



WOKINGHAM BOROUGH COUNCIL

A Meeting of the **LICENSING AND APPEALS COMMITTEE**
will be held in David Hicks 1 - Civic Offices on
WEDNESDAY 21 MARCH 2018 AT 7.00 PM

A handwritten signature in black ink, appearing to read 'Manjeet Gill'.

Manjeet Gill
Interim Chief Executive
Published on 13 March 2018

This meeting may be filmed for inclusion on the Council's website.

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WOKINGHAM BOROUGH COUNCIL

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

MEMBERSHIP OF THE LICENSING AND APPEALS COMMITTEE

Councillors

Barrie Patman (Chairman)	John Halsall (Vice-Chairman)	Chris Bowring
Lindsay Ferris	Mike Haines	Emma Hobbs
John Jarvis	Abdul Loyes	Philip Mirfin
Malcolm Richards	Beth Rowland	Chris Smith
Wayne Smith	Bill Soane	

ITEM NO.	WARD	SUBJECT	PAGE NO.
19.		APOLOGIES To receive any apologies for absence.	
20.		MINUTES OF PREVIOUS MEETING To confirm the Minutes of the Meeting held on 21 November 2017.	5 - 10
21.		DECLARATION OF INTEREST To receive any declarations of interest.	
22.		PUBLIC QUESTION TIME To answer any public questions A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice. The Council welcomes questions from members of the public about the work of this committee. Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to www.wokingham.gov.uk/publicquestions	
23.		MEMBER QUESTION TIME To answer any member questions	
24.	None Specific	SAFEGUARDING TRAINING FOR LICENSED DRIVERS To consider a report outlining a proposal for safeguarding training for licensed drivers.	11 - 14
25.	None Specific	CRIMINAL CONVICTIONS POLICY FOR LICENSED DRIVERS AND OPERATORS To receive and consider a report on the proposed Criminal Convictions Policy for Licensed Drivers and	15 - 28

Operators.

- | | | | |
|------------|---------------|--|----------------|
| 26. | None Specific | CRITERIA POLICY FOR LICENSED VEHICLES
To receive and consider a report containing the Criteria Policy for Licensed Vehicles. | 29 - 36 |
| 27. | None Specific | REVIEW OF STATEMENT OF LICENSING POLICY
To receive and consider a report containing the Review of Statement of Licensing Policy. | 37 - 52 |
| 28. | None Specific | REVIEW OF STATEMENT OF GAMBLING PRINCIPLES
To receive and consider a report containing the Review of Statement of Gambling Principles. | 53 - 84 |

Any other items which the Chairman decides are urgent.

A Supplementary Agenda will be issued by the Chief Executive if there are any other items to consider under this heading.

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**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 21 NOVEMBER 2017 FROM 7.00 PM TO 8.13 PM**

Committee Members Present

Councillors: Barrie Patman (Chairman), John Halsall (Vice-Chairman), Chris Bowring, Lindsay Ferris, Mike Haines, John Jarvis, Abdul Loyes, Philip Mirfin, Malcolm Richards, Beth Rowland, Chris Smith and Wayne Smith

Other Councillors Present

Imogen Shepherd-DuBey

Officers Present

Luciane Bowker, Democratic and Election Services Specialist
Laura Driscoll, Principal Officer, Public Protection Partnership
Julia O'Brien, Team Manager, Licensing

23. APOLOGIES

An apology for absence was submitted from Bill Soane.

24. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 3 July 2017 were confirmed as a correct record and signed by the Chairman.

25. DECLARATION OF INTEREST

There were no declarations of interest.

26. PUBLIC QUESTION TIME

There were no public questions.

27. MEMBER QUESTION TIME

There were no Member questions.

28. DERMAL TREATMENT

The Committee considered the Dermal Treatment report which was set out in agenda pages 9-24.

Laura Driscoll, Principal Officer, Public Protection Partnership explained that this report contained the two different options which had been requested by the Committee during the discussion of the item at its previous meeting.

Laura stated that the report set out two options in relation to the adoption of a set of byelaws to regulate acupuncture, tattooing, electrolysis, cosmetic and ear piercing and semi-permanent skin colouring. The Committee was asked to consider both options and recommend the adoption of one of them.

