collection for charitable purposes must first obtain a licence from the local authority.
- 2.2 House to house collections regularly take place in Hartlepool and typically involve the unsolicited delivery of plastic bags to local residents asking for donations of clothing and other items such as books, shoes or anything of value in order to benefit a good cause or charity.
- 2.3 Residents are asked to leave bags of donations on the street or doorstep which are then collected and transported to regional centres where they are sorted and sold for a profit.
- 2.4 If the charity has engaged a commercial collection company the costs of the collection will be recovered from the proceeds and the remainder will be regarded as 'profit'. If collection costs are high, the amount of profit will be low. The profit, or sometimes a proportion of the profit, is then donated to the good cause.
- 2.5 A House to House Collection licence must be granted by a licensing authority unless it believes there are grounds to refuse it. The grounds for refusal are as follows: -

- i. That the total amount likely to be applied to the charitable purpose as a result of the collection is inadequate in proportion to the value of proceeds likely to be received
 - ii. That remuneration that will be retained or received is excessive
 - iii. That granting the licence would facilitate the commission of an offence under the Vagrancy Act
 - iv. That the applicant is unfit due to previous criminal convictions
 - v. That the applicant has failed to ensure that the persons conducting the collection are fit and proper
 - vi. That the applicant has failed to supply the local authority with relevant information

- 2.6 In April 2011, following a significant increase in the number of collections being requested and, in some instances, the very low amount of benefit that was being received by the good causes, the issue of house to house collections was considered by the Licensing Committee.

- 2.7 The Committee determined to introduce a policy that states that for an application to be approved, the applicant must be able to demonstrate that either: -
 - i. A minimum of 75% of the proceeds (not the profits) of the collection are donated to the good cause, or
 - ii. That, where the percentage is less than 75%, the collection bag or collection leaflet clearly and prominently states the percentage that will be donated (in order for the consumer to make an informed choice about whether to donate).

- 2.8 At a meeting of the Licensing Committee on 28th January 2015 Members were informed that the Great North Air Ambulance (GNAA) could not comply with the Council's policy and, as such, would not be granted a licence to carry out collections in Hartlepool.

- 2.9 The Chief Executive of the GNAA attended the meeting and explained how a trading company had been established to carry out its collections and donate the resulting 'profit' to the GNAA charity.

- 2.10 It was explained however, that around 80% of the value of the donations was retained to cover the costs of the trading operation and therefore only around 20% of the value of goods donated was actually being paid over to the charity. The GNAA was therefore unable to meet Hartlepool's policy requirement that at least 75% of the value of donations be paid to the good cause being promoted.

- 2.11 The Chief Executive also stated that Hartlepool's alternative requirement of printing the actual donated percentage onto the collection leaflets was 'impractical'.

- 2.12 The Licensing Committee considered the representations made by the GNAA and determined to amend the Council's policy so that exemptions

from the policy could be sought from individual charities and that these would be considered by the Licensing Committee on a case by case basis.

- 2.13 The Committee also determined that the GNAA would be given a three year exemption from the Council's House to House collections policy. This was subsequently re-considered, and renewed for a further three years, in 2018.
- 2.14 This exemption is due for reconsideration and, if appropriate, renewal.

3. PROPOSALS

- 3.1 Hartlepool's current House to House collection policy states that an applicant for a licence must be able to demonstrate that either: -
- i. A minimum of 75% of the proceeds (not the profits) of the collection are donated to the good cause, or
 - ii. That, where the percentage is less than 75%, the collection bag or collection leaflet clearly and prominently states the percentage that will be donated.
- 3.2 The licensing committee has previously heard from the Chief Executive of the GNAA who stated that Hartlepool's current policy is too onerous for businesses that operate across many local authority boundaries and therefore it is a requirement that cannot be practically or economically be met by them.
- 3.3 The GNAA has confirmed that they would like the current three year exemption to be extended for a further three years and a representative from the organisation will be attending today's Committee meeting to answer any questions Members may have.

4. RISK IMPLICATIONS

- 4.1 There are no risks associated with this report.

5. LEGAL CONSIDERATIONS

- 5.1 There are no legal considerations associated with this report.

6. RECOMMENDATIONS

- 6.1 That Members approve a further three year exemption from the Council's House to House collections policy for the Great North Air Ambulance.

7. REASONS FOR RECOMMENDATIONS

- 7.1 The Great North Air Ambulance provides significant community benefit and relies of charitable donations to fund much of its work. If the three year

exemption was not renewed, the charity would not be able to continue to conduct House to House collections in Hartlepool.

8. BACKGROUND PAPERS

- 8.1 Licensing Committee report and minutes – 21st March 2018

9. CONTACT OFFICER

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LICENSING COMMITTEE

1st October 2021



Report of: Assistant Director (Regulatory Services)

Subject: GAMBLING ACT – STATEMENT OF LICENSING PRINCIPLES

1. PURPOSE OF REPORT

- 1.1 To seek approval of the proposed draft statement of licensing principles as required by the Gambling Act 2005.

2. BACKGROUND

- 2.1 By virtue of the Gambling Act 2005, Hartlepool Borough Council is defined as the licensing authority for certain gambling functions taking place within the town.
- 2.2 Licensable activities that fall within local authority control include bingo halls, betting shops, amusement arcades and casinos.
- 2.3 The Gambling Act 2005 also requires licensing authorities to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Act.
- 2.4 Hartlepool's current statement of licensing principles was published in January 2019 and, as such, a new policy must be published no later than January 2022.
- 2.5 A draft proposed policy was presented to the Licensing Committee at its meeting on 25th June 2021 and is attached as **Appendix 1**.
- 2.5 The Licensing Committee approved the commencement of a consultation exercise relating to the draft policy and this began on 1st July.
- 2.6 The consultation ended on 3rd September 2021 and no responses were received. This is not unusual as the draft statement does not contain any significant alterations to Hartlepool's current/previous statement and there have been no noteworthy national developments that would stimulate interest.

3. PROPOSALS

- 3.1 Licensing authorities are required to publish a statement of licensing principles every three years.
- 3.2 Hartlepool's current statement was published in January 2019 and, as such, a new policy must be published no later than January 2022.
- 3.3 As with previous policies, the draft statement contains a 'no casino' resolution and Members are required to consider whether such a resolution should remain.
- 3.4 Formal adoption of the statement of licensing principles must be made by full Council.
- 3.6 It is proposed that the Licensing Committee agree and endorse the proposed statement as detailed in Appendix 1 and recommend its adoption to full Council at its meeting on 16th December 2021. This will ensure that the Council's obligation to have a new Statement in place for January 2022 is discharged.

4. RISK IMPLICATIONS

- 4.1 There are no risks associated with this report.

5. FINANCIAL CONSIDERATIONS

- 5.1 There are no financial considerations associated with this report.

6. LEGAL CONSIDERATIONS

- 6.1 It is a legal obligation for Hartlepool Borough Council to publish a statement of licensing principles every three years and, as such, a new statement must be published no later than January 2022.

7. RECOMMENDATIONS

- 7.1 That Members consider the draft statement of licensing principles as detailed in Appendix 1 and, if appropriate, agree to its recommendation to full Council.
- 7.2 That Members consider whether a 'No Casino' resolution should be incorporated into the draft statement of licensing principles.

8. REASONS FOR RECOMMENDATIONS

- 8.1 It is a legal obligation for Hartlepool Borough Council to publish a statement of licensing principles every three years and, as such, a new statement must be published no later than January 2022.

9. BACKGROUND PAPERS

- 9.1 Licensing Committee report and minutes 25th June 2021

10. CONTACT OFFICER

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STATEMENT OF PRINCIPLES

Gambling Act 2005

(Published 3rd January 2022)



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This Statement of Licensing Principles was approved by Hartlepool Borough Council on 20th December 2021.

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, published 1st April 2021.

PART A

1. The Licensing Objectives

- 1.1 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
- 1.2 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”.
- 1.3 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

- 2.1 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.
- 2.2 Hartlepool is a unitary authority, providing a full range of services. It adjoins Durham 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).
- 2.3 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.
- 2.4 Hartlepool Borough Council consulted widely on this statement before it was published. A list of those persons consulted is detailed in Appendix 3.
- 2.5 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.
- 2.6 Our consultation took place between XXXXX 2021 and XXXXXX2021 and we took into consideration the Code of Practice on Consultations published by HM Government in 2008 which is available at <http://www.bis.gov.uk/files/file47158.pdf>.
- 2.7 The policy was approved at a meeting of the Full Council on XXXXX and was published via our website on XXXX.
- 2.8 Should you have any comments as regards this policy statement, or the consultation process, please send them via e-mail or letter to the following contact:
- Trading Standards & Licensing Manager
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY
- e-mail: licensing@hartlepool.gov.uk
- 2.9 It should be noted that this statement of licensing principles will not override the right of any person to make an application (other than for a casino), 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.
- 2.10 Gambling Prevalence Survey 2010
- Overall, 73% of the adult population (aged 16 and over) participated in some form of gambling in the previous year. This equates to around 35.5 million adults. The most popular gambling activity was the National Lottery. In 2010, 59% of adults had bought tickets for the National Lottery Draw, a slight increase from the rates observed in 2007 (57%) but lower than rates observed in 1999 (65%).
- 2.11 Excluding those who had only gambled on the National Lottery Draw, 56% of adults participated in some other form of gambling in the past year. This highlights a significant increase in past year participation on other gambling activities, such as an increase in betting on other events i.e., events other than horse races or dog races with a bookmaker (3% in 1999, 9% in 2010), buying scratch cards (20% in 2007, 24% in 2010), buying other lotteries tickets (8% in 1999, 25% in 2010), gambling online on poker, bingo, casino and slot machine style games (3% in 2007, 5% in 2010) and gambling on fixed odds betting terminals (3% in 2007, 4% in 2010).

- 2.12 Two measures of problem gambling showed rates of problem gambling in the general population of 0.6% and 0.5%. A significant association was found between problem gambling and being male with regular parental gambling. It was also associated with poor health, being single and being Asian/British Asian. The highest prevalence of problem gambling was found among those who participated in spread betting (14.7%), Fixed Odds Betting Terminals (FOBTs) (11.2%) and betting exchanges (9.8%). Of these, only FOBTs are regulated under the Gambling Act 2005.

3. Declaration

- 3.1 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

- 4.1 **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.

- 4.2 Hartlepool Borough Council designates the Local Safeguarding Children Board for this purpose.

- 4.3 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

- 5.1 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:

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

- 5.2 There are a number of factors that the Council may take into account when determining whether a person lives 'sufficiently close to the premises'. These include: -

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment

- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.

5.3 Relevant factors will depend on the particular application. For example the Council may consider that living sufficiently close to premises to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

5.4 For those with business interests, the licensing authority should be satisfied that the relevant business is likely to be genuinely affected. Factors that are likely to be relevant include:

- the size of the premises
- the 'catchment' area of the premises, that is, how far people travel to visit the premises
- whether the person making the representation has business interests in that catchment area that might be affected.

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

5.6 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

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

6.2 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.

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

7. Enforcement

- 7.1 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.
- 7.2 This licensing authority's principles are that:
- 7.3 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.
- 7.4 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.
- 7.5 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
 - The principles set out in this statement of licensing policy
- 7.6 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.
- 7.7 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.
- 7.8 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

- 8.1 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

8.2 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

9. General Principles

- 9.1 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.
- 9.2 **(i) Decision-making**
- 9.3 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.
- 9.4 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') and also that unmet demand is not a criterion for a licensing authority.
- 9.5 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. 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.
- 9.6 **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.
- 9.7 The Gambling Commission states in the fifth 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.”

9.8 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.

9.9 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?

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

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

9.12 **Casinos**

- The principal access entrance to the premises must be from a street
- 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

9.13 **Adult Gaming Centre**

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

9.14 **Betting Shops**

- Access must be from a street 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.

9.15 Tracks

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

9.16 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

9.17 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.

9.18 Premises “ready for gambling”

9.19 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.

9.20 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.

9.21 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.

9.22 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.

9.23 More detailed examples of the circumstances in which such a licence may be granted can be found in the Gambling Commission's Guidance to Licensing Authorities.

9.24 **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.

9.25 **Planning** - The Gambling Commission Guidance to Licensing Authorities states:

7.58 – In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, 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. Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. [Part 11](#) of this guidance gives more information about provisional statements.

9.26 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:

7.65 - 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.

9.27 **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.

9.28 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.

- 9.29 **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.
- 9.30 **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.
- 9.31 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.**
- 9.32 **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.
- 9.33 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.
- 9.34 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.
- 9.35 **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.

- 9.36 Decisions on 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.
- 9.37 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.
- 9.38 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.
- 9.39 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 9.40 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.
- 9.41 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.
- 9.42 **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.

9.43 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).

9.44 **Local Risk Assessments**

9.45 Since 6 April 2016, the Gambling Commission's 'Licence Conditions Code of Practice' (LCCP) has required all existing licensees that provide gambling facilities at their premises, to assess the local risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. Licensees must take into account any relevant matters identified in the licensing authorities (gambling) Statement of Policy when making their risk assessments.

9.46 In making risk assessments, licensees must take into account relevant matters identified in this policy.

9.47 The LCCP also states that licensees must review (and update as necessary) their local risk assessments:

- To take account of significant changes in local circumstances, including those identified in this policy;
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- When applying for a variation of a premise licence; and
- In any case, undertake a local risk assessment when applying for a new premise licence.

9.48 The licensing authority will expect the local risk assessment to consider as a minimum:

- Whether the premise is in an area with high levels of crime and/or disorder
- Whether the premise is in an area of high deprivation
- The demographics of the area in respect of vulnerable groups of people including those with gambling dependencies, where this information is available
- Location of services and amenities for children in the area such as schools, playgrounds, leisure facilities and other areas where children may gather.

9.49 The risk assessment may also include:

- Procedures in place to ensure staff are adequately trained in how to monitor and deal with customers suspected of excessive gambling (including brief intervention training for staff), vulnerable persons or children and also details and regularity of training given
- Details of supervisory and management procedures in place including number of staff available and their designated duties and responsibilities
- Details of any consideration given to the need for CCTV in the premise and if installed how the system will be operated and monitored and what coverage it is designed to give in the premise.
- Details of the signage and documents relating to games rules, gambling care providers and other relevant information including a consideration of whether information needs to be provided in another language that may be prevalent in the locality.

- 9.50 Such information may be used to inform the decision the Authority makes about whether to grant a licence, to grant a licence with special conditions or to refuse the application. The policy does not prevent an application made and each application will be decided on its merits with the onus being on the applicant to show how the concerns.

10. Adult Gaming Centres

- 10.1 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.

