

# LICENSING COMMITTEE AGENDA



**Wednesday 14 March 2007**

**at 10.00am**

**in Committee Room B**

MEMBERS: LICENSING COMMITTEE:

Councillors Brash, R Cook, Griffin, Hall, Jackson, Johnson, Kaiser, Laffey, Lilley, Morris, Rayner, Richardson, Rogan, Tumilty and Worthy.

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
  - 3.1 To confirm the Licensing Committee minutes of the meeting held on 13th December 2006 *(attached)*
4. **ITEMS FOR DECISION**
  - 4.1 Gambling Act 2005 – *Head of Public Protection*
  - 4.2 Hackney Carriage Tariffs– Annual Review – *Head of Public Protection*
5. **ITEMS FOR DISCUSSION / INFORMATION**
  - 5.1 Licensing Act 2003 – *Head of Public Protection*
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

## **LICENSING COMMITTEE**

### **MINUTES AND DECISION RECORD**

13<sup>th</sup> December 2006

**Present:**

Councillor Stan Kaiser (In the Chair)

Councillors: Jonathan Brash, Sheila Griffin, Gerard Hall, Pauline Laffey, George Morris, Pat Rayner, Carl Richardson, Victor Tumilty and Gladys Worthy.

Officers: Ralph Harrison, Head of Public Protection and Housing  
Ian Harrison, Principal Licensing Officer  
Tony MacNab, Solicitor  
Angela Hunter, Principal Democratic Services Officer  
Jo Wilson, Democratic Services Officer

#### **18. Apologies for Absence**

Apologies were received from Councillors Rob Cook and Peter Jackson.

#### **19. Declarations of interest by members**

None.

#### **20. Confirmation of the minutes of the meeting held on 20<sup>th</sup> September 2006**

Confirmed.

#### **21. Quarterly Report on Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees Activity** *(Assistant Chief Executive)*

##### **Purpose of report**

To update members on the work undertaken by the five Licensing Act Sub Committees and the three Hackney Carriage and Private Hire Licensing Sub Committees.

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

At the meeting on 15th March 2006 the Licensing Committee had agreed to receive quarterly reports on the work of the sub-committees. Tables setting out briefly the work of the sub-committees since September 2006 were attached as appendices to the report. These showed that the Licensing Act sub-committees had considered four applications while the Hackney Carriage and Private Hire Licensing sub-committees had considered twelve applications.

During the course of detailed discussions members raised concerns about a number of issues. There was the feeling that deals were being done behind closed doors between the police and applicants meaning that issues of concern were never being considered by Licensing Committee members. When there were problems with premises it was councillors who were being held accountable by the media. The Chair requested that police representatives be invited to a future meeting of the Licensing Committee in order to discuss these issues.

Members also queried whether a Hackney Carriage or Private Hire Drivers Licence could be withheld if the applicant failed to attend the sub-committee. The Solicitor advised that there was no legal basis to take such action and that attendance was not a legal requirement. The Head of Public Protection and Housing advised that, following discussions with the Council Solicitor, it had been agreed that in future cases where information was provided by police which could not legally be taken into consideration, leaving officers with no alternative other than to grant the application, a report would be provided to Members for their information only.

### **Decision**

1. That the report be noted
2. That police representatives be invited to a future meeting of the Licensing Committee

## **22. Any other items which the Chairman considers are urgent**

The Chairman ruled that the following item should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

A member referred to an article in the Northern Echo detailing a ban on the sale of alcohol to under 21s by a number of licensed premises in Saltburn on Friday and Saturday evenings. Following a trial run this had been made permanent. He queried whether a similar scheme could be introduced in

Hartlepool. The Solicitor advised that this had been a voluntary action by the licence holders concerned and was not something the Council could introduce. The legal drinking age could only be amended by an Act of Parliament. Members expressed their support for the scheme.

STAN KAISER

CHAIRMAN

**Report of:** Head of Public Protection

**Subject:** GAMBLING ACT 2005

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**1. PURPOSE OF REPORT**

- 1.1 To provide Members with an update on the forthcoming implementation of the Gambling Act 2005.
- 1.2 To determine a policy for the consideration of applications for gaming machine permits in premises licensed to sell alcohol.
- 1.3 To determine how the licensing Committee may discharge its obligations as a responsible authority under the Gambling Act 2005.
- 1.4 To consider the delegation of certain licensing functions to Licensing Sub-Committees and officers.
- 1.5 To consider whether the Licensing Committee is the appropriate body to set premises licence fees for gambling premises.