During the discussion of the item the following comments were made:

- In response to a question Laura explained that it had been a request of the Committee to consider having a separate byelaw for Acupuncture. She explained that medical practitioners were exempt from this licence but other practitioners were not;

- Councillor Ferris reminded the Committee that at the previous meeting Members had felt that Acupuncture was different from the other treatments such as Tattooing; Acupuncture was practiced for medical reasons and therefore it should be separated;
- The Chairman stated that the NHS was no longer funding Acupuncture except for headaches as there was no evidence that could not be explained by the placebo effect;
- Councillor Rowland stated that at the last meeting Members had believed that Acupuncture was more medical than it is, and in comparing the two sets of papers she now believed that there was little reason to separate it;
- Councillor Halsall pointed out that the two sets of bylaws were identical, with only a small difference in paragraph four and he saw little advantage in separating it;
- Councillor Chris Smith pointed out that the procedures were of different nature, in that Acupuncture was applied for reasons of wellbeing and the other treatments were applied for cosmetic reasons;
- Members felt that it was important to know the cost implications in order to make an informed decision;
- Julia O'Brien, Team Leader, Licensing informed that it cost:
 - £129 for a personal registration
 - £256 for a premises registration
 - £351 for a combined registration
- Julia explained that should the Committee opt for two sets of bylaws, people would have to apply for two separate registrations, incurring in a higher cost for the registrations.

Upon being put to the vote the majority of Members decided to opt for the adoption of one set of bylaws as set out in the Annex A of the report.

RESOLVED That: The Committee recommends that Council pass a resolution to adopt one set of bylaws for dermal treatments.

29. PET SHOP LICENCE CONDITIONS

The Committee considered the Pet Shop Licence Conditions report which was set out in agenda pages 25-70.

Laura stated that the report contained information in relation to a consultation exercise in respect of the adoption of the Chartered Institute of Environmental Health (CIEH) model licence conditions for pet shops. She pointed out that this model was considered the best model in the field.

Members were informed that it was proposed that a consultation exercise be carried out with holders of pet shop licences in respect of the adoption of a new set of licence conditions, and for any responses to be reported on for consideration at a future meeting of the Committee.

During the discussion of the item the following comments were made:

- Councillor Halsall asked that the annexes contained in the agenda pack be labelled more clearly in future reports;
- Councillor Ferris stated that he had sent a number of questions to Josie Wragg, Interim Director of Environment and Clare Lawrence, Assistant Director, Place in relation to this item for which he had received no answers. Firstly, he was interested

to know why this proposal was limited to pet shops only as he felt that vets should have been included;

- Laura stated that there was a list of groups that had been consulted by the CIEH on page 44 of the agenda;
- In response to a question Laura confirmed that it was possible to widen the consultation;
- Councillor Mirfin believed that the consultation should be extended to groups such as vets and animal rescue centres;
- Councillor Ferris felt that by using the word 'minimum' in the report the Council was not aspiring to high enough standards;
- Members suggested using the word 'benchmarking' instead of 'minimum' in the report;
- The Chairman stated that using the word 'minimum' did not mean that the Council had low expectations or that more conditions could not be adopted;
- Laura informed that the CIEH was used by most local authorities and she was not aware of any other document with higher standards;
- Councillor Smith noticed that some requirements listed in the Council's licence conditions were higher than the ones listed in CIEH and other were not. He asked that the differences be highlighted in future reports;
- Councillor Richards believed that the reference to minimum standards should be viewed as a point into which people could go above;
- Councillor Ferris stated that there used to be a set of additional conditions and asked why these were not being used. Julia explained that the additional conditions used to be in relation to the sale of puppies in pet shops. She stated that the work that was undertaken found that the sale of puppies conditions were included in the new document;
- Councillor Ferris asked the Committee to consider the option of excluding puppy and kittens sales from pet shops;
- Councillor Mirfin stated that many places sold puppies and it was important to have regulations in place to cover all sources of puppy sales;
- Councillor Halsall pointed out that these proposed licence conditions were for pet shops and not breeders;
- Laura informed that a change of law in respect to all animal licences was expected to come into force next year in October, this would be brought for discussion at this Committee;
- In response to a question Laura stated that the Local Authority would need a very good reason to be able to ban pet shops from selling puppies;
- Councillor Ferris point out that the Pet Animals Act allowed for additional conditions to be applied and stated that Southampton had such conditions in place;
- Laura agreed to investigate this option;
- Councillor Mirfin expressed concern over removing the sale of puppies and kittens from pet shops without there being a reciprocal arrangement with breeders, he believed this would expose a hole in the management and protection of animals of a young age;
- Councillor Wayne Smith pointed out that it was necessary to have all conditions in the document in order to carry out the consultation; and
- In response to a question Laura stated that it was best practice to consult on any proposed new conditions.

After a robust debate the Committee agreed to include information in the consultation about the current conditions, the model conditions and the possibility of the adoption of new conditions.

RESOLVED That:

- 1) The consultation exercise would be widened to include groups such as veterinary practices and animal rescue centres; and
- 2) The consultation would include information in respect of the current standard conditions, the model conditions and proposed new conditions.