- 10.2 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.

11. (Licensed) Family Entertainment Centres:

- 11.1 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.

- 11.2 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

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

11.4 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.

12. Casinos

12.1 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.

12.2 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.

13. Bingo premises

13.1 This licensing authority notes that the Gambling Commission's Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted: -

18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

14. Betting premises

14.1 *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.

15. Travelling Fairs

15.1 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.

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

15.3 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.

16. Provisional Statements

16.1 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.

16.2 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.

16.3 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.

16.4 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.

16.5 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.

16.6 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.

17. Reviews

- 17.1 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.
- 17.2 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.
- 17.3 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.
- 17.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 17.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 17.6 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.
- 17.7 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.
- 17.8 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.
- 17.9 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

18. Unlicensed Family Entertainment Centre gaming machine permits

- 18.1 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).
- 18.2 Gambling Commission Guidance 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 applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
 - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 18.3 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 18.4 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.

19. (Alcohol) Licensed premises gaming machine permits - Automatic entitlement: 2 machines

- 19.1 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.
- 19.2 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.

19.3 Permit: 3 or more machines

- 19.4 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 and “*such matters as they think relevant.*”
- 19.5 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.
- 19.6 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.
- 19.7 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.
- 19.8 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.

20. Prize Gaming Permits

- 20.1 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.
- 20.2 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.

21. Club Gaming and Club Machines Permits

- 21.1 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).
- 21.2 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."
- 21.3 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.
- 21.4 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."
- 21.5 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.

22. Temporary Use Notices

- 22.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use

Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

- 22.2 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.
- 22.3 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.
- 22.4 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".
- 22.5 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.
- 22.6 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.

23. Occasional Use Notices

- 23.1 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.

END

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

Local Area Profile

The Gambling Commission recommends that licensing authorities provide a 'local area profile' to assist gambling operators to understand the risks, or potential risks, associated with particular geographical areas.

As an area profile can change with time, Hartlepool Borough Council refers licence holders, or potential applicants, to the following sources of information about Hartlepool: -

Government website – Indices of deprivation 2019 -
<https://www.gov.uk/government/publications/english-indices-of-deprivation-2019-research-report>

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 Statement of licensing principles	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	
Setting of licence fees			X

CONSULTATION

The following individuals/agencies and organisations were consulted about this Statement of Licensing Principles between June and August 2021: -

Hartlepool Borough Council councillors
Chief of Cleveland Police
Cleveland Fire Service
Hartlepool Borough Council Planning Department
Hartlepool Borough Council Trading Standards Service
Hartlepool Borough Council Environmental Health
Combined Authority
HMRC
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

1st October 2021



Report of: Assistant Director (Regulatory Services)

Subject: MOBILE HOME SITES (FIT AND PROPER PERSON)
LICENSING

1. PURPOSE OF REPORT

- 1.1 To seek approval for the adoption of a policy that would be used to determine whether applicants are fit and proper to manage licensed mobile home sites.

2. BACKGROUND

- 2.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 take effect on 1st October 2021 and require the manager of a licensed mobile home site to be 'fit and proper'.
- 2.2 The purpose of the fit and proper person test is to improve the standards of park (mobile) home site management.
- 2.3 Hartlepool currently has two licensed mobile home sites and, as such, the new regulations will require each of these sites to nominate a proposed manager and the Council will then make a determination as to whether those individuals are fit and proper to manage those sites.
- 2.3 A draft policy, that will assist in the determination of fit and proper applicants, has been prepared and is attached as **Appendix 1**.

3. PROPOSALS

- 3.1 A draft policy, that follows a national model, is attached as Appendix 1.
- 3.2 The proposed policy covers all of the requirements detailed in government guidance and will allow the Council to make a fair and reasonable determination as to an applicant's fitness.

- 3.3 The development and publication of a policy allows potential applicants to understand what standards a Council expects of applicants and assists in the making of consistent decisions.

4. RISK IMPLICATIONS

- 4.1 There are no risks associated with this report.

5. LEGAL CONSIDERATIONS

- 5.1 There are no legal considerations associated with this report.

6. RECOMMENDATIONS

- 6.1 That Members approve the draft Mobile Homes (Fit and Proper Person) Determination Policy as attached as Appendix 1.

7. REASONS FOR RECOMMENDATIONS

- 7.1 The Council will shortly have to begin making determinations as to the fitness of managers of mobile homes sites. The proposed policy will allow the Council to make reasonable and consistent decisions.

8. BACKGROUND PAPERS

- 8.1 There are no background papers.

9. CONTACT OFFICER

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Management of Mobile Homes Sites

Fit and Proper Persons Determination Policy

October 2021

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1. INTRODUCTION

- 1.1. This Fit and Proper Persons Determination Policy sets out Hartlepool Borough Council's ('the Council's) policy in respect of the mobile homes' fit and proper person test, which applies to relevant protected sites¹ requiring a licence.
- 1.2. The purpose of this Policy is to ensure the matters and considerations taken into account when undertaking the fit and proper person test function are fair and transparent so that anyone required to submit an application understands the process.
- 1.3. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (the Regulations), require the manager of a site to be a fit and proper person. Local authorities are accordingly required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations (see section 1.8 below).
- 1.4. The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021.
- 1.5. A local authority must be satisfied that the site owner "*is a fit and proper person to manage the site*" or, if the owner does not manage the site, "*that a person appointed*" to do so by the site owner "*is a fit and proper person to do so*" or has, with the site owner's consent, "*appointed a person to manage the site.*"
- 1.6. Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the local authority can instead appoint a person to manage the site, but only with the consent of the site owner.
- 1.7. Unless the site is exempted by the Regulations (see section 1.8 below), the fit and proper person test applies to the relevant persons of all relevant protected sites². These include both residential and mixed use (holiday and residential) parks.
- 1.8. Sites that are exempted by the Regulations are those that are only occupied by members of the same family and are not being run as commercial residential sites.

¹ "Relevant protected site", as defined in section 5A(5) of the Caravan Sites and Control of Development Act 1960, is land in respect of which a site licence is required under Part 1 of that Act, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is—

(a) expressed to be granted for holiday use only, or

(b) otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation (subject to exceptions for year-round occupation by the occupier and persons employed by him).

² Supra

- 1.9. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park homeowners.
- 1.10. The local authority must set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in their area. This register must be open to inspection by the public during normal office hours and published online.

2. EVIDENCE RELATING TO A FIT AND PROPER PERSON ASSESSMENT

- 2.1. When conducting the fit and proper person assessment, the Council will consider the following points relevant to the application:

1. Whether the relevant person has the ability to secure the proper management of the site

This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. The Council will therefore consider:

- whether the person has a sufficient level of competence to manage the site;
- the management structure and funding arrangements for the site or
- the proposed management structure and funding arrangements.

(a) Competence to manage the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

(b) The management structure and funding arrangements for the site

The Council will consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The Council will want to ensure that the applicant has a robust management plan, this will also be reviewed to ensure it addresses the following issues: the pitch fee payment, proximity of the manager to the site, manager's contact details for residents (including out of office and emergency contact details), the complaints procedure, maintenance, staffing, and refuse removal.

It is advisable that the site is managed by an applicant based in the UK and a management structure would be unlikely to be suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. This is because there may complex issues as a result

of this, such as needing the court's permission to serve a claim in a foreign country. The applicant's interest in the land will also have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage the site effectively.

(c) The proposed management structure and funding arrangements in place for managing the site

The Council will consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be made available.

Another consideration is if funding is through a third party (including an associated company), as if this is not disclosed this will impact on the Council's ability to deem whether the application is financially viable.

2. Personal information relating to the applicant concerned

This includes a criminal record check and evidence that the applicant:

- (a) has not committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- (b) has not contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- (c) has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- (d) has not harassed any person in, or in connection with, the carrying on of any business;
- (e) is not or has not been within the past 10 years, personally insolvent;
- (f) is not or has not been within the past 10 years, disqualified from acting as a company director;
- (g) has the right to work in the United Kingdom and,
- (h) is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

The Council has a duty to investigate any conduct which could amount to harassment and any evidence obtained will be reviewed to determine whether it is sufficient to be used to prosecute a site owner. The Council may also rely on convictions by the courts as evidence of harassing behaviour, which would reduce the risk of the Council being successfully challenged on any refusal to approve an applicant on this basis.

The Council may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints these may be taken into consideration in the fit and proper person determination. These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the

management of the site or the site owner's lack of experience/skills in dealing with customers. The Council may decide to address any underlying issues by attaching conditions to the individual's entry on the register.

3. Conduct of associated persons

The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) is also an important factor to be considered in the fit and proper person assessment.

Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners, as that information would have already needed to have been provided in their own application forms.

It is not routinely required to provide information of all current or past associates of the site owner. However, prior to making any final decisions, the Council may consider the conduct of past and current associates relevant to that individual's application. The site owner may be asked to provide additional information during the application process.

The Council is required to establish whether an individual is considered to be an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents' rights, or the quiet enjoyment of their homes.

3. CONSIDERATIONS FOR FIT AND PROPER PERSON ASSESSMENT

- 3.1. Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site.
- 3.2. To be able to secure the proper management of the site, the Council must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements.
- 3.3. Some site owners or managers may own or manage other sites in the same local authority or other authority areas. The ownership or management of those sites may be relevant to the application in terms of their suitability to manage a site. Therefore upon rejection of a person's application by any other local authority this will be centrally recorded and include the details of the person involved and the reasons for the rejection.
- 3.4. The Regulations are drafted widely giving the opportunity for the Council to take into consideration other relevant matters. However, the Council will be aware that poor management practices do not affect a person's conduct,

unless they are also a breach of the criminal or civil law. A person cannot be deemed unfit due to conduct, simply because of poor management, although that factor is highly relevant to determining any question of suitability or competence. However, all conduct is relevant in relation to the person's fitness to hold a licence and/or manage the particular mobile home site.

- 3.5. The Council is able to decide the specific matters it deems relevant to the fit and proper person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the park site or any other park site owned or managed by the site owner or site manager in another local authority area. Additionally, the site owner's conduct regarding other business, outside of the park homes sector, can also have implications on the financial and management arrangements of the site in question. Any matters considered by the Council as relevant to the application will primarily focus on the relevant person's conduct, competence and their suitability to manage the site.
- 3.6. Evidence will be obtained by the Council to support any additional matters that are deemed to be required to be taken into consideration for the application. This is to mitigate any risks should the Council face being challenged at a tribunal because of the final decision. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions.

4. APPLICATION PROCESS

- 4.1. The Regulations use various terms in the application process and these are outlined below:

"Relevant person" is defined in reg.2 of the Regulations and is "the subject of the fit and proper person assessment under Regulation 7". This could be the site owner or person appointed to manage the site by the site owner.

"Relevant officer" is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is a company, a relevant officer will be a director or other officer of the company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

"Required Information" is defined in paragraph 14 of Schedule 2 of the Regulations as: the person's name and business contact details; details of the person's role or proposed role in relation to the management of the site; where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application; details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the fit and proper register, must therefore include the following:

The applicant and site details required

4.2. Details of the site and the applicant:

- The applicant's name and business contact details.
- Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
 - the person's name;
 - details of the person's role (if any) in relation to the management of the site.
- The name and address of the site.
- Evidence of the applicant's legal estate or equitable interest in the site.
- Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
- The name and business contact details of any other person that has a legal estate or equitable interest in the site.

4.3. The name and address of each other relevant protected sites:

- for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
- in which the applicant has a legal estate or equitable interest; or
- that the applicant manages.

4.4. The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

Information relating to the site manager

4.5. In circumstances where a "site manager" has been appointed to manage a site more information is needed. The person who is applying for the site manager to be registered as a fit and proper person (the Relevant person) must provide the following information: the site manager's name and details of that person's role (if any) in relation to the management of the site.

If the site manager has appointed or intends to appoint a further individual ("A"), 'Required Information' would also be needed from A, and where A is not a Relevant officer of the site manager, the Relevant officer to whom A is accountable for the day-to-day management of the site, should be the one to provide the Required Information.

Additional information when the applicant is the Relevant person and an individual

- 4.6. When the applicant is the Relevant person, and is an individual, and the applicant has appointed, or intends to appoint, someone else (“B”) to be responsible for the day-to-day management of the site, ‘Required Information’ would be needed from B. If B is not an individual but is, instead, for example, a company, and B has appointed an individual (“C”) to do the day-to-day management, ‘Required Information’ would be needed from C. Where C is not a Relevant officer of a company, the Relevant officer to whom C is accountable for the day-to-day management of the site would also need to provide the Required Information.

Additional information where applicant is Relevant person and not an individual

- 4.7. When the applicant is the Relevant person but is not an individual and the applicant has appointed or intends to appoint someone else (“B”) to be responsible for the day-to-day management of the site, Required Information would be needed from this person. If B is not a Relevant officer of the applicant the person to whom B is accountable for the day-to-day management of the site (“C”) would also need to provide the Required Information. Where B itself is not an individual, the individual (“D”) that B has appointed or intends to appoint to be responsible for the day-to-day management of the site would also need to provide the Required Information. Where D is not a Relevant officer of B, the Relevant officer to whom D is accountable for the day-to-day management of the site would also need to provide the Required Information.
- 4.8. The Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the management structure might be) has been assessed by the Council as a fit and proper person. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

Criminal record certificate/s

- 4.9. A criminal record certificate issued under section 113A (1) of the Police Act 1997 will have to be produced to the Council as part of the process where: (a) the Relevant person is an individual and (b) for each individual in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.
- 4.10. The certificate must have been issued no more than six months before the date of the application. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

Declaration

A declaration must be made and signed by the “appropriate person”:

- (a) where the applicant is a company, a director or other officer of the company;
 - (b) where the applicant is a partnership, one of the partners;
 - (c) where the applicant is a body corporate and the conduct of the management of the body is vested in its members, a member;
 - (d) where the applicant is not a body falling within (a) to (c) above, a member of the management committee;
 - (e) where the applicant is an individual, that individual.
- 4.11. Where the applicant is not the Relevant person, the declaration must confirm that the applicant has made all reasonable enquiries into the matters mentioned in paragraph 9 of Schedule 3 of the Regulations and considerations relevant to the fit and proper person assessment as set out below.
- 4.12. The declaration will also state that the information provided in the application is correct and complete to the best of the applicant’s knowledge and belief.

5. DECISIONS, NOTIFICATION AND RIGHTS OF APPEAL

- 5.1. The Council will make a decision on the application in a timely and practicable manner and either:
- (a) where the decision is to grant the application unconditionally and include the Relevant person on the register for 5 years, serve a final decision notice on the applicant; or
 - (b) otherwise, serve a preliminary decision notice on the applicant.
- 5.2. The Council may:
- (a) grant the application unconditionally;
 - (b) grant the application subject to conditions; or
 - (c) reject the application.