**2. BACKGROUND**

- 2.1 The Gambling Act 2005 creates a new licensing system for the licensing of premises offering gambling activities.
- 2.2 Hartlepool Borough Council will assume responsibility for the administration of premises licences whilst the newly established Gambling Commission will administer personal and operator's licences.
- 2.3 There are five types of premises licence that the Council, as licensing authority, may issue. These are:-
  - Casino premises;
  - Bingo premises;
  - Betting premises, including tracks and premises used by betting intermediaries;
  - Adult Gaming Centres (i.e. adult amusement arcades); and
  - Family Entertainment Centres (i.e. seaside amusement arcades)
- 2.4 The Council must have regard to the Gambling Act's licensing objectives when making licensing decisions. These are:-
  - Preventing gambling being a source of, associated with, or supporting crime and disorder

- Ensuring gambling is conducted in a fair and open manner
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 2.5 Initial proposals from the Government were that applications for premises licences could be made to licensing authorities after 31<sup>st</sup> January 2007 but, following lobbying from a variety of interested parties, this date has been put back twice – firstly to 1<sup>st</sup> May 2007 and now to the 21<sup>st</sup> May 2007.
- 2.6 The Act introduces a transitional period whereby existing licence holders may apply for ‘grandfather rights’. This will ensure that those who apply before an appointed day are guaranteed the same trading rights as provided under the previous Gaming Act. This transitional period is between 21<sup>st</sup> May 2007 and 31<sup>st</sup> July 2007.
- 2.7 All licences issued, including those with grandfather rights, must now include a number of conditions relating to the operation of the premises. These conditions may be:-
- Mandatory Conditions – must be attached to all premises licences and may only be removed by legislation.
  - Default Conditions – are automatically attached to all premises licences but may be removed or amended by the licensing authority. This may only be done following a Sub-Committee hearing.
  - Individual Conditions – may be attached by the licensing authority to address a particular concern or issue. This may only be done following a Sub-Committee hearing.
- 2.8 As with the Licensing Act 2003, any new applications, or variations to existing licences, must be advertised and a variety of responsible authorities and interested parties may make representations. These representations must relate to one or more of the licensing objectives detailed above.
- 2.9 The responsible authorities for the Gambling Act are:-
- The Gambling Commission
  - Customs and Excise
  - Cleveland Police
  - Cleveland Fire Service
  - Planning
  - Environmental Protection
  - Safeguarding and Review Board (Child Protection)
  - The Licensing Authority
- 2.10 Members will note that Trading Standards and Environmental Health (Health and Safety) are not responsible authorities under the Gambling Act.
- 2.11 Unlike the Licensing Act, the Gambling Act has extended the number of responsible authorities to include the licensing authority itself. This has the

effect of permitting the licensing authority to make a representation regarding an application or calling an existing licence in for review .

## 2.12 Gaming Permits and Gaming Machines

2.13 In addition to premises licences, the Council may also issue permits to premises where gambling is an incidental activity (i.e. gaming machines at a public house) or where the stakes and prizes are low (i.e. sea front amusement arcades).

2.14 Permits are generally granted to authorise the use of gaming machines (i.e. slot machines) and these have been categorised by the Gambling Act in terms of maximum stake and maximum prize. See Appendix I.

2.15 Licensing authorities have the discretion to determine how many machines may be provided by a premise licensed to sell alcohol but have no discretion over how many machines may be offered by a Family Entertainment Centre.

## 3. **CONSIDERATION OF ISSUES**

### 3.1 Alcohol Licensed Premises

3.2 The Act states that alcohol licensed premises have an automatic entitlement to make available two gaming machines of category B or C (See Appendix I). Members are requested to adopt a policy for those occasions where applications are received for three or more machines.

3.3 It is suggested that applications for three machines be approved by officers and applications for four or more machines be referred to a Licensing Sub-Committee for consideration. This reflects the current situation whereby a large number of licensed premises already offer three gaming machines licensed by the Magistrates Court.

### 3.4 Club Machine Permits

3.5 The Act allows private members clubs and works premises that operate membership-based social clubs to offer gaming machines. In both cases a licensing authority may grant a club machine permit to allow up to three gaming machines of categories B4, C or D.

3.6 The entitlement to such a permit is not automatic and Members may wish to adopt a policy for the consideration of applications.

3.7 In light of the suggestion in 3.3 above, it is further suggested that as a club machine permit may allow no more than three machines officers should be permitted to approve such applications.