30. CRIMINAL CONVICTIONS POLICY FOR LICENSED DRIVERS AND OPERATORS

The Committee considered the Criminal Conditions Policy for Licensed Drivers and Operators report which was set out in agenda pages 71-76.

The Committee received a copy of the new proposed Hackney Carriage and Private Hire Licensing Criminal Convictions Policy which was unfortunately missed from the main agenda pack. Members considered whether to defer this item but were informed that this consultation was time critical and that the results of the consultation would come to the Committee for final approval of the policy, so there would be an opportunity to make changes if this was deemed necessary.

The following comments were made during the discussion of the item:

- Councillor Bowring asked if a new policy could be applied retrospectively and used to remove existing licences. Laura responded that this would have to be considered on a case by case scenario;
- Laura informed that the new document was based on the guidance that had been issued by the LGA earlier in the year, which had been circulated to Members of the Licensing Committee
- In response to a comment Laura stated that she was not aware that a licence had been issued to a former murder convict in Bracknell; and
- Councillor Chris Smith asked that a summary of the differences between the current licence policy and the proposed new policy be included in future reporting of the item.

Members were in agreement that the Local Authority should carry out the consultation with a view to review the responses and the proposed new policy at a future meeting.

RESOLVED That: The Committee endorses the proposal to carry out a consultation exercise in respect of the adoption of a new criminal conviction policy for licensed drivers and operators.

31. CUMULATIVE IMPACT POLICY

The Committee considered the Cumulative Impact Policy (CIP) report which was set out in agenda pages 77-82.

Laura explained that the report contained a summary of the progress made so far in relation to the proposal to carry out a formal consultation in relation to the adoption of a CIP either in the whole of Wokingham, or only in the Remenham area.

Laura stated that no further significant responses had been received since the production of the report.

Councillor Chris Smith was in favour of the proposal to carry out a consultation as he believed that the Remenham area was significantly affected by the large number of events during the summer months.

In response to a question Julia stated that the Local Authority had received two new applications recently and there were a total of roughly 10 licences in the Remenham area.

Julia clarified that existing licences would not be affected by the adoption of a CIP.

Laura explained that the mechanism for reviewing existing licences was through review hearings which were triggered by complaints. A group review power was not in place currently and it could be difficult to identify which premises were causing issues.

Councillor Bowring felt that if the adoption of a CIP was not going to improve the current situation in Remenham it was not worth carrying out a costly consultation exercise.

The Committee agreed that the issue of cumulative impact did not affect any other areas of the Borough, Remenham was the only area affected.

In order to illustrate the issue, Councillor Halsall informed the Committee that last year there had been an application for a new licence in relation to Henley Swim. This application was for an event which was planned to take place during the same weekend as the Henley Regatta and Henley Festival. The lawyer who was advising the Hearing Panel at the time stated that the Panel was unable to take into account the cumulative impact because the Council did not have a CIP. This legislation would enable licensing panel to take into account the cumulative impact when making its decisions. He suggested that other areas in the Borough may benefit from this policy in the future. He emphasised that this was not an attack into the current licences, it was intended to enable licensing hearing panels to consider the cumulative impact if relevant.

The Chairman stated that this legislation had been created to deal with issues in specific areas. He urged the Committee to consider the implications this could have in terms of discouraging businesses in the Borough, he strongly believed that, should the Committee decide to carry out the consultation, this CIP should be considered for the Remenham area only.

Councillor Rowland pointed out that the residents of Remenham felt very strongly and had been very vocal at previous appeal hearings in relation to the inability of the panel to consider the cumulative impact in the area. She believed that it was right to consider the adoption of a CIP for Remenham and that this was the residents' wish.

Laura informed that should the Council decide to adopt a CIP, this would be subject to a review every three years.

Councillor Haines expressed sympathy towards the residents of Remenham but asked the Committee to act with caution as this was a very strong measure which should not be used wrongly.

Members believed that it had been previously agreed that this issue required legal advice, and asked that the process should start with the formal consultation and engagement of legal expertise at the same time.

Laura agreed that legal advice was needed and had already mentioned it to Officers in Wokingham. She stated that she had met a barrister at a conference who specialised in CIP issues and recommended he be contacted. Members asked for his details and Laura agreed to pass this on to Members.

Councillor Wayne Smith expressed dissatisfaction with the delay in considering this proposal.

After much discussion and upon being put to the vote, most Members were in agreement that the consultation should be carried out for the Remenham area and that legal advice should be sought for the process.

RESOLVED That:

- 1) A formal consultation would be carried out in respect of the adoption of a cumulative impact policy for the parish of Remenham; and
- 2) Legal advice would be employed to guide the process.