Granting the application unconditionally

- 5.3. Where the Council is satisfied that the applicant meets the fit and proper person test unconditionally, the applicant will be included on the register for 5 years. The Council will issue a final decision notice to the applicant to inform them of its decision.
- 5.4. The final decision notice will clearly state:
- (a) the date the final decision notice is served;
 - (b) the final decision;
 - (c) the reasons for the decision;

- (d) when the decision is to take effect;
- (e) information about:
 - (i) the right of appeal to the First Tier Tribunal; and
 - (ii) the period within which an appeal may be made.

To include the applicant on the register subject to certain condition(s)

- 5.5. In some circumstances, the Council can specify that the individual for the fit and proper person test will only be successful if certain conditions are met. If these conditions are satisfied, the Council can grant an application subject to those condition(s). The Council can also grant an application for less than 5 years.
- 5.6. It may be the case that the Council decides to include the person on a register subject to condition(s), if it is satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. An applicant will be able to appeal against the decision to attach (or vary) any condition to an entry on the register. It is therefore imperative that the Council has clear and justifiable reasons for attaching any condition(s) and that any conditions imposed, can be enforced by the Council.
- 5.7. Conditions will be clearly stated for the applicant's understanding and this will also allow for the Council to ensure that they are enforceable.

An example of the requirements are included in the Table 1

below. Table 1

Specific	The specific condition/s a site owner is being requested to address.
Measurable	The conditions required and the outcome(s) expected.
Achievable	The applicant should be reasonably expected to be able to achieve the condition. For example, it may not be reasonable to expect a site owner of one small site to have the same resources to introduce the same procedures as a medium sized company.
Realistic	The applicant should have a clear understanding of how the required outcome can be reached and that there are no circumstances or factors, which would make the achievement of the outcome impossible or unlikely.
Time bound	A clear timescale in which the task/action must be completed.

What can a condition relate to?

- 5.8. The fit and proper person test is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person's ability to secure the proper management of the site.

- 5.9. Previous declared offences will be considered, together with all the other information available, when the Council reaches a preliminary decision on the application.
- 5.10. Examples of conditions could include where the Council has evidence of a site owner's failure over a certain period of time to address residents' complaints. This is an example of poor management, which could be resolved by the site owner implementing an adequate complaints procedure. A condition could be attached requiring the site owner to "implement an effective and accessible three stage complaints process for residents by [a specified] date and provide the Council with quarterly reports of complaints and outcomes, from that date and for the first year", or if, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the Council may wish to attach a condition to the entry on the register that the site owner "is to provide the authority by registered post, with the original [specified] document by [a specified] date". A further example of a condition could relate to ensuring the relevant person has the ability to secure the proper management of the site.
- 5.11. In summary, conditions can relate to any factors, which are relevant to the person's competence to manage the site, the management structure, or funding arrangements for the site, an associated person's influence, and any other relevant factors.

Decisions

- 5.12. Should the Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, it can refuse to grant the application.
- 5.13. Where the Council makes a decision to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a preliminary decision notice to the applicant will be issued.
- 5.14. The preliminary decision notice will clearly state:
 - (a) the date the preliminary decision notice is served;
 - (b) the preliminary decision;
 - (c) the reasons for it;
 - (d) the date it is proposed that the final decision will have effect;
 - (e) information about the right to make written representations
 - (f) where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the Regulations; and
 - (g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any conditions.

Right to make a representation

- 5.15. An applicant who receives a preliminary decision notice will have 28 days in which to make representations to the Council. The 28-day period begins with the day after the day on which the notice was served.
- 5.16. The Council is obliged to consider and take any representations it receives into account before making a final decision.

Final decision notice

- 5.17. The Council will, as soon as reasonably practicable, after the end of the period allowed for making representations, make a final decision and serve the decision notice on the applicant.
- 5.18. The final decision notice will set out:
 - (a) the date the final decision notice is served;
 - (b) the final decision;
 - (c) the reasons for it;
 - (d) when the decision is to take effect;
 - (e) information about the right of appeal and the period within which an appeal may be made;
 - (f) where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
 - (g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.
- 5.19. Council Officers will use their professional judgement and knowledge in the decision making process. Final decisions will be made by the Housing Solutions & Private Sector Housing Manager, based on a thorough examination of all the evidence available and in accordance with this Policy.

Appeals

- 5.20. The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) ("the tribunal") within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decision issued by the Council. These could include:
 - (a) including the relevant person on the register for an effective period of less than 5 years;
 - (b) including the relevant person on the register subject to conditions; and
 - (c) rejecting the application.
- 5.21. Where an applicant accepts the Council's decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.

- 5.22. An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

Withdrawal or amendment of notice

- 5.23. There may be circumstances where the Council may decide not to continue or to withdraw a previously agreed action such as after serving:
- (a) a preliminary decision notice but before service of the final decision notice;
 - (b) a final decision notice but before the decision to which it relates takes effect; or
 - (c) a notice of proposed action but before the proposed action is taken.
- 5.24. To withdraw or amend a notice, the Council will serve notice to the person on whom the original notice was served.
- 5.25. There are no requirements for notices to contain specific information, however, the Council's withdrawal or amendment notice will state:
- (a) that it is withdrawing/amending the original notice (a copy of the original notice will be attached for reference);
 - (b) the reasons for withdrawing the notice;
 - (c) the date it takes effect; and,
 - (d) the implications of the decisions in relation to the person's entry on the register.

Removal from the register

- 5.26. If, after a person is included in the register, and new evidence relevant to the person's inclusion becomes available, the Council may decide to:
- (a) remove the person from the register;
 - (b) impose a condition on the inclusion of the person in the register (whether or not there are conditions already imposed);
 - (c) vary a condition; or
 - (d) remove a condition.
- 5.27. The Council will use its discretion, based on the facts, when determining whether to review an entry and consider any subsequent actions are required. Any such decision will be related to the person being a fit and proper person rather than, for example, site licensing issues which are governed separately. If the Council decides to take any of the actions listed in section 5.24. (a) to (c) above, it will serve a notice of any proposed action on the occupier.
- 5.28. The notice of proposed action will clearly state:
- (a) the date the notice of proposed action is served;
 - (b) the action the Council proposes to take;

- (c) the reasons for it;
- (d) the date it is proposed that the Council will take the action;
- (e) information about the right to make written representations;
- (f) where the proposed action requires the removal of a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- (g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with said conditions.

5.29. A notice of proposed action is not required if the Council decides to remove a condition attached to an entry. A removal of a condition is viewed widely as being a positive step, which is unlikely to be opposed. It is for that reason that a notice of proposed action is not required. As good practice though, the Council will make the site owner or their manager aware of the decision in writing and also ensure the register is updated.

Notice of action taken

5.30. Where a notice of proposed action is given, the occupier will have 28 days, starting from the day after the notice is served, in which to make representations.

5.31. The Council will, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.

5.32. Where the Council decides to take the action, it will serve a further notice on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.

5.33. The notice of action will set out:

- (a) the date the notice of action is served;
- (b) the fact that the Council has taken the action;
- (c) the reasons for doing so;
- (d) the date the action was taken;
- (e) information about the right of appeal and the period within which an appeal may be made;
- (f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulations; and
- (g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

Offences

5.34. There are three offences set out the Regulations:

- Operating a site in contravention of the fit and proper person regulations - The site owner will have certain defences under the Regulations in any proceedings brought against them.
- Withholding information or including false or misleading information in the registration application - The site owner will not have any defences under the Regulations in any proceedings brought against them for this offence.
- Failing to comply with a specified condition - The site owner will have certain defences under the Regulations in any proceedings brought against them.

5.35. The Council is responsible for enforcing the Regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

Defences

5.36. One defence is available to a site owner who has inherited a site and would be found to have a reasonable excuse for failing to make an application within the relevant periods as set out below.

5.37. The below table outlines limited circumstances where a site owner may have a defence (Schedule 5 of the Regulations):

Row	Circumstance	Relevant period for making an application in the circumstance
1	the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021.	From 1st July 2021 before 1 October 2021, the day on which regulation 4 came into force
2	the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a)(removal from the fit and proper register after new relevant evidence becomes available).	not less than two months before the end of the period of the person's inclusion in the register
3	at the time that the occupier became entitled to within the period of 3 months possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register)	beginning with the day after the day on which the person became the occupier of the land
4	at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row 3 above	within the period of 28 days beginning with the day after the day on which the person became the occupier of the land

5	a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	within the period of 3 months beginning with the day after the relevant day
6	a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above	within the period of 28 days beginning with the day after the relevant day
7	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the local authority's decision the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 (application for inclusion in the register) in relation to the site	within the period of 3 months beginning with the relevant day
8	the breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row 7 above	within the period of 28 days beginning with the relevant day
9	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6	within the period of 3 months beginning with the relevant day
10	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above	within the period of 28 days beginning with the relevant day

6. THE FIT AND PROPER PERSONS REGISTER

- 6.1. The Council will set up and maintain a register of persons who it is satisfied are fit and proper persons to manage a site in its area. This register will be open to inspection by the public during normal office hours and published online.
- 6.2. The register will provide a record of the determined outcome of the fit and proper person tests the Council has carried out for sites. The register will include the following:
- (a) the name and business contact details of the person;
 - (b) the name and address of the relevant protected site to which the application relates;
 - (c) the status of the person (site owner or manager of the site);
 - (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;

- (e) whether any condition is attached to the person's inclusion in the register; and
- (f) where any condition is attached to the person's inclusion in the register—
- (g) the number of any such conditions;
- (h) the dates of the first and last day of the period for which any such condition applies (if applicable); and
- (i) the date any condition is varied or satisfied (if applicable).

6.3. Where a person has met the fit and proper person test, the register will give details of that person and of the site, including decisions made on how long a person's inclusion on the register is for, up to a maximum of 5 years.

6.4. In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.

6.5. Where there are rejected applications, the following information must be included in the register:

- (a) the name and address of the site to which the application relates;
- (b) that an application in respect of the site has been rejected; and
- (c) the date on which the application was rejected.

The name and address of the rejected applicant will not be included on the register.

Details of the rejected application will remain on the register until a successful fit and proper person application is made in respect of the owner or manager of the site.

The Council will consider requests for further information about the entry on the register, for example, the details of the specific conditions attached and any additional information, on a case-by-case basis and in accordance with data protection legislation.

6.6. Where the Council has, with the site owner's consent, appointed a person to manage the site, it will include the following information in the register:

- (a) the name and business contact details of the person;
- (b) the name and address of the site which the person has been appointed to manage;
- (c) the status of the person;
- (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- (e) whether any condition is attached to the person's inclusion in the register; and
- (f) where any condition is attached to the person's inclusion in the register—
 - i. the number of any such conditions;

- ii. the dates of the first and last day of the period for which any such condition applies (if applicable); and
- iii. the date any condition is varied or satisfied (if applicable).

General

6.7. The Council will have regard to the following when determining a fit and proper person application:

- The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
- Ministry of Housing Communities & Local Government Guidance
- The Council's Fit and Proper Persons' Determination Policy

7. DATA PROTECTION

7.1. The Data Protection Act 2018 and the UK GDPR regulate the processing of information relating to individuals, which includes the obtaining, holding, using or disclosing of such information.

7.2. The Council needs to collect and use certain types of information about its service users in order to carry out its everyday business and to fulfil its objectives and its statutory functions.

The Council's:

- [Data Protection Policy](#) sets out how it will protect special category and criminal convictions personal data; and
- The [Private Sector Housing Privacy Notice](#) explains that the Council collects personal information to administer these services.

8. EQUALITY AND DIVERSITY

8.1. The Council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination in accordance with the Equality Act 2010. The Council, in delivering this policy, will have regard to the Public Sector Equality Duty and ensure that no individual is discriminated against based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age.

8.2. The Public Sector Equality Duty is a duty on the Council and that responsibility cannot be delegated to a contractor/service provider and is a continuing duty.

8.3. A Customer Access Review has been undertaken to assess the impact the policy will have on affected persons with protected characteristics. The review concluded there were no known circumstances of a negative equality impact.

9. REVIEW

- 9.1. This policy will be reviewed every three years, or sooner, in the event of major legislative or operational changes.

LICENSING COMMITTEE

1st October 2021



Report of: Assistant Director (Regulatory Services)

Subject: TAXI LICENSING POLICY

1. PURPOSE OF REPORT

- 1.1 To consider amendments to the Council's Taxi Licensing Policy.

2. BACKGROUND

- 2.1 Hartlepool Borough Council is the statutory licensing authority for hackney carriage and private hire vehicles, drivers and operators that work within the borough.
- 2.2 The Council has a policy (a Taxi Licensing Policy) that details the standards that are expected of drivers, vehicles and operators in order to ensure the safety and comfort of the travelling public.
- 2.3 National developments have made it necessary to consider amending the current policy and the proposed new draft policy is attached as **Appendix 1**.
- 2.4 For the first time, the Government has published statutory standards for the hackney carriage and private hire trade (hereafter referred to as the 'taxi trade'). It expects licensing authorities to have incorporated these standards into their Taxi Licensing Policies by no later than December 2021.
- 2.5 Prior to this it has been for each licensing authority to determine how best to license its taxi trade within the very broad legal framework contained in legislation.
- 2.6 The Government has stated that there is evidence to support the view that hackney carriages and private hire vehicles are a 'high risk' environment and has produced national standards to 'protect children and vulnerable adults'.
- 2.7 The national standards are contained within a 40 page document and, although Hartlepool already complies with most of the requirements, there are a number of amendments that must be made in order to comply with them all.

2.8 The most significant changes to the policy are: -

- Criminal record checks for taxi drivers will now be required every 6 months
- Criminal records checks will, for the first time, be required for vehicle owners (but will not be required if the owner is also a licensed driver)
- Private hire operators will, for the first time, be required to maintain a register of their call handlers who must all have had a criminal records check

2.9 The draft Policy was presented to the Licensing Committee at its meeting on 25th June 2021 and a consultation exercise was approved. Consultation began on 1st July and ended on 3rd September 2021.

2.10 No responses were received to the consultation. This is likely because Hartlepool already had a policy that included most of the Government's new requirements and drivers have been encouraged, for some time, to sign up to the DBS Update Service which means that the new 6 month DBS checks will not be an additional burden to them.

2.11 In addition to the above, Members of the Committee were also asked to approve a separate consultation exercise regarding a proposal to prevent the transfer of vehicle licence ownership so as to remove the value that such licences were accumulating.

2.12 Following discussions with the taxi trade and other licensing authorities, it is not proposed to develop this issue any further.