### 3.8 Responsible Authorities

- 3.9 Members will be familiar with the role of 'responsible authorities' under the Licensing Act and the Gambling Act has continued this approach.
- 3.10 However, unlike the Licensing Act the Gambling Act has designated the licensing authority itself as a responsible authority. This means that the licensing authority may call in a gambling premises licence for review or make representations regarding an application.
- 3.11 This creates an administrative difficulty whereby any representation by the licensing authority which results in a hearing will then be considered by the same licensing authority sitting as a sub-committee. Demonstrating objectivity and impartiality in such an instance would obviously be extremely difficult, if not impossible.
- 3.12 It is therefore proposed that Members delegate the role of responsible authority to an officer so as to allow representations to be made independently of Members and therefore to allow for impartial hearings to be possible.
- 3.13 Delegation of Powers
- 3.14 Section 154 of the Gambling Act delegates all functions of the licensing authority to the Licensing Committee, with the exception of passing a no casino resolution, setting licence fees and approving the statutory gambling policy.
- 3.15 In addition to the above, the section further permits the Licensing Committee to, in turn, delegate its functions to Licensing Sub-Committees and officers.
- 3.16 A proposed scheme of delegations is attached as Appendix II which mirrors the delegations currently operating in relation to the Licensing Act.

#### Fee Setting

- 3.17 Section 212 of the Gambling Act states that premises licence fees may be determined by the licensing authority (i.e. full Council). Section 154 of the Act permits the licensing authority to delegate this function to another body.
- 3.18 Members may consider that the Licensing Committee is the most appropriate body to be delegated this function.
- 3.19 The maximum amount permitted to be charged in relation to a premises licence is prescribed by Regulations but at the time of writing this report these Regulations have not been published.
- 3.20 It is proposed that, should the appropriate information be available, Members consider an appropriate level of fees and make such recommendation to Council and also recommend that the provision to set future licence fees for gambling premises be delegated to the Licensing Committee.



**4. RECOMMENDATIONS**

- 4.1 That the contents of this report be noted.
- 4.2 That Members agree that applications from alcohol licensed premises and clubs for fewer than four gaming machines be considered by officers and applications for four or more machines be referred to a Licensing Sub-Committee for consideration.
- 4.3 That Members delegate the role of responsible authority to the Consumer Services Manager of the Public Protection Division.
- 4.4 That Members approve the scheme of delegations as detailed in Appendix II.
- 4.5 That Members consider and recommend to Council an appropriate level of fees relating to gambling premises licences to take effect from 21<sup>st</sup> May 2007.
- 4.6 That Members recommend to Council that the Licensing Committee be delegated the function of setting premises licence fees for gambling premises in future years.

## Appendix I

## Proposed Gaming Machine Categories

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30 when non-monetary prize	£5 cash or £8 non-monetary prize

Premises type	Machine Category						
	A	B1	B2	B3	B4	C	D
Betting premises and tracks			Maximum of 4 machines B2 to D				
Bingo Premises				Maximum of 4 machines in category B3 or B4		No limit on C or D machines	
Adult Gaming Centre				Maximum of 4 machines in category B3 or B4		No limit on C or D machines	
Family Entertainment Centre (with licence)						No limit on C or D machines	
Family Entertainment Centre (with permit)							No limit on D machines
Clubs or miner's welfare institute with permits					Maximum of 3 machines in categories B4 to D		
Alcohol Licensed Premise						1 or 2 machines of C or D	
Alcohol Licensed Premise with permit						Number as specified on permit	
Travelling Fair							No limit on D machines

**Appendix II****PROPOSED DELEGATION OF LICENSING FUNCTIONS**

<b>Matter to be dealt with</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officers</b>
Application for premises licence	Where representations have been received and not withdrawn	Where no representations received OR representations have been withdrawn
Application for a variation to a licence	Where representations have been received and not withdrawn	Where no representations received OR representations have been withdrawn
Application for a transfer of a licence Application for a provisional statement	Where representations have been received from the Gambling Commission Where representations have been received and not withdrawn	Where no representations received from the Gambling Commission Where no representations received OR representations have been withdrawn
Review of a premises licence	X	
Application from alcohol licensed premises for gaming machine permit	Where application is for 4 or more gaming machines	Where application is for fewer than 4 gaming machines
Application for club gaming/dub machine permits	Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/dub 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

**Report of:** Head of Public Protection

**Subject:** HACKNEY CARRIAGE TARIFFS – ANNUAL REVIEW

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**1. PURPOSE OF REPORT**

- 1.1 To consider a review of Hackney Carriage tariffs.