32. BRIEFING IN RELATION TO THE GOVERNMENT'S RESPONSE TO THE HOUSE OF LORDS SELECT COMMITTEE REPORT ON THE LICENSING ACT 2003

The Committee considered the briefing paper in relation to the Government's response to the house of Lords Select Committee report on the Licensing Act 2003 which was set out in agenda pages 83-86.

Laura highlighted the following points from the report:

- The government does not intend to take the approach recommended by the Select Committee to transfer the functions of the Licensing Committees and Sub-Committees to the Planning Committees;
- Group Review Intervention Powers (GRIP) – the government intends to proceed with a consultation on the introduction of GRIPs, but will explore beforehand whether similar measures can be achieved within the existing system;
- No intention to implement a national personal licence database;
- No new licensing objectives were going to be introduced;
- Newspaper adverts to stay; and
- There would be new guidance in relation to Member training

Laura stated that no major changes were expected.

RESOLVED That: The report be noted.

TITLE	Safeguarding Training For Hackney Carriage, Private Hire And School And Community Transport Vehicle Drivers
FOR CONSIDERATION BY	Licensing and Appeals Committee 21 March 2018
WARD	Non-specific
LEAD OFFICER	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Addressing the issues of child sexual exploitation and protection of the vulnerable has become a priority and a matter of great importance for the community and all public authorities. Appropriately trained licensed drivers can assist in identification of incidents and persons of concern.

RECOMMENDATION

That the Committee agrees

- i) To the introduction of mandatory safeguarding training for all new and currently licensed drivers with immediate effect
- ii) That all licensed drivers to be required to sit refresher training every 3 years.

SUMMARY OF REPORT

This report seeks approval of the Committee to introduce compulsory safeguarding training for all licensed hackney carriage and private hire vehicle drivers and operators within Wokingham Borough.

Background

Members of the Committee may recall that this matter was originally considered in July 2017, with a recommendation that the Licensing Team carry out a consultation with the taxi trade. Approximately 400 licensed drivers were consulted and one response was received, which can be seen at Annex A. Speaking with the current preferred training provider, they are clear that driver feedback has been positive despite some drivers initially being sceptical as to the value or relevance of the training.

The training provided will help taxi drivers to understand potential safeguarding issues with vulnerable groups including children and adults. Modules could include CSE, human trafficking, driver/passenger safety, disability awareness, safeguarding and customer care best practice. This proposal is for a 2 to 3 hour training package together with a test which will check for an appropriate level of understanding.

It is hoped that the PPP will be able to proceed within using one training provider across the PPP area, and potentially across the majority of the Berkshire and Buckinghamshire areas to provide maximum flexibility for drivers to attend training in a convenient

location. The current preferred training provider can also adapt the training to cover disability awareness training.

A failure to implement the training, which is already in place widely across the surrounding Council areas, could place children and vulnerable adults at risk, and leave the Council open to criticism.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

It is intended that the training will be funded through a new charge to be included within the licensing fees. There will be no cost to the Council. The fee will be kept under review to ensure it covers the costs of the training.

Cross-Council Implications

Wokingham, as part of its role as a provider for home to school transport, uses a variety of transport methods including a significant number of taxis. It has for the last 2 years been a condition of the service contract that a driver must undertake mandatory safeguarding awareness training, covering areas such as child abuse, neglect and CSE. At present approximately 100 drivers/operators have undertaken the training which is provided by the internal training team in conjunction with the Corporate Transport Unit. The proposed training will ultimately replace the need for drivers to complete this awareness training.

List of Background Papers

Rotherham Report on Taxis and Licensing and their association with cases of CSE, CSE fact sheet, CSE- Making a Difference

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 March 2018	Version No. 1.2

From: [REDACTED]
Sent: 05 December 2017 18:49
To: Licensing
Subject: Re: Comments re Safeguarding Training

Dear Julia

Thanks for the note re Safeguarding training.

I have a few comments to make re this, but given it's apparently already been decided by The Council without going out to wider debate it's a moot point isn't it?

I understand you can't pick and choose who takes a course and who doesn't, but it's pretty obvious that the people most likely to act in such an abhorrent way will do so anyway- they don't need to go on a 3 hour course to decide whether they are morally reprehensible or not. It ultimately doesn't serve any purpose- unless it's for the council to be able to say 'well you attended a course, you've got not excuses for your actions...' as if they had any anyway.

I'm happy to attend the course to tick your boxes, but frankly I won't learn anything about the scum of society that I don't already know.

Also why does it need repeating every 3 years? How bad are peoples' memories?