3. PROPOSALS

3.1 It is proposed that the draft Taxi Licensing Policy, attached as Appendix 1, be approved.

4. STAFF IMPLICATIONS

4.1 Some of the amendments to the Policy will create an increase in staff workload but it is expected that continued efforts to improve the efficiency of the team will result in this being managed within current staffing levels.

5. RISK IMPLICATIONS

5.1 There are no risks associated with this report.

6. LEGAL CONSIDERATIONS

6.1 There are no legal considerations associated with this report.

7. RECOMMENDATIONS

- 7.1 That the draft Taxi Licensing Policy attached as Appendix 1 be adopted with immediate effect.

8. REASONS FOR RECOMMENDATIONS

- 8.1 New government requirements expect all licensing authorities to adopt new standards relating to the licensing of the taxi trade. Adopting the attached policy will achieve this.

9. BACKGROUND PAPERS

- 9.1 Licensing Committee report and minutes - 25th June 2021

10. CONTACT OFFICER

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PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING POLICY

APPROVED BY HARTLEPOOL BOROUGH COUNCIL

Date 20XX

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INTRODUCTION

- 1.1 Hackney carriages and private hire vehicles play an important role in the provision of local public transport in Hartlepool.
- 1.2 The purpose of the Local Authority when licensing hackney carriages and private hire vehicles, drivers and operators is to protect the public. As licensing authority, Hartlepool Borough Council ("The Council") believes that the public should have reasonable access to safe and comfortable hackney carriages and private hire vehicles.

Licensing Objectives

- 1.3 **Hartlepool Borough Council will use its role as licensing authority to protect the public. This will be achieved by, amongst other things:**
 - i) **Administering the licensing process in a fair and reasonable way;**
 - ii) **Taking proportionate enforcement action where it is necessary and appropriate to do so;**
 - iii) **Maintaining public confidence in the hackney carriage and private hire trade so that it remains as a safe, reliable and sustainable transport option for the travelling public.**
- 1.4 A hackney carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to "ply for hire". This means that it may wait at designated taxi stands or be hailed in the street, in the Borough of Hartlepool, by members of the public in addition to being pre-booked.
- 1.5 Private hire vehicles must also have no more than 8 passenger seats but they must be booked in advance through a private hire operator and may not "ply for hire" in the street.

Powers and Duties

- 1.6 The Council has adopted Part 2 of The Local Government (Miscellaneous Provisions) Act 1976. This legislation, together with the provisions of The Town Police Clauses Act 1847, places on the Council the powers and duties to carry out licensing functions in respect of hackney carriage and private hire licensing. As such the Council is responsible for the licensing of private hire drivers, vehicles and operators and hackney carriage drivers and vehicles. This document sets out the policy that the Council will apply when making decisions about new applications and licences currently in force.

1.7 This Policy shall apply in respect of applications, renewals, transfers and any other related matters connected to the following licences:

- Hackney carriage driver
- Hackney carriage vehicle
- Private hire driver
- Private hire vehicle
- Private hire operator

Licensing Methods

1.8 The methods the Council shall use are as follows:

- i) Setting the standards for the licensing of drivers, vehicles and operators.
- ii) Annual licensing and routine inspection of vehicles, with appropriate follow up action.
- iii) Routine inspection of insurance policies and Certificates of Compliance / MOT certificates, with appropriate follow up action.
- iv) Checks of driver's medical health, criminal record, driving ability and knowledge of the Borough.
- v) Investigation of complaints with appropriate follow up action.
- vi) Liaison with the Police and other agencies regarding issues of mutual concern in relation to offences or the conduct of licensees.
- vii) Liaison with the hackney carriage and private hire trade by way of open meetings.
- viii) Taking enforcement and/or disciplinary action including the issue of prosecution proceedings, verbal and written warnings, simple cautions, suspension or revocation of licences for breaches of legislation, conditions or this policy.
- ix) Conditions added to licences.
- x) The issue of guidance notes.

1.9 When formulating and applying this Policy, the Council will take into consideration the Regulator's Code, the Code for Crown Prosecutors, and any appropriate best practice guidance including the DFT Statutory Taxi and Private Hire Vehicles Standards (published July 2020).

Status

1.10 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy and the objectives set out above.

1.11 Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where the Council considers it necessary or appropriate to deviate from the Policy, clear and compelling reasons will be given for doing so.

Implementation and Review

- 1.12 This Policy will take effect from 1st October 2021. From this date, this Policy will override and supersede all existing policies in relation to the licensing of private hire vehicles and hackney carriages, their drivers and operators.
- 1.13 The Council will keep this Policy under review and will consult where appropriate on proposed revisions.
- 1.14 When this Policy is implemented, the Council will require licence holders to comply with its terms immediately or, where appropriate, from the renewal of a current licence. Where it is not possible to comply with part of the Policy due to an outstanding action required by the Council information will be provided as to an implementation date for that part.
- 1.15 Vehicles licensed under any previous licensing policy may have their licences renewed without having to comply with any new requirements imposed by this policy where to do so would be uneconomic or impractical.
- 1.16 After the introduction of this Policy, the Council may make decisions which change it. The changes may either have immediate effect or come into effect on a given date. This Policy document will be regularly updated to reflect these changes. Amended copies of the Policy will be available from the Licensing Office and via the internet.

Consultation

- 1.17 In preparing this Policy, the Council has consulted with:

Licensees; Cleveland Police; Planning authority; Adult and Children's Safeguarding Board; Disability Groups; School Transport; Service Users; Tees Valley Licensing Group; North East Strategic Licensing Group and any other parties/organisations considered necessary.

Partnership Working

- 1.18 The Council will work in partnership with the following agencies and individuals to promote the policy objectives:

Local hackney carriage and private hire trade; Cleveland Police; Local Transport Authorities; Planning authority; Local residents; Disability groups; Service Users; Tees Valley Licensing Group; North East Strategic Licensing Group and other Council departments.

Related Policies and Strategies

- 1.19 This policy will be integrated with local planning, transport, tourism, equality and cultural strategies, and other plans introduced for the management of the Borough and night-time economy.

Equality

- 1.20 The Council is committed to ensuring equality in employment and service delivery. To achieve the above standard the Council is aware of its duties under the Equality Act 2010 and the Human Rights Act 1998.

Duties and Obligations under the Equality Act 2010

- 1.21 The Equality Act 2010 consolidates the legislation previously set out in the Disability Discrimination Act 1995 and the Disability Discrimination Act 2005 to increase access to transport services and infrastructure by disabled people. Those who provide transport services by way of Hackney Carriages and Private Hire vehicles are advised to contact the Equality and Human Rights Commission for further information and advice on avoiding discrimination.
- 1.22 It is a requirement of a vehicle licence that wheelchair accessible vehicles have the appropriate equipment so as to transport passengers in wheelchairs safely and in reasonable comfort at all times. **Any vehicle proprietor found in breach of this may face formal action which could include suspension or revocation of the licence.**
- 1.23 Licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without any additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply for an exemption from the duty on medical grounds. A medical certificate must be provided, at the driver's expense, from the driver's own GP stating the details of their medical condition. A register will be kept of those drivers exempted. **Persons who breach duties may be guilty of a criminal offence and, in addition to any criminal sanction, would be liable to disciplinary procedures which may include licence suspension or revocation.**

- 1.24 Further information is available from the Equality and Human Rights Commission at www.equalityhumanrights.com

Duties and Obligations under the Human Rights Act 1998

- 1.25 Article 1 of Protocol 1 of the European Convention of Human Rights confers on Individuals (and companies) the Right to Peaceful Enjoyment of their possessions and the Protection of Property. Once granted, a Licence is a possession and no one can be deprived of his property or have controls put

on his property except where the action is permitted by law and justifiable in the public or general interest.

- 1.26 When considering matters relating to the grant, revocation, renewal or refusal of licences and the placing of conditions on licences, the Council must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition, consideration must be given to whether the interference is proportionate.

Crime and Disorder Act 1998 Section 17

- 1.27 Section 17 of the Crime and Disorder Act 1998, places a duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

DRIVER LICENCES

Essential Requirements

- 2.1 The Council issues licences to drive private hire vehicles, hackney carriages or both.
- 2.2 The statutory and practical criteria and qualifications for each licence are broadly identical and therefore the following requirements will apply to all driver licences. However, where differences exist between the licensing regimes reference will be made to it in this policy.
- 2.3 Prior to a driver's licence being issued to new applicants, the applicant shall:
- i) Complete and submit to the Council an application on the prescribed form.
 - ii) Pay the required licence and associated fees. If payment is made by cheque which is subsequently dishonoured any licence issued shall be null and void. Any refund or part refund of a licence fee will be calculated in accordance with the Council's published list of fees and charges.
 - iii) Demonstrate compliance with the eligibility criteria detailed below.
- 2.4 Prior to a driver's licence being renewed, the applicant shall:
- i) Complete and submit to the Council an application on the prescribed form no later than 14 days prior to the expiry of the current licence.
 - ii) Pay the required licence and associated fees. If payment is made by cheque which is subsequently dishonoured any licence issued shall be null and void.
 - iii) Demonstrate, if required, continued compliance with the eligibility criteria detailed below.

Proof of eligibility

- 2.5 Applicants must satisfy the following criteria:
- i) Hold appropriate driving licence.
 - ii) Have at least 12 months driving experience since full driving licence was granted.
 - iii) Provide evidence of satisfactory completion of a driving assessment, approved by Hartlepool Borough Council, within 12 months of the first licence being granted. Failure to do so would result in a suspension of the licence until the assessment had been successfully completed.
 - iv) Provide evidence of having a right to work in the UK.
 - v) Successfully complete the 'knowledge test'.
 - vi) Provide satisfactory evidence that the applicant meets the "Group 2" medical standard.

- vii) Provide satisfactory evidence of completion of approved training in issues surrounding the awareness of child and adult safeguarding issues.
- viii) Have an ability to speak, read and understand English to a reasonable standard.
- ix) Produce an appropriate enhanced criminal records check that is no more than 30 days old. This is required for every new applicant and every six months once a licence has been granted. A licence will not be renewed if an enhanced criminal records check, that is less than 30 days old, is not made available or obtainable by a licensing officer.

In order to facilitate this, the Council requires all drivers to enrol on the DBS Update Service.

If the Council is not provided with an enhanced criminal records check, or is not able to view a driver's records via the DBS Update Service, because, for example, the driver is not enrolled on the Service, the driver's licence will be suspended until such time as the criminal record can be viewed.

- 2.6 At all times, the Council's legitimate aim is to protect members of the public who are using vehicles and drivers licensed by the Council. Anyone wishing to be licensed must produce to the Council all of the documentation described in this policy.

Driving Experience

- 2.7 An applicant for the grant of a hackney carriage or private hire driver licence must have held a full DVLA driving licence for a period of at least 12 months before an application for the grant of a driver's licence will be accepted. Full driving licences issued by other lawfully recognised countries will also count towards this qualification requirement.
- 2.8 In addition to the above, within 12 months of receiving their first licence, applicants must undertake and pass a driving assessment, approved by Hartlepool Borough Council, and produce the original pass certificate.
- 2.9 Licensees who have not passed the driver assessment within 12 months of the grant of their first licence will not have their licence renewed or, for holders of three-year licences, their licence will be suspended after the first year and until the assessment has been passed.

DVLA Driving Licences

- 2.10 In order to be satisfied that an applicant has a current DVLA driving licence and also to be aware of any penalty points on the licence, the Council will require access to the DVLA on-line licence checking system.

- 2.11 The DVLA requires the holder of the licence to give permission for access to driver records by providing the Council with a unique access code provided by the DVLA. Therefore, all drivers wishing to be licensed as a hackney carriage or private hire driver must either provide written consent or present to the Council an acceptable unique access code to allow their DVLA driving licence to be checked prior to a licence being approved.
- 2.12 A driver with 9 penalty points or more on their driver's licence will be referred to the Council's Licensing Sub-Committee for consideration as to whether they are, or remain, a safe and suitable person to hold a licence.

Right to Work

- 2.13 The prevention of illegal migrant working in the UK is governed by legislation that may change from time to time. The Council will undertake the necessary checks required to comply with such legislation.
- 2.14 All applicants for a private hire operator and/or a private hire and hackney carriage driver licence will be required to prove that they have a right to work in the UK before being considered for a licence. In doing so, the Council may seek information regarding the immigration status of an individual from the relevant Agency.
- 2.15 For British applicants without a current British passport, a birth certificate which includes the name(s) of at least one of the holder's parents and proof of National Insurance number is required.
- 2.16 Applicants from Switzerland or one of the EEA countries who have registered under the EU Settlement Scheme have the right to work in the UK providing they can provide evidence of their right to work in the UK.
- 2.17 All other applicants who are non-EU nationals will have to provide proof of a right to work in the UK, a residence card and a passport before any application can be accepted.
- 2.18 Regardless of their country of origin, a driver's licence will not be granted until an applicant is able to prove they have a right to work in the UK. Depending on the applicant's status, checks may be made at each renewal process. All documentation will be copied and kept on the applicant's personal file. The responsibility to prove a right to work lies entirely with the applicant.
- 2.19 Licences may be time limited to coincide with an applicant's limited right to work in the UK.

Language Proficiency

- 2.20 All applicants must have the ability to speak, read and understand English to a reasonable standard.
- 2.21 Written English ability will be determined through the knowledge test and the driving assessment. Spoken English and the ability to understand English will be determined by Licensing Officers during the entirety of the licensing application process.
- 2.22 If there is any doubt as to an applicant's ability to communicate in English (spoken or written), they shall be required to undertake and pass a Council approved English assessment and any costs associated with such assessment shall be the applicant's responsibility.

Applicants Who Have Spent Time Abroad

- 2.23 If an applicant is newly resident in the UK, they must still apply for an Enhanced DBS check regardless of the period of time they have spent in the UK.
- 2.24 Where an applicant has spent 3 months or more living abroad or has not lived in the UK for a continuous six-year period at the time of the application, an Enhanced DBS disclosure in itself will usually be insufficient to satisfy the Council that the applicant is a fit and proper person. This is because the DBS does not routinely provide criminal record information from non-UK countries. These applicants will be required to provide a Certificate of Good Conduct or an equivalent document, translated into English by a recognised, impartial body, from each country where they have been living. Any costs incurred must be met by the applicant.
- 2.25 A Certificate of Good Conduct or equivalent document is an extract from the judicial record or administrative authority in the relevant country testifying to good conduct and/or to any criminal convictions recorded against the individual. The Council will take advice from the DBS in identifying the appropriate authority where available.
- 2.26 The Council may approach the relevant Embassy or appropriate body directly to verify documents provided. Any costs involved must be met by the applicant.
- 2.27 The applicant is advised that the Council may require the submission of additional information with the application e.g. verifiable references from former employers and persons in positions of trust, which may demonstrate that they are a fit and proper person.