**2. BACKGROUND**

- 2.1 At your meeting held on 11<sup>th</sup> December 2002, it was agreed that there would be an annual review of Hackney Carriage tariffs following the consideration and recommendations of the Hackney Carriage/Private Hire Vehicle Owners Working Group.
- 2.2 At a meeting of the above group on 14<sup>th</sup> February 2007 a proposal to increase tariffs was agreed.
- 2.3 The present tariffs (as set out in Appendix I) were introduced in June 2005.
- 2.4 Members may recall that a proposal was approved by Members in 2006 but this did not have the support of a large section of the taxi trade. It was therefore resolved that the tariffs would remain unchanged and would be reviewed again in 2007.

**3. ISSUES**

- 3.1 The proposal is detailed in Appendix II and represents an increase in the initial charge (the 'flag fall') from £1.90 to £2.00 and a change in the distances that must be travelled by a licensed vehicle before the fare increases by a further 10p.
- 3.2 The proposal also includes the introduction of a tariff 4 to formalise the current allowance for an additional £2 charge on 'special days' such as Christmas Day and New Years Day. At present, drivers must ask passengers to pay this additional £2 fare although it is not displayed on the meter. Understandably this can on occasion cause friction with passengers who do not understand why they are being asked to pay more than the price displayed on the meter. It is believed that by creating a specific tariff for 'special days' whereby the £2 extra charge will be displayed on the meter this problem should be avoided.
- 3.3 The effect of the proposed increases is detailed in Appendix III.

- 3.4 Current tariffs in Hartlepool are still among the lowest in the country according to the trade magazine 'Private Hire and Taxi Monthly'.
- 3.5 Any decision to change tariffs must be published in the local press prior to implementation and should any objections be received, the matter would again be brought before committee for further consideration.
- 3.6 Any decision by Members on hackney carriage tariffs must strike a balance between value for money expected by the travelling public and a fair and reasonable return for the taxi proprietors.
- 3.7 Given that the current tariffs in Hartlepool are generally low and that there was no increase in tariffs last year, the proposed increase would appear reasonable.
- 3.8 If the proposal is approved, there will be a requirement to carry out some highway work to allow for new measuring posts to be installed. This work will be subject to the availability of appropriate highway staff and it is therefore proposed that the new tariff scheme, if approved, be implemented on 1<sup>st</sup> June 2007 or as soon as possible thereafter.

#### **4. RECOMMENDATIONS**

- 4.1 That Members approve the suggested amendments to the current tariffs.

## Taxi Fares 2006/7

## APPENDIX I

**HACKNEY CARRIAGE FARES**

Local Government (Miscellaneous Provisions) Act 1976 Section 65

**FARES FOR DISTANCE****MILEAGE**

- (1) For hirings begun between 9 am and 6 pm on any day other than Sundays and those shown at (2) and (3): -
- |  |      |
|--|------|
| If the distance does not exceed 880 yards or 804.5 metres                  | 190p |
| If the distance exceeds 880 yards or 804.5 metres:-                        |      |
| For the first 880 yards or 804.5 metres                                    | 190p |
| For each subsequent 290 yards or 265.06 metres or uncompleted part thereof | 10p  |
- (2) For all hirings begun between 6.30 am and 11.30 pm on Sundays, between 6.30 am and 9 am and 6 pm and 11.30 pm on any day other than those shown at (3): -
- |   |      |
|---|------|
| If the distance does not exceed 384 yards or 351 metres                   | 190p |
| If the distance exceeds 384 yards or 351 metres:-                         |      |
| For the first 384 yards or 351 metres                                     | 190p |
| For each subsequent 180 yards or 164.5 metres or uncompleted part thereof | 10p  |
- [3] For all hirings begun between 11.30 pm and 6.30 am and all hirings on any Bank Holiday or Public Holiday and all hirings on 24 and 31 December: -
- |   |      |
|---|------|
| If the distance does not exceed 320 yards or 292.5 metres               | 190p |
| If the distance exceeds 320 yards or 292.5 metres:-                     |      |
| For the first 320 yards or 292.5 metres                                 | 190p |
| For each subsequent 140 yards or 128 metres or uncompleted part thereof | 10p  |

**WAITING TIME**

- (a) For all hirings shown at (1) and (2) under MILEAGE.
- |   |     |
|---|-----|
| For each period of one minute or uncompleted part thereof | 10p |
|---|-----|
- (b) For all hirings shown at (3) under MILEAGE
- |   |     |
|---|-----|
| For each period of up to 40 seconds or uncompleted part thereof | 10p |
|---|-----|

**SPECIAL DAYS** – An extra charge of £2.00 will be charged in addition to the mileage on the following days.

7pm 24 December – 6.30 am 27 December

7pm 31 December – 6.30 am 2 January

**FARES FOR TIME** - Provided that when a Hackney Carriage is hired by time, such fares shall

be agreed with the hirer at the commencement of the hire.