Yours sincerely,

[REDACTED]

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TITLE	Criminal Convictions Policy For Licensed Drivers And Operators
FOR CONSIDERATION BY	Licensing and Appeals Committee 21 March 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Members of the Licensing and Appeals Committee are asked to consider adoption of a new criminal convictions policy for licensed drivers and operators which is more robust and detailed than the current version.

RECOMMENDATION

That the Committee agrees to implement the new criminal convictions policy for licensed drivers and operators attached at Annex A with immediate effect.

SUMMARY OF REPORT

It is good practice to keep policies under review and where necessary update them so they better reflect the present need within the local area and national agenda. The proposed new policy can be found at Annex A, and a summary of the differences between current and proposed new policies at Annex B. The recommendation, if adopted, would see a comprehensive review of the current policy applied when making decisions on licensing of drivers and operators, to produce a document which sets out clearly the process and options for decision making.

Background

The Local Government (Miscellaneous Provision) Act 1976 provides that a Licensing Authority must satisfy themselves that the applicant is a fit and proper person to hold a driver licence. There have been a number of nationwide high profile incidents in recent years particularly relating to child protection and sexual attacks on women. It is therefore vital to ensure the authority has a robust and clear criminal convictions policy to apply when making decisions as to whether persons are safe and suitable to drive licensed vehicles. Hackney carriages and private hire vehicles are used by a large selection of the public but most regularly they are used by vulnerable groups such as children, the elderly, disabled people, lone females and the intoxicated – all of whom place themselves and their personal safety, completely in the hands of a licensed driver.

The Council at present requires applicants and licensed drivers to provide medical certificates and DVLA licences on request, In addition they must also undertake tests on their knowledge of the relevant law and the local area. All these elements are considered within the “fit and proper” test. Applicants for hackney carriage and private hire driver licences are exempt from the Rehabilitation of Offenders Act 1974. This means that there are no ‘spent’ convictions and any and all criminal convictions can be

taken into account by a local authority in assessing safety and suitability. Enhanced Disclosure and Barring Service (DBS) certificates are obtained by the authority in respect of a new applicant and these are renewed every 3 years.

Members of the Committee may recall that this matter was originally considered in July 2017, with a recommendation that the Licensing Team carry out a consultation with the taxi trade. Approximately 400 licensed drivers were consulted and no responses were received.

Members also requested in July that a summary of the differences between the current and proposed new policies be provided, and this is attached at Annex B.

Analysis of Issues

If the authority does not have a robust policy in place then there is an increased risk of successful challenges to decisions made by the Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

LGA Taxi and PHV Licensing – A Handbook for Councillors – August 2017
LGA Taxi and PHV Licensing Criminal Convictions Policy - August 2017

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 March 2018	Version No. 1.2

Hackney Carriage and Private Hire Licensing Criminal Convictions Policy

1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an **applicant** or an **existing licence holder** is a fit and proper person to hold a hackney carriage and/or private hire vehicle driver's licence or a private hire vehicle operator's licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person
 - That the person does not pose a threat to the public
 - That the public are safeguarded from a dishonest person
 - That children, young persons and vulnerable adults are safeguarded.
- 1.3 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not exclusively:
- Applicants for drivers and operator licences
 - Existing licensed persons whose licences are being reviewed
 - Licensing officers
 - Members of the licensing committee/panel (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions.
- 1.4 Where licensing officers or the Licensing Panel have delegated powers to grant, revoke or suspend licences, they will utilise these guidelines when making their decision. Whilst officers and the panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.** Clear cogent reasons would be set out in any decision letter where there is a departure from the guidance.

2. General policy

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances, or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a) remain free of conviction for an appropriate period; and
 - b) show adequate evidence that he or she is a fit and proper person to hold a licence

The onus is on the applicant to produce such evidence and simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

- 2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

3. Pre-requisites to making an application

- 3.1 It is the policy of the licensing authority that every application for a licence to drive a hackney carriage and/or private hire vehicle must be accompanied by satisfactory evidence of the following matters and that applications that are incomplete will not be deemed to have been made until such time as they are complete:

- That the applicant has the right to live and work in the country.
- An enhanced criminal record check (DBS) and evidence that they are not on a child and/or vulnerable adult barring list.
- A certificate of their current medical fitness to DVLA Group 2 standard.
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive.
- That the applicant meets the required post-qualification driving experience and demonstrates the required level of competency.
- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for.
- That where specified the applicant has completed safeguarding awareness training specific to the service that they wish to be licensed to provide.
- For persons who seek to be authorised to drive a wheelchair accessible vehicle, that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their wheelchair.

- 3.2 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period before a licence application can be made.