- 2.28 Existing licensed drivers must notify the Council in writing when they intend to leave the country for an extended period of 3 months or more. They must also notify the Council on their return and complete a statutory declaration on the form provided by the Council.
- 2.29 Information concerning Certificates of Good Conduct can be obtained by contacting the Council's Licensing Team.

Disclosure and Barring Service (DBS) and Criminal Records

- 2.30 The DBS is responsible for:
- i) Processing requests for criminal records checks.
 - ii) Deciding whether it is appropriate for a person to be placed on or removed from a barred list.
- 2.31 The DBS helps employers and others make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.
- 2.32 Before a licence application can be considered, the Council requires sight of an applicant's non-protected criminal, motoring and licensing convictions including fixed penalties, cautions, reprimands and warnings.
- 2.33 This must be in the form of an Enhanced Criminal Records Disclosure issued by the DBS that includes reference to both the Adult & Child Barred Lists.
- 2.34 Where appropriate, applicants for the renewal of a driver's licence must provide the Council with the means necessary to access their DBS Update Service record.
- 2.35 An application for a driver's licence must be completed within 6 months of the issue date of the DBS certificate. If the DBS certificate is more than 6 months old the applicant will be required to obtain a new one, or provide a means of access to a new one, before the application can be completed unless the applicant is registered through the DBS Update Service.
- 2.36 DBS checks are generally not portable and only DBS checks applied for through Hartlepool Council's Licensing Team will be accepted unless an applicant is appropriately registered with the Disclosure & Barring Service (DBS) Update Service.

Relevance of Convictions, Cautions and Conduct

- 2.37 In assessing whether the applicant is a fit and proper person to hold a licence, the Council will consider each case on its own merits and will have regard to its adopted guidelines on the relevance of convictions which is available on request.

- 2.38 The Rehabilitation of Offenders Act 1974 does not apply to applicants for hackney carriage or private hire driver licences by virtue of the Rehabilitation of Offenders Act 1974 (Exception) Order 1977 and therefore applicants are required to disclose all non-protected convictions, including those that would normally be regarded as spent. Guidance on 'protected convictions' can be found at <https://www.gov.uk/government/publications/dbs-filtering-guidance>.

Driver Knowledge/Locality Test

- 2.39 In order to determine the fitness of a person to hold a licence, all applicants are required to sit and pass a test on their knowledge of, amongst others things, licensing legislation, the local geography, driver conduct/conditions, Highway Code and awareness of Child Sexual Exploitation/Safeguarding. Tests for hackney carriage drivers include the location of hackney carriage stands and knowledge of tariffs and charges. A driver's licence will not be issued without the applicant first passing the knowledge test.
- 2.40 The cost of one knowledge test is currently included in the licence fee. If an applicant fails to pass the test, a further fee will be charged for every subsequent test. Applicants are not permitted to sit a re-test without payment of the fee.
- 2.41 Should an applicant fail to pass the knowledge test within five attempts, they will be required to wait for a period of at least six months before a further test may be re-booked. This should provide the applicant with sufficient time to develop the necessary knowledge required in order to successfully undertake the knowledge test.
- 2.42 If an applicant fails to attend a test or attends late, a further test shall be required for which an additional charge will be made.

Medical Assessment

- 2.43 In order to be satisfied as to an applicant's medical fitness, the applicant must provide to the Council a medical examination report, in a Council approved format, that is signed by a registered medical practitioner, and which states that the individual satisfies the Group 2 medical standard.
- 2.44 This is a higher medical standard than that required for drivers of other motor vehicles and is required due to the length of time the driver may spend at the wheel and the responsibility they have for the safety of their passengers and the public. In addition, drivers may have to assist disabled passengers and handle luggage.
- 2.45 The medical practitioner must confirm that:
- i) They have examined the applicant;

- ii) The applicant is registered with the practice; and/or
 - iii) They have had full and complete access to the applicant's full GP medical records;
 - iv) The medical examination was carried out to the Group II standard;
 - v) They consider the applicant to be fit to act as the driver of a hackney carriage or private hire vehicle in accordance with this standard.
- 2.46 If the Council is not satisfied as to the medical fitness of an applicant, a driver's licence will not be granted.
- 2.47 If the Council is not satisfied as to the medical fitness of a licensed driver there will be reasonable cause to suspend, revoke or refuse to renew the licence under s.61 Local Government (Miscellaneous Provisions) Act 1976.
- 2.48 The applicant is responsible for paying the fee for the examination. The medical certificate will be valid for a period of 6 months after which, if the driver's licence has not been issued, either a new medical certificate or a letter from the GP who carried out the original assessment confirming that there has been no change in the medical fitness of the applicant will be required. Once the medical is 12 months old a letter will not be accepted and a new medical will be required.
- 2.49 Once a licence holder reaches the age of 45, they must provide a new medical certificate every five years and once they reach the age of 65 years a medical certificate will be required every year.
- 2.50 For drivers who have chosen a three-year licence, they must provide a medical certificate on the same basis as that detailed above and, where this falls mid-licence, the driver must provide a new medical certificate on their 45th, 50th, 55th, 60th and 65th birthday and every year thereafter.
- 2.51 If a driver has a medical condition that requires notification to the DVLA e.g. sleep apnoea they **must** also notify the Council in writing at the same time that DVLA is notified.
- 2.52 In addition to the above requirements where a driver suffers from a condition that requires monitoring but would not prevent him/her from driving (s)he is required to provide written confirmation from his GP or consultant, as recommended by the DVLA standards, each year that s/he remains fit to carry out the duties of a driver and/or may be required to submit an annual medical.
- 2.53 If the Council has reason to suspect that a licensed driver may not be fit to continue to drive a licensed vehicle, the driver must undertake any reasonable test or medical examination as is required, within a reasonable time, as directed by the Council.

Term of Licence

- 2.54 All driver licences will be valid for a maximum period of up to 3 years or such lesser period as the Council thinks appropriate.

Suspension of Licence

- 2.55 If it considers it necessary and appropriate to do so, the Council may choose to suspend a driver's licence. Suspensions can be immediate if they are considered necessary on the grounds of public safety.
- 2.56 The Council's policy on the use of suspensions is attached as Appendix I.

Refusals and Revocations

- 2.57 Hartlepool Borough Council provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) driver's licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Council – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.
- 2.58 Where a hackney carriage/ PHV driver's licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- 2.59 All applications for a new driver's licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.
- 2.60 The information recorded on NR3 itself will be limited to:
- i) Name
 - ii) Date of birth
 - iii) Address and contact details
 - iv) National insurance number
 - v) Driving licence number
 - vi) Decision taken
 - vii) Date of decision
 - viii) Date decision effective

- 2.61 Information will be retained on NR3 for a period of 25 years.
- 2.62 This is a mandatory part of applying for/being granted a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at https://www.hartlepool.gov.uk/info/20023/licences_and_permits/284/taxis.
- 2.63 Information will be processed in accordance with the Data Protection legislation and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.
- 2.64 If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at data.protection@hartlepool.gov.uk. This includes submitting a subject access request.
- 2.65 You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint>.

Conditions of Licence

- 2.66 The law does not permit the Council to attach conditions to a hackney carriage driver's licence. However, hackney carriage drivers are subject to Council's byelaws which are freely available from the Council's Licensing Team on request or by visiting the Council's website and they shall be expected to fully comply with this policy's 'Code of Good Conduct'.
- 2.67 The Council's conditions in respect of private hire drivers are detailed at Appendix II.

Code of Good Conduct

- 2.68 The Code of Good Conduct serves to promote the Council's licensing objectives in respect of hackney carriage and private hire licensing. The Code will be taken into consideration in disciplinary matters. The Code of Conduct is attached at Appendix III to this policy.

Driver's Dress Code

- 2.69 A dress code serves to enhance the professional image of the hackney carriage and private hire trade, and promotes the concept that drivers of licensed vehicles are vocational drivers.
- 2.70 In order to raise the profile of the licensed trade, drivers should operate, at all times in a professional manner and conform to a minimum standard of dress. The Council's Dress Code for licensed drivers is contained within Appendix III and may be taken into consideration in disciplinary matters.

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Requirements Relating to the Proprietor of a Licensed Vehicle

- 3.1 All proprietors of a licensed vehicle must provide to the Licensing Team a basic criminal records check at the time of application for a vehicle licence and every twelve months thereafter. The criminal records check must be no more than 30 days when it is provided to the Council. For the proprietor of multiple vehicles, this requirement shall apply to only one vehicle.
- 3.2 The requirement detailed in 3.1 above shall not apply where the proprietor also holds a hackney carriage/private hire vehicle driver's licence issued by Hartlepool Borough Council.
- 3.3 The requirement detailed in 3.1 above shall not apply where the proprietor is also a licensed private hire operator with Hartlepool Borough Council.

Essential Requirements and Conditions of Licence

- 3.4 Prior to being licensed, and in order to remain licensed, all vehicles must meet the following requirements which, when a licence is in force, shall be regarded as conditions of that licence.
- 3.5 The requirements apply to both hackney carriage and private hire vehicles unless otherwise stated.
- 3.6 Prior to a vehicle licence being issued the applicant, being the proprietor of the vehicle, shall complete and submit to the Council an application on the prescribed form together with the required licence fee no later than 14 days prior to the licence being required.
- 3.7 If payment is made by cheque which is subsequently dishonoured any licence issued shall be null and void.

Specifications

- 3.8 The Department for Transport Best Practice Guidance recommends that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the "type approval" rules within any specifications they determine.

- 3.9 All vehicles, therefore, shall have an appropriate 'type approval' which is either:
- i) European Whole Vehicle Type Approval
 - ii) British Individual Type Approval
- 3.10 Vehicle type approval is the confirmation that production samples of a design will meet specified technical, safety and performance standards. The specification of the vehicle is recorded and only that specification is approved.
- 3.11 All vehicles subject to new applications for hackney carriage vehicle licences, shall have M1 European Whole Vehicle Type Approval (EWVTA).
- 3.12 Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.
- 3.13 Vehicles may also be licensed to carry fewer passengers subject to compliance with specifications relating to passenger comfort and vehicle conditions.
- 3.14 Convertible vehicles (i.e. vehicles with a retractable hood) will not be licensed.

Essential Criteria

- 3.15 Before granting a vehicle licence, and throughout the vehicle's time as a licensed vehicle, the vehicle must:
- i) Be suitable in type, size and design for use as a licensed vehicle as defined by this policy.
 - ii) Be in an excellent mechanical condition.
 - iii) Be safe.
 - iv) Be comfortable in the opinion of a licensing officer.
 - v) Comply with all statutory requirements applicable to that vehicle.
 - vi) Display the Council's licence plates, which must be securely attached to the exterior front and rear of the vehicle as prescribed by the Council.
 - vii) Prominently display the Council's internal licence plate on either the dashboard or the top left corner of the windscreen.
 - viii) Permanently attach the appropriate 'decals', issued by the Council, centrally to both front doors of the vehicle.
 - ix) Not be fitted with a roof rack.
- 3.16 The vehicle must also satisfy the following internal requirements:

- i) Height (inside) – From the top of any part of the seat cushions to the roof at lowest part must not be less than 810mm and, in every other respect must not be so constructed as to present any risk of injury or discomfort to any passenger. The definition of roof includes any parcel shelf, entertainment console or other fixing.
 - ii) Knee space – The measurement between the rear of the front seats at mid position and the back rest of the back seat must not be less than 760mm.
 - iii) Seats (length) – the shortest distance between the front and back of a seat (i.e. from the back rest to the front edge) must not be less than 450mm.
 - iv) In the case of rear facing seats, the distance between the backs of facing seats shall not be less than 1520mm. In all other cases the distance between the back rest of the seat and any facing obstruction must not be less than 760mm.
 - v) Seats (width) – The shortest distance between the edges of the seats shall be no less than 400mm. Where the rear passenger seating is divided into individual seats by way of formed cushions or other similar divide and, in the opinion of an authorised officer, affect the comfort of the passenger, the above measurement shall be ascertained by measuring the distance between the seatbelt anchorages.
 - vi) Seats, seat covers, floor coverings and interior trims shall be free from tears, damage, grease and other contamination.
 - vii) Interior lighting operated either automatically when the passenger or rear doors are opened or by a separate switch operated by the driver.
 - viii) An illuminated luggage compartment, which in the case of mini bus type vehicles must be segregated internal space with a minimum capacity of 0.566 cubic metres.
 - ix) An internal plate (as provided by the Council) shall be fixed and displayed inside the vehicle in a clear and unobstructed location so that the particulars thereon are clearly visible to passengers.
- 3.17 No fittings or signs (except for legitimate advertising) shall be attached to the inside of the vehicle unless approved by the Council.

Vehicle Condition

- 3.18 Licensed vehicles must at all times be maintained in a good condition and be kept clean and tidy. This includes the following examples which are for reference purposes only and do not constitute a definitive list of matters that may be considered relevant to evaluate whether a vehicle is in a good condition:
- i) Bodysell/paintwork – free from rust, broken metal and other visible damage.

- ii) Door hinges shall be in good working order and be seated correctly when closed.
- iii) Windscreen and windows shall be in good clean condition and free from damage.
- iv) Free from oil leaks.

Documentation

3.19 A vehicle licence will only be issued where there is evidence of valid:

- i) Road Tax.
- ii) Vehicle insurance.
- iii) Public Liability insurance certificate (minimum of £5 million).
- iv) Certificate of Compliance issued by Council's in-house testing station.
- v) MOT certificate (if required by law).

Engine Numbers/Chassis Numbers

3.20 The Chassis/VIN plate and engine numbers must match the numbers recorded with the DVLA. Vehicle applications cannot be accepted without a copy of the vehicle registration document or, in the case of a new vehicle purchase, sales documentation indicating the engine and chassis numbers. Where the registration document is not provided at the time of initial licensing it must be provided within 6 weeks of the grant of licence. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police who will undertake checks to ensure the vehicle is not stolen.

Colour

3.21 All hackney carriages, including all previously colour coded external trims, boot, door edges and frames, must be professionally painted or wrapped to a non-standard production shade of yellow detailed below: -

- Landrover AA yellow, Octoral No RO1000 FMB/LRC559
- Fiat Giallo Ginestra 2C, Octoral No F1258:93

3.22 Alternatives to the above technical specification will only be acceptable if, in the opinion of a licensing officer, the colour accurately replicates those detailed above.