**SOILING CHARGE** - £20.00

**PROPOSED TARIFFS 2007/8****Appendix II****HACKNEY CARRIAGE FARES****Local Government (Miscellaneous Provisions) Act 1976 Section 65****FARES FOR DISTANCE****MILEAGE**

- (1) For hirings begun between 9 am and 5 pm on any day other than Sundays and those shown at (2), (3) and [4]: -
- |   |      |
|---|------|
| If the distance does not exceed 440 yards or 402.3 metres                 | 200p |
| If the distance exceeds 440 yards or 402.3 metres:-                       |      |
| For the first 440 yards or 402.3 metres                                   | 200p |
| For each subsequent 250 yards or 228.6 metres or uncompleted part thereof | 10p  |
- (2) For all hirings begun between 6.30 am and 11.30 pm on Sundays, between 6.30 am and 9 am and 5 pm and 11.30 pm on any day other than those shown at (3) or [4]: -
- |   |      |
|---|------|
| If the distance does not exceed 380 yards or 347.5 metres                 | 200p |
| If the distance exceeds 380 yards or 347.5 metres:-                       |      |
| For the first 380 yards or 347.5 metres                                   | 200p |
| For each subsequent 160 yards or 146.3 metres or uncompleted part thereof | 10p  |
- [3] For all hirings begun between 11.30 pm and 6.30 am and all hirings on any Bank Holiday or Public Holiday and all hirings on 24 and 31 December other than those shown at (4): -
- |   |      |
|---|------|
| If the distance does not exceed 300 yards or 274.3 metres                 | 200p |
| If the distance exceeds 300 yards or 274.3 metres:-                       |      |
| For the first 300 yards or 274.3 metres                                   | 200p |
| For each subsequent 130 yards or 118.9 metres or uncompleted part thereof | 10p  |
- [4] For all hirings begun between 7pm on 24<sup>th</sup> December and 0630 am on 27<sup>th</sup> December and between 7 pm on 31<sup>st</sup> December and 0630 am on 2<sup>nd</sup> January: -
- |   |      |
|---|------|
| If the distance does not exceed 300 yards or 274.3 metres                 | 400p |
| If the distance exceeds 300 yards or 274.3 metres:-                       |      |
| For the first 300 yards or 274.3 metres                                   | 400p |
| For each subsequent 130 yards or 118.9 metres or uncompleted part thereof | 10p  |

**WAITING TIME**

- (a) For all hirings shown at (1) and (2) under MILEAGE.  
For each period of one minute or uncompleted part thereof 10p
- (b) For all hirings shown at (3) and [4] under MILEAGE  
For each period of up to 40 seconds or uncompleted part thereof 10p

**FARES FOR TIME** - Provided that when a Hackney Carriage is hired by time, such fares shall be agreed with the hirer at the commencement of the hire.

**SOILING CHARGE** - £20.00

## Appendix III

Comparison of costs for 1 mile hackney carriage journey

Time of Journey	2006/7 (£)	Proposed Tariff (£)
08:00 (tariff 2)	2.70	2.90
15:00 (tariff 1)	2.30	2.60
23:30 (tariff 3)	3.00	3.20

Comparison of costs for 2 mile hackney carriage journey

Time of Journey	2006/7 (£)	Proposed Tariff (£)
08:00 (tariff 2)	3.70	4.00
15:00 (tariff 1)	2.90	3.30
23:30 (tariff 3)	4.20	4.50

Comparison of costs for 3 mile hackney carriage journey

Time of Journey	2006/7 (£)	Proposed Tariff (£)
08:00 (tariff 2)	4.70	5.10
15:00 (tariff 1)	3.50	4.00
23:30 (tariff 3)	5.50	5.90



**Report of:** Head of Public Protection

**Subject:** LICENSING ACT 2003

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**1. PURPOSE OF REPORT**

- 1.1 To provide Members with an opportunity to discuss licensing issues with representatives of Cleveland Police.

**2. BACKGROUND**

- 2.1 At your meeting on 13<sup>th</sup> December 2006 it was requested that the Police be invited to a future meeting to discuss a range of licensing issues and to address any Members concerns regarding the resolution of certain recent licensing matters.

**4. RECOMMENDATIONS**

- 4.1 That Members discuss any matters of concern.