4. Appeals

- 4.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].
- 4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.
- 4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

5. Powers

- 5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 5.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

6. Consideration of disclosed criminal history

- 6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:
- How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were
 - When the offence(s) were committed
 - The date of caution/conviction
 - Circumstances of the individual concerned
 - Sentence imposed by the court
 - The applicant's age at the time of caution/conviction.
 - Whether they form part of a pattern of offending
 - Any other character check considered reasonable (e.g. personal references)
 - Any other factors that might be relevant.
- 6.2 Existing licence holders are required to notify the licensing authority in writing within 28 days of being arrested, receiving a driving licence endorsement, fixed penalty notice, caution or criminal conviction.
- 6.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing team in confidence for advice.
- 6.4 Applicants for the grant of a driver licence will be required to obtain an enhanced disclosure from the Disclosure and Barring Service (DBS). Existing licensed

drivers are required to obtain an enhanced disclosure every 3 years or as required by the licensing authority.

- 6.5 Applicants for the grant of an operator licence, where that person is not the holder of a current driver licence issued by the Council, will be required to obtain a basic criminal record disclosure from Disclosure Scotland. Existing licensed operators are required to obtain a basic criminal record disclosure every 3 years or as required by the licensing authority.
- 6.6 The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information, and the DBS's policy on the secure storage, handling, use, retention and disposal of disclosure information. Copies of these documents are available on request. More information about the DBS can be found on their website at:
<https://www.gov.uk/government/organisations/disclosure-and-barring-service>.
- 6.7 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

7. Serious offences involving violence

- 7.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life or serious injury. Exceptional circumstances may permit the Council to make an exception to this general policy statement.
- 7.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 7.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 7.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction

is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm
- Actual bodily harm which would be classified as "hate crime"
- Robbery
- Possession of firearm
- Riot
- Assault on a Police officer, or a Council officer acting in the course of their duty
- Common assault which would be classified as "hate crime"
- Violent disorder
- Resisting arrest, when subsequently charged or convicted.
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 5 years prior to the date of application:

- Criminal damage would be classified as "hate crime"
- Any other hate crime offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

7.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

8. Possession of a weapon

8.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

8.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

9. Sex and indecency offences

9.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.

9.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for a serious offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

9.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit).

9.4 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

10. Dishonesty

10.1 A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Licensed drivers are required to deposit such property with the police within 24 hours and inform their operator where applicable. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any

conviction involving dishonesty.

10.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- And any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

11. Drugs

11.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

11.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.

11.3 A licence will not normally be granted where the applicant has a conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

11.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

11.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

12. Driving offences involving the loss of life

12.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences

13. Drink driving/driving under the influence of drugs/using a mobile phone whilst driving

13.1 As licensed drivers are professional vocational drivers, a serious view is taken of convictions for driving or being in charge of a vehicle while under the influence of drink or drugs. Normally at least 3 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rosipa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- Are much less aware of what's happening on the road around them
- Fail to see road signs
- Fail to maintain proper lane position and steady speed
- Are more likely to 'tailgate' the vehicle in front
- React more slowly, take longer to brake and longer to stop
- Are more likely to enter unsafe gaps in traffic
- Feel more stressed and frustrated.

13.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

13.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

14. Motoring offences

14.1 Where any applicant for a **new** licence has been disqualified from driving, a licence will not be granted until the applicant has (since the period of disqualification has ended) held a full driving licence for a continuous period of 2 years.

14.2 Where any licensed driver is disqualified from driving, the licence will be revoked. On restoration of the entitlement to drive, a licence will not normally be granted for a period of 2 years.

14.3 Should a new applicant or existing licensed driver be convicted of endorseable motoring offences resulting in a total of 9 or more points on his/her DVLA driving licence, it is likely that he/she shall be required to appear before a sub-Committee; in the case of a new application, to show good reason why the Council should grant, or in the case of an existing driver, show good reason why the Council should not suspend or revoke his/her licence.

15. Licensing offences

15.1 Certain offences which relate to licensing matters such as illegal plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since the offence.

15.2 A licence will not normally be granted if an applicant has more than one conviction for such licensing related offences.

16. Insurance offences

16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however a strict warning should be given as to future behaviour.

16.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

16.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have their operator licence revoked immediately and be prevented from holding a licence for at least three years.

17. Outstanding charges or summonses

17.1 If an individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

17.2 If the outstanding charge or summons involves a serious offence or the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

18. Non-conviction information

18.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the

public, consideration should be given to refusing the application.