Age Restriction

3.23 A licence will only be granted to an unlicensed vehicle when it is under four years old (from date of first registration).

- 3.24 Vehicle licences will normally only be renewed up to 6 years old (except for purpose built wheelchair accessible vehicles such as London Cabs which may be licensed up to 13 years of age).
- 3.25 Vehicles which meet the Council's "exceptionally well maintained" criteria may be licensed for longer periods.
- 3.26 For a vehicle to be regarded as being 'exceptionally well maintained' it will be for the vehicle proprietor to demonstrate to the licensing authority that the vehicle has been exceptionally well maintained throughout its lifetime.
- 3.27 Matters to be taken into account when determining whether a vehicle has been exceptionally well maintained will include, but are not limited to: -
- a) History of mechanical checks and the number and nature of any failures
 - b) History of visual appearance checks carried out by licensing officers
 - c) History of spot checks carried out by licensing officers
 - d) Accident history of the vehicle
- 3.28 Applications for an extension of the age policy must be made in writing to the Licensing Team, accompanied by the relevant fee, a minimum of 14 days prior to the expiry of the current licence.
- 3.29 In addition to the above, from 1st April 2023, petrol and diesel powered vehicles must be Euro Emission Class 6 or subsequent Class.
- 3.30 Subject to satisfying all other relevant requirements detailed in this policy, there is no age restriction for vehicles that are powered solely by electricity or otherwise can be regarded as being truly 'zero emission at source'.

Term of Licence

- 3.31 All vehicle licences will be valid for a maximum period of up to 12 months or such lesser period as the Council thinks appropriate. Where a lesser period applies, a reduced fee will be payable consisting of the application fee plus a daily rate for the number of days to be licensed.

Insurance

- 3.32 All vehicles must have, at all times, a current valid policy of motor insurance appropriate to the local authority licence being held and public liability insurance (minimum £5 million). This policy must be in place before a licence can be granted.
- 3.33 It is an offence to drive a vehicle without the appropriate insurance in place. Requests to produce insurance may be made during the term of the licence. These requests must be complied with in accordance with the time scales stipulated in the request.

- 3.34 If a vehicle is off the road and uninsured the proprietor must advise the Licensing Office in writing immediately or in any event within 72 hours.

Insurance Write-Offs

- 3.35 Vehicles that have at any time been declared a Category A or B insurance 'write off' will not be licensed. If a licensed vehicle is involved in an accident which results in the vehicle being declared a Category A or B insurance 'write off' then the licence will be revoked and no further application to licence that vehicle will be permitted.

Wheelchair Accessible Vehicles

- 3.36 The Council recognises the needs of people with disabilities and reminds the taxi trade of their legal obligations to provide equality in the provision of all of their services.
- 3.37 In order to ensure that there are sufficient suitable vehicles available that can meet the needs of those who must travel in their wheelchair, Hartlepool Borough Council requires that all new hackney carriages shall be 'wheelchair accessible'.
- 3.38 A 'wheelchair accessible' vehicle is defined as a vehicle that is designed and constructed to allow a passenger to be transported without them having to leave their wheelchair either before, during or after their journey (i.e. a passenger should be able to stay seated in their wheelchair whilst it is loaded onto the vehicle; should be able to stay seated in their wheelchair during their journey; and be able to remain seated in their wheelchair as it is unloaded from the vehicle).
- 3.39 A 'new hackney carriage' for the purposes of this policy means a vehicle presented for licensing in Hartlepool for the first time and which is not a replacement of a vehicle already licensed as a hackney carriage in Hartlepool.
- 3.40 If the vehicle to be replaced is a wheelchair accessible vehicle, it must be replaced by another wheelchair accessible vehicle.
- 3.41 The Council will license both purpose built wheelchair accessible vehicles and vehicles that are suitable in size and design, and have been converted or adapted after the date of first registration to enable the carriage of a wheelchair. This is provided that the conversion is carried out by an approved vehicle convertor such as the Wheelchair Accessible Vehicle Converters' Association and a certificate of fitting provided by the convertor is supplied as an original document.

- 3.42 Where the vehicle is a rear or side loading wheelchair accessible vehicle a suitable ramp or lift must be carried in the vehicle at all times.
- 3.43 The proprietor of a wheelchair accessible hackney carriage shall ensure that the collection and delivery of wheelchair users takes place at safe and appropriate locations.
- 3.44 All equipment must be kept in good working order for the safe carriage of passengers.
- 3.45 The Council expects proprietors to ensure that their drivers are familiar with the correct means of securing wheelchairs and their passengers in such vehicles.

Fire Extinguishers

- 3.46 If carrying a fire extinguisher it must be of suitable size and type, be in good working order and be regularly tested by a qualified person.

CCTV In Vehicles

- 3.47 The Council supports drivers who wish to install and operate CCTV systems for the protection of themselves and their passengers but, when they do, they must, at all times, comply with the following requirements; -
 - i) If CCTV is installed, the proprietor of any vehicle with CCTV must display a sign approved by the Council advising passengers that a CCTV system is in operation in the vehicle.
 - ii) Any reports of misuse of CCTV or recorded images may result in the immediate referral to the Licensing Committee with a view to suspending both the vehicle and driver licences.
 - iii) Drivers must satisfy all legal requirements relating to data protection.

Cleanliness

- 3.48 The proprietor must ensure that the vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

Advertisements, Signs, Notices etc.

- 3.49 Signs, notices or advertisements must not be of a content that a licensing officer deems to be offensive or abusive. Further guidance as to the content of the advert may be sought from the Advertisement Standards Authority, www.asa.org.uk
- 3.50 There is no requirement for an advertisement that complies with this policy to be approved in advance but, if it is not so approved and is found to be in

breach of this policy, the vehicle licence will be suspended until the advertisement is amended/removed.

3.51 No advertising on vehicles shall:

- i) Be affixed to any window of the vehicle
- ii) Be affixed to any door or panel on which the Council issued roundel or sign is located
- iii) Promote tobacco products
- iv) Promote alcoholic products without the prominent disclaimer 'Please Drink Responsibly'
- v) Be offensive or misleading in nature or character. As this matter is subjective, the decision of the licensing officer shall be deemed final.

3.52 Advertisements shall be constructed of such robust design and materials, and fitted professionally, as to be capable of retaining high standards of appearance. Any vehicles displaying advertisements considered by the Licensing Officer to fall below such a high quality will be suspended until the advertisement is either removed or satisfactorily repaired.

3.53 If advertising is situated in the interior of the vehicle it shall be subject to the proviso that it does not detrimentally affect the safety or comfort of passengers.

3.54 To avoid confusion for the general public, no vehicle, other than a hackney carriage, shall have a roof sign.

Swivel Seats

3.55 Where fitted as a passenger seat, certificates of fitting from an authorised fitter must be obtained and produced to the Council before a vehicle can be tested and/or licensed.

Spare Tyres

3.56 Vehicles shall be fitted with a means of allowing a journey to be continued, unassisted, in the event of a puncture or other tyre/wheel malfunction. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:

- i) Other than for the completion of a journey that has already begun, the carriage of passengers is not permitted whilst such a tyre is fitted
- ii) The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.

- iii) The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
- iv) Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.

3.57 Tyres on the same axle must be of the same nominal size and aspect ratio.

Tinted Windows

3.58 Hartlepool BC has a duty to protect children and young people from all forms abuse including, amongst other things, trafficking and Child Sexual Exploitation (CSE).

3.59 As the licensing authority for hackney carriages and private hire vehicles, the Council believes it is important that any children or young people using such vehicles can be safe and feel safe.

3.60 To help ensure this, the Council considers that it is reasonable and proportionate to take steps to ensure that children and young people remain visible once they have entered a licensed vehicle – or to put it another way, that they do not become invisible.

3.61 This can be partly achieved by ensuring that front and rear windows allow a minimum amount of light to pass through – thereby allowing front and rear passengers to be seen from outside the vehicle.

3.62 The Council's specification relating to the use of tinted windows in licensed vehicles is as follows: -

- i) The windscreen shall have a minimum light transmission of 75%
- ii) All other front windows of the vehicle shall have a minimum of 70% light transmission
- iii) All rear windows of the vehicle shall have a minimum of 30% light transmission.

3.63 Nothing shall be attached to any window that may detrimentally affect visibility.

Sliding Doors

3.64 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening

and closing mechanism shall not be altered so as to prevent the doors from locking into the open position.

Exemption from Age Policy

- 3.65 If a vehicle is between 4 and 8 years of age and is written off through no fault of the proprietor (i.e. through no-fault accident damage), the Council may, if it deems it appropriate, allow a replacement vehicle to be licensed that is of the same age as the original vehicle, or newer.

Alteration of Vehicle

- 3.66 The proprietor must not change the design or condition of the vehicle without first obtaining the written approval of the Council.

Number of Passengers to be carried

- 3.67 A proprietor or driver of a licensed vehicle shall not convey or permit to be conveyed in the vehicle, any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

Change of Address

- 3.68 The proprietor shall notify the Council in writing of any change of address within seven days of such change taking place.

Change of Private Hire Operator

- 3.69 Private hire vehicles must operate via one Private Hire Operator at any moment in time. The proprietor must notify the Council of any change in Private Hire Operator before undertaking bookings for the new operator.

Fares & Fees

- 3.70 The Council is not able to set fares for private hire vehicles. It is a matter for negotiation between the hirer and operator at the time of booking and the operator should make this clear. When a hackney carriage vehicle is used for private hire services the fare charged cannot exceed that which would be charged under the table of fares applicable to hackney carriages.
- 3.71 Meters installed in hackney carriages must be used for every journey undertaken within the Borough of Hartlepool – regardless of how the vehicle was hired. Drivers are free to charge their customer less than the final price indicated on the meter but cannot charge more. When a journey ends outside of the Council's area a fare greater or lesser than that shown on the meter may be charged but only if an agreement has been made with

the hirer in advance. In the absence of such an agreement, only the metered fare or lesser can be charged.

- 3.72 The Council will review the table of fares annually or when requested by the trade - usually in January of each year. When determining the level of fares, consideration will be given to what is reasonable to expect the travelling public to pay as well as the need to give the owners/drivers an incentive to provide a service at all times it is needed.
- 3.73 A notice of any variation to the maximum fare will be advertised in a local newspaper with a date set 14 days from publication for making objections to the proposed variation. If no objections are received the fare variation will have effect on a day specified at the end of the 14 day consultation period. If any objections are received the matter will be referred to the Licensing Committee for consideration.
- 3.74 In the interests of consistency for the general public, all meters must be calibrated to the current table of fares but drivers have the discretion to charge less than the displayed fare if they wish.

Table of Fares

- 3.75 A table of fares will be provided to each hackney carriage licence holder, which must be displayed in each vehicle on the interior of the offside rear passenger window so that it is easily visible to all hirers. This requirement shall apply equally to private hire vehicles where a meter is fitted.

Hackney Carriages – Roof Signs

- 3.76 Hackney carriages must have a roof sign that is a minimum of 600 mm (24 inches) in length affixed to the roof whenever the vehicle is in the Borough of Hartlepool and this must be illuminated when the vehicle is available for hire.
- 3.77 In order to allow hackney carriages to be more efficient, and environmentally friendly, an allowance has been made for the roof sign to be removed when the vehicle is undertaking a booking that takes it outside Hartlepool.
- 3.78 If the roof sign is not affixed to the vehicle, whilst in Hartlepool, the driver of the vehicle must be able to demonstrate to a licensing officer, on request, that the vehicle is, at that time, engaged in an 'out of town' booking.
- 3.79 Any failure of a driver to do so will result in this allowance being removed in respect of that vehicle.
- 3.80 Magnetic or other temporary roof signs must be made of suitable and appropriate materials, and attached in such a manner, as to be safe for passengers, pedestrians and other road users.

Hackney Carriages – Booking Records

- 3.81 When carrying out pre-booked work, a hackney carriage shall be used predominantly for journeys that will either begin or end in Hartlepool.
- 3.82 The word ‘predominantly’ shall mean 90% of all pre-booked work within any continuous seven- day period. **All** pre-booked work shall be recorded and made available to authorised officers on request: -
- i) In a suitable form in a continuous, chronological order, the pages of which are consecutively numbered, or
 - ii) On a computer which keeps backup records and is immediately capable of producing a printed record from the computer onto paper.
- 3.83 Records must not be capable of retrospective alteration or amendment, and the driver must enter, before the commencement of each journey, the following particulars of every booking by him/her:
- i) Name and address of the hirer
 - ii) Date, time and pickup point of the booking;
 - iii) Destination;
 - iv) Number of passengers to be carried;
 - v) When and how the booking was made i.e. telephone, personal call;
 - vi) Amount to be charged; (where applicable)
- 3.84 If the pre-booking is part of a contract i.e. education/school run then proof of the contract must be kept and made available to a licensing officer on request.

Loss/Theft of Licence Plate

- 3.85 The proprietor must report the loss/theft of licence plate(s) to the Licensing Office, and obtain replacements, as soon as the loss becomes known and, in any case, within 2 working days..

Changes of Vehicle

- 3.86 If a proprietor wishes to change the vehicle to which a licence relates (i.e. to change the vehicle but retain the vehicle licence number), the following procedures must be followed: -
- i) The proprietor must complete an application form for the “new” vehicle
 - ii) Pay the relevant fee
 - iii) Return the plates from the previous vehicle
 - iv) Presented for test and subsequently pass.
 - v) Produce evidence of insurance and all other required documentation.

- 3.87 The expiry date on the 'new vehicle' licence will be 12 months from the grant of the 'new' licence.

Change of Ownership

- 3.88 If a proprietor wishes to transfer the ownership of a vehicle to which a licence relates, the following procedures must be followed within 14 days of the transfer taking place: -
- i) A transfer form must be submitted – signed by both the previous and new owner(s)
 - ii) The new owner must pay the relevant transfer fee
 - iii) The new owner must produce evidence of insurance and all other required documentation

Surrender of licence

- 3.89 A vehicle licence may be surrendered at any time and any refund of licence fee will be calculated as a pro rata daily rate on the number of days licence remaining, plus any mechanical inspections not yet undertaken less the administration fee.

Licence Fees

- 3.90 The fee structure is reviewed annually as part of the budgetary process. Notice of the current scale of fees will be supplied to new applicants at the time of application.
- 3.91 A notice of any variation to the fees in respect of vehicles and operators will be advertised in a local newspaper with a date set 28 days from publication for making objections to the variation of fees.
- 3.92 Following consultation, if no objections are received the fee variation will have immediate effect (or at a later date as indicated by the Council). If any objections are received the matter will be re-considered.

PRIVATE HIRE OPERATORS

Essential Requirements & Conditions of Licence

- 4.1 Prior to being licensed, and in order to remain licensed, all private hire operators must complete and submit an application form, pay the appropriate licence fee and meet the following requirements which, when a licence is in force, shall be regarded as conditions of that licence.
- 4.2 Should payment be made by cheque, which is subsequently dishonoured, any licence issued shall be null and void.
- 4.3 Any person who operates private hire vehicles must apply to the Council for a private hire operator licence. The objective in licensing private hire operators is to ensure the protection of the public who will be using the operator's premises and the vehicles and drivers arranged through them.
- 4.4 Operators need to familiarise themselves with the law and ensure they employ suitable work methods in order to comply with the law and avoid committing licensing offences.
- 4.5 Private Hire Operator licences will only be granted to applicants who have an operating base within the controlled district of the Council, or to new applicants, who can demonstrate that there will be such an operating base within the controlled district of the Council. This requirement must be complied with at all times during the duration of a licence.
- 4.6 An operating base means a building that it is used for the taking of private hire bookings.

Licence Duration

- 4.7 Licences will be issued for a maximum period of 5 years or such lesser period as the Council thinks appropriate.

Criminal Record Checks

- 4.8 Private Hire Operator licences can only be granted to persons that the Council are satisfied are fit and proper.
- 4.9 Before an application for a Private Hire Operator licence will be considered the applicant must provide a basic DBS disclosure certificate to the Council that is no more than 30 days old.
- 4.10 For corporate applications, the above documentation will be required for each company director and the company secretary.

- 4.11 If the applicant is currently licensed as a driver with the Council they will be exempt from this requirement as they will have already undergone a DBS check.
- 4.12 Applicants for renewal of a Private Hire Operator licence who are not licensed as drivers will be required to provide a new certificate or search results every third year.
- 4.13 All applicants for a Private Hire Operator licence shall be referred to the Licensing Committee for determination if the record of criminal convictions casts doubt on their fitness to be granted a licence.

Convictions

- 4.14 If the operator is cautioned or convicted of any motoring or criminal offence (s)he must notify the Council, in writing, within 7 days. If the licence is in the name of a Company or Partnership the cautions/convictions of any Directors or Partners must be disclosed.

Insurance

- 4.15 Applicants are required to produce proof of appropriate public liability insurance (£5 million).

Planning Consent

- 4.16 Applicants are required to obtain planning consent, where necessary, for the premises from which they intend to operate. The Planning Authority will be consulted as part of the application for a Private Hire Operator Licence and their comments may be taken into account when determining whether the licence should be granted. The Licensing Manager has the discretion to refer any application to the Licensing Committee.

Record Keeping

- 4.17 Operators are required to keep records of the following for each booking: -
 - a) Name of passenger
 - b) Time of request
 - c) Pick up point
 - d) Destination
 - e) Name and licence number of driver despatched
 - f) Vehicle registration number
 - g) Name of any individual who responded to the booking request
 - h) Name of any individual who despatched the vehicle
 - i) Where relevant, a record that confirmation was sought and obtained regarding the use of a PCV driver to undertake a booking (see para 4.41).

- 4.18 Records should be preserved for a period of not less than 12 months and be available for inspection at the request of an authorised officer of the Council or Police.
- 4.19 Where deemed necessary by the authorised officer, a copy (paper or digital) of requested booking records must be provided to the officer within 3 days or, if considered urgent by the officer, within 24 hours of request.

Complaints

- 4.20 The operator must maintain written or computer records of all complaints received concerning a contract for hire or purported contract for hire relating to or arising from his/her business (including any sub-contracted work) and the action that was taken. These details shall be maintained for a minimum of six months and be made available to a licensing officer on request.
- 4.21 The operator must notify the Council, in writing, within 7 days of any complaints and of the action (if any), which the operator has taken or proposes to take.
- 4.22 Where a complaint is investigated by an Authorised Officer of the Council the operator shall comply with any reasonable directions of the Officer in respect of that complaint.

Change of Business Address

- 4.23 A Private Hire Operator licence is granted to the operator for the premises detailed at the time of application. The operator must notify the Council of any intention to locate to an alternative address so that consideration may be given to its potential relevance to the licence in force.

Change of Home Address

- 4.24 The operator, or in the case of a company or limited liability partnership, the directors, secretary or members/partners as the case may be, must advise the Council in writing of any change of his home address within 7 days of such a change taking place.

Material Change

- 4.25 A Private Hire Operator Licence is not transferable and operators must notify any proposed changes to the person(s) authorised to operate under the terms of the licence to the Council immediately in writing.

Display of Licence

- 4.26 If the public has access to the operating premises you are required to display your Private Hire operator Licence in your operating premises together with a copy of your licence conditions and the Local Government (Miscellaneous Provisions) Act 1976.

Equal Opportunities

- 4.27 The operator must at all times treat his/her passengers or any potential passenger with courtesy and respect. The operator and his/her employees must not discriminate against any person because of their race, colour, creed, gender or disability.

Facilities for Passengers

- 4.28 The operator must ensure that where any passenger waiting area or room is provided, it is kept physically separate from any driver rest area and operations room. Where a waiting area or room is provided for the use of passengers or prospective passengers the operator shall:
- i) Provide adequate seating for the use of those passengers or prospective passengers; and
 - ii) Ensure that such room or area is kept clean, adequately heated, ventilated and lit; and
 - iii) Ensure that the interior and exterior of the premises are kept in good repair, to the satisfaction of the Council.

Fares

- 4.29 The fare charged by the Operator shall be agreed with the hirer at the time of booking.

Parking

- 4.30 Where adequate off street parking is not available at the operating address specified on the licence the operator shall inform the Council, in writing of all locations where vehicles will be parked when waiting for bookings.

Right of Access

- 4.31 The Operator must permit any authorised Officer of the Council onto his/her operating premises at all times when acting as a Private Hire Operator and provide him/her with access to all records which (s)he may reasonably require.

Standard of Service

- 4.32 The operator must provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose must, in particular:
- i) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle must attend at the appointed time and place unless unavoidably delayed.
 - ii) Keep clean, adequately heated, ventilated and lit any premises which are provided and to which the public have access, whether for the purpose of booking or waiting.
 - iii) Ensure that any telephone facilities and radio equipment provided are, at all times, kept in good working order and that any defects are repaired promptly.
 - iv) Not describe by the use of advertising signs, printed words, broadcasts or by any other media the word “Hackney Carriage” or “Taxi”, or any derivative to describe the private hire services offered.

Taximeters

- 4.33 When taximeters are used the operator must notify the Council of the fare rate and any subsequent changes made to that fare rate during the period of the Operator licence.
- 4.34 Where any vehicle operated is fitted with an approved taximeter the operator shall ensure that the taximeter is set to the fare rate notified to the Council and properly sealed in accordance with Council regulations.

Vehicles to be used

- 4.35 It shall be a requirement that hackney carriage and private hire vehicles and drivers that have been licensed by Hartlepool Borough Council shall be used within the controlled district of Hartlepool unless it is necessary to sub-contract a booking.
- 4.36 In this case the operator must ensure that the same standard of vehicle and driver is provided by the sub-contractor. This is to ensure that the travelling public of Hartlepool are provided with a consistent standard of service.

Call Handlers and Despatch Operators

- 4.37 It shall be the responsibility of the licensed operator to maintain a register of all staff who are, or may be, engaged in receiving calls from members of the public and/or despatching vehicles to undertake bookings.

- 4.38 The register must contain details including each member of staff's name and a record of when they provided a basic criminal records check to the operator. Any criminal records check submitted as part of this requirement should have been recently issued. The only exception to this requirement shall be those call handlers and despatch operators that were employed in those positions prior to 1st October 2021.
- 4.39 The licensed operator must have a policy on the employment of ex-offenders and apply this policy when appointing staff to handle calls and/or despatch vehicles. This policy must be made available to an authorised officer on request.

Use of PCV Drivers

- 4.40 Members of the public are entitled to expect, when making a booking with a private hire vehicle operator, that they will receive a private hire vehicle licensed vehicle and driver. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking **should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.**
- 4.41 In such circumstances, and before consent is obtained, the customer must be advised that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

Hackney Carriage and Private Hire Drivers

Interim Suspension Policy

Purpose & Use

This policy will be used by Hartlepool Borough Council when it receives information that casts doubt on a driver's suitability to continue as a licensed hackney carriage or private hire driver.

This policy shall only apply where a driver's licence is to be suspended with immediate effect in the interests of public safety, by virtue of Section 61 and 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976.

Application of Policy

When Hartlepool Borough Council receives information that casts doubt on an individual's fitness to continue as a licensed driver it is obliged to make a judgement as to whether any action should be taken against that driver in order to protect the public.

Every issue will be taken on its own merits. The Council's only consideration shall be the protection of the public.

The Council will consider any information provided to it including, but not limited to, convictions, cautions, reprimands, warnings, complaints, allegations and other intelligence it receives. The Council will make a determination as to what weight should be given to the information it has received when making its decision.

The Council will refer to its document: '*Guidance on Determining the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trades*' to assist in its determination of the seriousness of the matter and of what action, if any, is appropriate and necessary.

If the Council believes that an interim suspension of the driver's licence is needed, it will make reasonable efforts to speak to the driver before issuing the interim suspension.

In such circumstances, an interim suspension will be issued immediately and the driver will then invited to speak to Council officers at the earliest reasonable opportunity thereafter.

Any interim suspension of a licensed driver shall be time limited but, depending on the circumstances, the expiry of one interim suspension may be followed by the immediate issue of another if it is deemed necessary and appropriate in the interests of public safety.

In most cases, an interim suspension shall not be lifted until such time as the circumstances surrounding it have been considered by the Council's Licensing Sub-Committee.

Making a Determination

In making its determination the Council shall consider, amongst other things, the following matters: -

1. Would the person charged with making the decision, allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care to get into a vehicle with this person alone?
2. Would the Council grant a licence to a new applicant who declared the current issue on their application form?

PRIVATE HIRE DRIVER CONDITIONS

Change of Address

- PH1 Drivers must notify the Council, in writing, of any change of address during the period of the licence within 7 days of such a change taking place.

Conduct of Driver

- PH2 Drivers shall comply with the Code of Good Conduct for licensed drivers.

Convictions

- PH3 The driver shall within seven days of any arrest, charge, conviction, caution, reprimand or warning (relating to motoring and non-motoring convictions) notify the Council's licensing team in writing.

Driver's Badge

- PH4 A driver shall at all times when acting in accordance with the driver's licence granted to him wear such a badge in such position and manner as to be plainly and distinctly visible.

Equal Opportunities

- PH5 Drivers must at all times treat passengers or any potential passenger with courtesy and respect. Drivers must not discriminate against any person because of their race, colour, religion, sexual orientation, gender or disability.

Fare to be Demanded

- PH6 Drivers must not demand a fare greater than previously agreed with the passenger and the operator. If a taximeter is in use only the fare displayed, or a lesser fare, may be charged

Animals

- PH7 Drivers must not carry any animals in their vehicle other than those belonging to or in the care of their passenger(s). Any animal belonging to or in the care of any passenger should be carried in the rear of the vehicle only (except for guide, hearing or assistance dogs who are not restricted to the rear of the vehicle).

Lost Property

- PH8 When passengers have been dropped off the driver must check the vehicle for any property accidentally left there. If any is found it must be returned to the passenger or handed into a police station as soon as possible and no later than the end of that shift.

Medical Condition

- PH9 The Council must be immediately notified of any deterioration in the driver's medical condition that may affect their ability to drive private hire vehicles.

Carrying Passengers

- PH10 Drivers must not:
- i) Carry more passengers in their vehicle than is permitted by the vehicle licence.
 - ii) Carry more than one person in the front seat unless the vehicle is furnished with a bench type front seat 1270mm or more in length between the doors and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried.
 - iii) Without the consent of the hirer, carry any additional person in the vehicle.

Prompt Attendance

- PH11 Drivers must always pick up passengers on time unless unavoidably delayed. If a driver is to be delayed, they, or their operator, would be expected to notify the passenger of any delay as soon as possible.

Receipts

- PH12 The driver must, if requested, provide the passenger(s) with a written receipt for the fare paid including the amount of VAT (if applicable) shown separately if so requested. The driver should provide details of the journey including the date, fare, vehicle, operator and name of driver and sign the receipt.

Taximeters in PHVs

PH13 If the private hire vehicle is fitted with a meter the driver:

- i) Must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless credit is to be given).
- ii) Must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.
- iii) Must ensure that the meter is sufficiently illuminated when in use and is visible to all passengers.
- iv) Must ensure that the meter is only brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey.
- v) Must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.

Drug and Alcohol Testing

PH14 On those occasions where the Council has reason to suspect that a driver may be abusing drugs or alcohol, the driver shall undertake drug or alcohol tests as required by the Council, at the authority's expense, within a reasonable period of time or, if considered necessary by the Council, as quickly as practicable.

CCTV & Other Recording Devices

PH15 Drivers are in a position of trust and passengers can expect complete privacy and discretion when hiring a licensed vehicle.

Drivers shall not video or record passengers other than through a CCTV system that has been installed specifically for the purposes of deterring or detecting crime and which complies with the requirements of the Data Protection Act.

Any footage obtained of passengers must not be made publicly available other than to a law enforcement agency.

No still or moving images or audio recordings or transcripts of audio recordings must be made available on social media or by other means.

Any driver found breaching the above requirements will be referred to the Council's Licensing Committee with a recommendation that their driver's licence be revoked.

CODE OF GOOD CONDUCT FOR LICENSED DRIVERS

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

Failure to comply with this Code may be taken into account when assessing a driver's fitness to continue to hold a licence.

General

- GC1 Licensed drivers are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

Responsibility to the Trade

- GC2 Licence holders shall endeavour to promote the image of the Hackney Carriage and Private Hire Trade by:
- i) Complying with this Code of Good Conduct
 - ii) Complying with legislation, all the Conditions of their licence and the Council's Hackney Carriage and Private Hire Licensing Policy
 - iii) Behaving in a professional manner at all times

Responsibility to Clients

- GC3 Licence holders shall:
- i) Take the shortest available route. Where a diversion is to be taken, this must be clearly explained to the passenger.
 - ii) Take all reasonable steps to ensure the safety of passengers while they are entering, travelling in or leaving the vehicle.
 - iii) Treat passengers or any potential passenger with courtesy and respect at all times.
 - iv) Not engage in any dialogue or activities with a passenger that may, to any reasonable person, be considered offensive or inappropriate.
 - v) Maintain their vehicles in a safe and satisfactory condition at all times
 - vi) Keep their vehicles clean and suitable for hire to the public at all times
 - vii) Attend punctually when undertaking pre-booked hiring

- viii) Assist, where necessary, passengers into and out of vehicles
- ix) Offer passengers reasonable assistance with luggage and/or other bags
- x) Offer assistance to elderly/infirm or disabled passengers
- xi) Not smoke tobacco products, e-cigarettes or other similar nicotine delivery devices inside their vehicle at any time.