- 18.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

19. Cautions

- 19.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

20. Once a licence has been granted

- 20.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect serious consideration to be given to the suspension or revocation of their licence.
- 20.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]
- 20.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

21. Licences issued by other licensing authorities

- 21.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.
- 21.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

22. Summary

- 22.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before the stated period free from conviction has elapsed.
- 22.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

22.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration must remain the protection of the public.

Key differences – all references are to Annex A

- General – apply the same policy to drivers and operators going forward
- 2.3 - Clarify that the licensing authority cannot review the merits of a conviction
- 3.2 - Confirm that applicants who have spent six months or more overseas will be required to provide a criminal record check from the relevant country
- Section 4 – Appeals – not included in current policy
- Section 5 – Powers - Adds details about powers in respect of suspension, revocation and refusal to renew
- Section 7 – Violence – in current policy there is no specific mention of more serious offences such as murder, manslaughter, robbery, GBH, etc.
- Section 8 – Possession of a weapon - not included in current policy
- Section 9 – Indecency – clarity in respect of the level of offence where a licence will normally be refused, and confirming that where a person is currently on the Sex Offenders Register, a licence will not normally be granted
- Section 10 – Dishonesty – adding that a licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence
- Section 11 – Drugs – adding that if there is evidence of persistent drugs use, misuse or dependency a specialist medical examination may be required
- Section 12 – Driving offences involving loss of life – not included in current policy
- Section 13 – Drink driving/driving under the influence of drugs/using a mobile phone whilst driving – no specific mention in current policy of use of mobile phone while driving or driving under the influence of drugs, also adding that if there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. Also to confirm that a licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.
- Section 14 – Motoring Offences – specification that 9 or more penalty points would require review, and change from 3 years to 2 years as a barring period from restoration of entitlement to drive after disqualification for both new and existing drivers
- Section 15 - Licensing Offences – increase the barring period from 6 months to three years, and confirm that a licence will not normally be granted if an applicant has more than one conviction for a licensing offence
- Section 16 – Insurance - not included in current policy
- Section 17 – Outstanding charges or summons – not included in current policy
- Section 18 – Non-conviction information – not included in current policy
- Section 20 – Once a licence has been granted – not included in current policy
- Section 21 – Licences issued by other licensing authorities – not included in current policy

TITLE	Criteria Policy For Licensed Vehicles
FOR CONSIDERATION BY	Licensing and Appeals Committee 21 March 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

It is good practice to keep policies under review and where necessary update them so they better reflect the present need within the local area and national agenda. The amendments proposed to the policy are with a view to improving the quality and overall standard of the vehicles being licensed by the Council, and also allow the licensing of electric vehicles. The other changes proposed seek to provide clarity in respect of tinted windows and wheelchair accessibility to ensure licence holders are clear about the requirements for a vehicle to be suitable for licensing.

RECOMMENDATION

That the Committee agrees:

- i) That a consultation exercise will be carried out with all existing hackney carriage and private hire licence holders and any other interested parties in respect of amendments to the policy containing the criteria for licensed vehicles, and
- ii) That any responses to the consultation will be reported for consideration at a future meeting of the Committee.

SUMMARY OF REPORT

Members of the Committee are asked to consider a consultation exercise in respect of amendments to the policy containing the criteria for licensed vehicles. The proposed changes to the policy can be found at Annex A.

Background

Attached at Annex A are the proposed amendments to the criteria policy for licensed vehicles. In the main these relate to the type of vehicles to be licensed, and the changes seek to provide clarity and ensure a high standard of licensed vehicle to be operated within Wokingham Borough. The amendments are shown in bold italics under the relevant current section.

The aim will be to bring this matter back for further consideration in June, following a consultation with the licensed trade on the proposed changes.

Analysis of Issues

If the authority does not have a robust policy in place then there is an increased risk of successful challenges to decisions made by the Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

TXD059 Hackney Carriage and Private Hire Licensing Policy

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 March 2018	Version No. 1.3

**Excerpt from TXD059
Policy in relation to Hackney Carriage and Private Hire Vehicle Licences**

2.1 General

No proposed changes

2.2 Vehicle Standards

2.2.1 No vehicle shall be licensed unless it;

- i. has undertaken and passed the Hackney Carriage and Private Hire Vehicle Test, at a Wokingham Borough Council nominated garage.
- ii. is right hand drive, except where the vehicle is a stretch limousine
- iii. can carry a minimum of four passengers (excluding the driver)
- iv. has a minimum of four doors for driver and passenger access and egress.
- v. has an engine capacity of 1599cc or above
- vi. provides a clear seat width of at least 16 inches for each passenger
- vii. has a seat depth of at least 17.5 inches
- viii. has a knee space of at least 21.5 inches (measured from the rear of the seat in front to the front of seat)
- ix. has a rear height of at least 30 inches (top of the seat to the roof; measured from the point of contact between the seat cushion and the back of the seat).
- x. has no more than 8 passenger seats (in addition to the driver's seat).
- xi. has provision for every passenger to wear a seat belt. A sign must be displayed inside the vehicle requiring seat belts to be worn.