Responsibility to Residents

GC4 To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- i) Not sound the vehicle's horn.
- ii) Keep the volume of in-car entertainment systems to a minimum.
- iii) Switch off the engine if required to wait.
- iv) Take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
- v) Not deposit any litter other than into a bin.
- vi) Not engage in any form of anti-social behaviour.

At hackney carriage ranks and other places where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

- vii) Rank in an orderly manner and proceed along the rank in order and promptly.
- viii) Remain in the vehicle.

General

GC5 Drivers shall:

- i) Drive with care and due consideration for other road users and pedestrians.
- ii) Obey all Traffic Regulation Orders and directions at all time.
- iii) Comply with the rules and spirit of the Highway Code.
- iv) Ensure they do not smell of alcohol or drive whilst under the influence of alcohol.
- v) Pay attention to personal hygiene and dress in accordance with the Dress Code.
- vi) Behave in a civil and orderly manner at all times.
- vii) Ensure that all passenger doors are unlocked immediately upon arrival at the destination or on any other occasion when the vehicle is stationary and the passenger asks to leave.
- viii) Cooperate fully during any investigation by an authorised officer.

Drivers must not:

- i) Drive while having used illegal drugs or having taken other medication that may have an impact on their ability to drive
- ii) Engage in any dialogue or activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council. This includes inappropriate touching of passengers.
- iii) Not smoke tobacco products, e-cigarettes or other similar nicotine delivery devices inside their vehicle at any time.
- iv) Drink or eat in the vehicle at any time while carrying passengers (best practice is for rest periods to be taken away from the vehicle).
- v) Play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle without the consent of the passenger

Smoking and E-Cigarettes

- GC6 It is against the law to smoke tobacco products in a licensed vehicle. In addition, drivers shall not use an e-cigarette or other nicotine delivery device in a licensed vehicle at any time.

CCTV and Other Recording Devices

- GC7 Drivers are in a position of trust and passengers can expect complete privacy and discretion when hiring a licensed vehicle.

Drivers shall not video or record passengers other than through a CCTV system that has been installed specifically for the purposes of deterring or detecting crime and which complies with the requirements of the Data Protection Act.

Any footage obtained of passengers must not be made publicly available other than to a law enforcement agency.

No still or moving images or audio recordings or transcripts of audio recordings must be made available on social media or by other means.

Any driver found breaching the above requirements will be referred to the Council's Licensing Committee with a recommendation that their driver's licence be revoked.

Please Note:

ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT

THE COUNCIL WILL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE CONSUMED ANY ALCOHOL OR HAVING MISUSED ANY DRUGS PRIOR TO OR WHILST IN CHARGE OF A LICENSED VEHICLE.

DRESS CODE

GC8 The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the hackney carriage and private hire trade in Hartlepool to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

Acceptable Standard of Dress

GC9 As a minimum standard, drivers must wear either long legged trousers, knee length shorts, skirt or dress and T shirts which have a full body and short sleeves.

Footwear

GC10 Footwear for all drivers shall be appropriate for safe driving.

Unacceptable Standard of Dress

GC11 The following are deemed to be unacceptable:

- i) Clothing that is not kept in a clean condition, free from holes and rips.
- ii) Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- iii) Sportswear (e.g. football/rugby kits, track suits, beach wear etc.).
- iv) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- v) Drivers not having either the top or bottom half of their bodies suitably clothed
- vi) No headwear, or other items which partially or completely cover the head or face or identity of the licensed driver e.g. baseball caps and hoodies, shall be worn other than when a uniform is worn for a special occasion, or for religious purposes.

**ADDITIONAL POLICY AND ADDITIONAL CONDITIONS FOR
STRETCHED LIMOUSINES, NOVELTY VEHICLES, CLASSIC VEHICLES
AND EXECUTIVE VEHICLES**

These conditions are IN ADDITION to the standard Private Hire Vehicle conditions except where stated.

Each application will be assessed on its own merits and each vehicle will be inspected by an authorised council officer to ensure it complies with this policy.

Prior to being licensed, and in order to remain licensed, all vehicles to which this Appendix applies must meet the following requirements which, when a licence is in force, shall be regarded as conditions of that licence.

INTERPRETATION

Stretched Limousines

- AP1 For the purpose of licensing by the Council, a limousine is a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048mm (120 inches) to extend the length of the vehicle.

The vehicle shall be capable of carrying up to (but not exceeding) eight seated passengers. Each passenger seating area will be at least 400mm wide.

Novelty Vehicles

- AP2 A novelty vehicle is any vehicle not traditionally used to carry fare paying passengers or, in any other way, is a vehicle to which licence conditions detailed in this policy cannot, by the vehicle's nature, reasonably apply.

Classic Cars

- AP3 A classic car is any vehicle that was first registered more than 25 years prior to the date of licence application.

Executive Cars

- AP4 An executive vehicle is equivalent to the European E-segment classification. It must be capable of carrying four or more passengers and be equipped to the highest standards of comfort and equipment.

The vehicle must be in pristine condition with no visible interior or exterior defects, dents or blemishes.

The vehicle must be used exclusively to provide transport under a written contract lasting not less than 7 consecutive days.

Exemption from Requirement to Display Licence Plate

- AP5 On application, vehicles to which this Appendix applies may be exempted from the general requirement to display a licence plate.

Vehicles exempted from the requirement to display a licence plate must, instead, fix their licence plate to the underside of the boot lid or to some other agreed location where it can be easily read if required.

Additionally, vehicles exempted from the requirement to display the licence plate must display the vehicle's licence number in the front windscreen where it can be seen from the exterior of the vehicle.

If an exemption from the need to display a licence plate is granted, the Council will issue the proprietor of the vehicle with an Exemption Notice.

Exemption Notices may be renewed annually (to coincide with the licence itself) subject to the vehicle undergoing, and passing, a re-inspection by an authorised officer to ensure it continues to be fit for purpose and further proof of the continuous contract arrangements.

Age Limits

- AP6 Limousines, classic cars and novelty vehicles may be of any age but must, at all times, satisfy this Policy's requirements in relation to safety, appearance and comfort.

Window Tint

- AP7 Window tinting restrictions do not apply to the rear passenger windows and rear windscreen for any vehicle type listed in this Appendix.

Seatbelts

- AP8 In accordance with Construction and Use Regulations, where seat belts are fitted they must be used by all passengers

Stretched Limousines - Construction & Appearance

- AP9 Stretched limousines must satisfy the following requirements:
- i) The maximum length of the vehicle "stretch" shall not exceed 3048 mm.
 - ii) The vehicle should be equipped with a minimum of four road wheels and one full sized spare wheel. The tyres shall be of an approved rating as specified by the manufacturer i.e. 235/75R 15 108S (BF Goodrich Extra

Load or equivalent). Vehicles produced since 1998 should be fitted with 225/70R 16 107T (Reinforced).

- iii) In addition, tyres on the same axle must be of the same nominal size and aspect ratio.
- iv) The interior of the vehicle must be kept wind and watertight.
- v) The seats in the passenger compartment must be kept properly cushioned and covered.
- vi) The floor in the passenger compartment must be provided with a proper carpet, mat or other suitable covering.
- vii) There must be adequate internal light to enable passengers to enter and leave the vehicle safely.
- viii) The internal fittings and furniture of the limousine must be kept in a clean, well-maintained condition and in every way fit and safe for public use.
- ix) Facilities must be provided for the conveyance of luggage safely and protected from inclement weather.
- x) The vehicle must have at least two doors for use of persons conveyed in the vehicle and a separate means of ingress and egress for the driver.
- xi) Facilities must be provided to ensure that any person travelling in the limousine can communicate with the driver.

Stretched Limousines – Mechanical Inspections

AP10 Limousines are required to be mechanically tested at the Council's appointed depot every six months.

Stretched Limousines - Documentation

AP11 In addition to other documentation requirements detailed earlier in this policy, the following documentation, in original form or certified copies (not photocopies), shall be produced prior to licensing:

- i) Completed importation documentation – Single Vehicle Approval (SVA) or Individual Type Approval (ITA).
- ii) A Qualified Vehicle Modifier certificate – (QVM). This is issued by the Coach Builder.
- iii) Documentation to show the overall weight of the vehicle (as displayed on the vehicle).

Stretched Limousines - Passengers

AP11 Where the passengers in the vehicle consist solely of persons under the age of 16 they must be accompanied by a responsible adult, other than the driver, who is over the age of 16 years and is not connected to the driver.

All passengers must remain seated at all times when the vehicle is in motion.

With the exception of the responsible adult detailed above, passengers must not be carried in the front of the vehicle.

Stretched Limousines - Uniforms

AP12 The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.

CONDITIONS RELATING TO THE LICENSING OF HORSE DRAWN CARRIAGES (LANDAUS) AND THEIR DRIVERS

General

Prior to being licensed, and in order to remain licensed, all horse drawn carriages must meet the following requirements which, when a licence is in force, shall be regarded as conditions of that licence.

Making an Application - Essential Requirements

- HD1 Prior to a vehicle licence being issued the applicant, being the proprietor of the vehicle, shall complete and submit to the Council an application on the prescribed form together with the required licence fee no later than 14 days prior to the licence being required.

If payment is made by cheque which is subsequently dishonoured any licence issued shall be null and void. Licence fees are non-refundable.

The Vehicle - External Construction and Markings

- HD2 The vehicle shall be purpose built and suitable for the carriage of passengers.
- HD3 The vehicle shall be inspected and approved as appropriate for use as a hackney carriage prior to licensing.
- i) Carriage licence plates shall be fixed to the rear of the vehicle in a clear and conspicuous location in a vertical plane at right angles to the longitudinal axis of the vehicle.
 - ii) Licensed carriages must at all times be maintained in a good condition and be kept clean and tidy. This includes the following examples which are for reference only and does not constitute a definitive list of matters that may be considered to evaluate whether a vehicle is in a good condition:
 - a) Bodyshell/paintwork – free from rust, broken metal and other visible damage.
 - b) Door hinges – shall be in good working order and to be seated correctly when closed.
 - iii) No external markings shall be permitted on the vehicle with the exception of the name and contact number of the owner/operator which may be displayed in the upper half of both passenger doors. Such advertisements must, in the opinion of an authorised officer, be tasteful and decent.

- iv) The carriage must be fitted with such equipment as to be able to collect and retain horse manure, water and feed for the animal.
- v) All tack and fixtures must be kept in good order and be available for inspection by authorised officers.

The Vehicle - Internal construction and markings

HD4 The carriage shall meet the following minimum measurements:

- i) Seats (length) – the shortest distance between the front and back of a seat (i.e. from the back rest to the front edge) must not be less than 450mm.
- ii) In the case of rear facing seats, the distance between the backs of facing seats shall not be less than 1520mm. In all other cases the distance between the back rest of the seat and any facing obstruction must not be less than 760mm.
- iii) Seats (width) – The shortest distance between the edges of a seat shall be no less than 400 mm. Where the rear passenger seating area is divided into individual seats by way of formed cushions or other similar divide and, in the opinion of an authorised officer, affect the comfort of a passenger, the above measurement shall be ascertained by measuring the distance between seatbelt anchorages (if applicable).

HD5 Floor and seat coverings shall be kept in good condition and be free of holes, stains or other damage at all times.

HD6 Blankets shall be provided for the comfort of passengers.

HD7 No fittings or signs (except for advertising detailed below) shall be attached to the inside of vehicle unless approved by the Council.

HD8 Advertising in the interior of a vehicle is permitted but only where such advertising does not detrimentally affect the safety or comfort of passengers and is not designed or intended to be viewed from the exterior of the vehicle.

The Vehicle - Additional Requirements

HD9 The proprietor of a licensed vehicle shall:

- i) Produce the licensed vehicle for inspection at the request of any authorised officer or police constable.
- ii) Return the licence to an appropriate Council Officer within 7 days of the surrender, expiry, revocation or suspension of such licence or upon the proprietor transferring his/her interest in the vehicle.
- iii) Report the loss of any plates or the vehicle licence to an appropriate Council Officer as soon as the loss becomes known.

- iv) Notify the Council of any transfer of interest or ownership within 14 days of that transfer. This must include the date of the transfer, plate number and name and address of the new owner.
- v) Comply with any reasonable request made by an authorised officer or police constable in respect of that vehicle.
- vi) Notify the Council of any significant damage to the vehicle within 72 hours of the occurrence.

Material Alterations

HD10 Any material alteration to the design or construction of a vehicle must have prior approval from the Council.

Insurance

HD11 The carriage must have a valid policy of insurance in respect of third party risks and a minimum of £5,000,000 public liability insurance.

Routes

HD12 The carriage may only be used on previously approved routes.

The Horse

HD13 The horse must be a minimum of three years old.

HD14 Horses must be appropriately shod at all times.

HD15 If a horse is considered to be lame, or in any other way unwell, it shall be removed from service immediately.

HD16 Horses must be provided with regular access to drinking water.

HD17 The horse, and its associated tack, must be examined and passed as fit for the task involved, by a qualified veterinary surgeon who may also advise the authority on the maximum number of hours that a horse may work.

HD18 The local authority shall require the horse(s) to be examined by a qualified veterinary surgeon on an annual basis, at time of renewal of the licence and at the licence holder's expense.

HD19 Certified horses should be easily identified by means of microchip or permanent marking.

HD20 The horse must have a current passport.

HD21 The horse should be stabled in appropriate accommodation with access for inspection at all reasonable times.

HD22 Any horse used in any one day as a horse drawn carriage horse shall not be used during that day for any other purpose.

HD23 No horse shall be used for drawing a carriage during the hours of darkness.

HD24 Sufficient horses must be provided to power the licensed carriage.

The Driver

HD25 The driver of the carriage must be a licensed hackney carriage driver and produce the following certificates:

- i) Suitable qualification demonstrating a knowledge of the most common horse ailments and basic knowledge of the horses' general needs/requirements.
- ii) Road Driving Certificate issued by either the British Driving Society or the Heavy Horse Training Committee, passing the driver as capable of handling the horse and carriage under highway conditions.

HD26 The driver of a carriage is exempted from the requirement to hold a full drivers licence issued by the Driver and Vehicle Licensing Agency (DVLA).

HD27 The driver of a carriage is exempted from the requirement to pass the locations element of the driver's examination.

Fares

HD28 A table of fares to be charged by the operator must be approved by the Council.