Amend to remove from 2.2.1 (iii-x) and replace with the following:

From *date TBC*, new vehicle licences shall only be issued for vehicles which fall within the following Euro NCAP categories:

- (i) Large family***
- (ii) Executive***
- (iii) Small MPV (for 4 passengers only)***
- (iv) Large MPV***
- (v) Large Off-Road 4x4***

Any vehicles which do not fall within the appropriate Euro NCAP may be considered for licensing on a case by case basis. In particular it is envisaged that exceptions could be made for 'green' vehicles such as the Toyota Prius. However these vehicles will only be licensed for an appropriate number of passengers depending on the number of seats and internal dimensions of the vehicle, with a minimum seat width and depth of 16" (41cm) per passenger. It is recommended that prior to purchasing any such vehicle, advice be sought from the Licensing Team.

2.2.2 Vehicles with tinted windows will be considered, however, the glass on the driver's compartment must satisfy the standards contained in the Road Vehicles (Construction and Use) Regulations 1986.

Amend to remove and replace with the following:

All licensed vehicles (except for private hire vehicles with a dispensation) must meet the following requirements:

(i) Light transmitted through the windscreen must be at least 75%

(ii) All other windows (both front and rear) must allow at least 70% of light to be transmitted

Where currently licensed vehicles have factory tinted/privacy glass fitted and are able to provide documentary evidence of this, they will remain licensed until the vehicle reaches the maximum licensable age in accordance with the existing age of vehicle policy.

Where currently licensed vehicles have had a tinted film fitted to the vehicle (i.e. not factory fitted at time of manufacture), they will be required to have the film removed prior to the next vehicle inspection. Failure to do so will result in the vehicle failing the inspection.

2.2.3 and 2.2.4 No changes proposed

2.3 Additional Requirements for Stretch Limousines

No proposed changes

2.4 Insurance

No proposed changes

2.5 Age of vehicles

2.5.1 and 2.5.2 No proposed changes

2.5.2 When making a Hackney Carriage vehicle licence application, a vehicle must be less than five years old from the date of first registration, unless the application is for the renewal of a licence. No Hackney Carriage vehicle licence will be issued for a vehicle that exceeds 15 years old, from the date of first registration.

Amend to remove and replace with the following:

When making a Hackney Carriage vehicle licence application, a vehicle must be less than five years old from the date of first registration, unless the application is for the renewal of a licence. No Hackney Carriage vehicle licence will be issued for a vehicle that exceeds 10 years old from the date of first registration.

2.5.3 No proposed changes

Add new condition 2.5.4 as follows:

2.5.4 In cases where a vehicle has done an abnormally low mileage and is in exceptional condition (see below), it may, on application, be granted an extension on the age limit. Any such application must be received in writing by the Licensing Team at least 3 months prior to the date upon which the vehicle reaches its age of vehicle expiry date. The vehicle may be subjected to a visual inspection. The vehicle owner will receive a decision in writing within 10 working days after the inspection. Any extensions granted may be subject to certain conditions.

Abnormally Low Mileage

The Council will not regard a vehicle as having travelled an abnormally low mileage in the following circumstances:

- 1. A vehicle intended for normal private use with a mileage in excess of 200,000 miles, or**
- 2. A wheelchair accessible vehicle with a mileage in excess of 300,000 miles, or**
- 3. A private hire vehicle which meets the criteria to be licensed with a dispensation with a mileage in excess of 300,000 miles.**

Exceptional Condition

A vehicle will not be regarded as in “exceptional condition” unless documentary evidence has been presented to the Council that the vehicle has been regularly serviced and maintained in line with the manufacturer’s servicing schedule.

When considering the exterior and interior of the vehicle the following matters will be taken into consideration in judging if the condition is exceptional. A single item, depending upon the extent of damage or cosmetic appearance, will not necessarily result in refusal to extend the use of the vehicle but 2 or more items in all areas will require correction, replacement or repair for an extension to be granted.

Exterior of vehicle

- 1. The exterior paintwork on the vehicle should not:**
 - a) shows signs of rusting**
 - b) be faded or show signs of mismatched paint repairs**
 - c) have 5 or more stone chips greater than 2mm in length in any direction**
 - d) have 8 or more stone chips of any size**
 - e) have any scratches, cracks or abrasions where the top layer of paint has been removed.**
- 2. The exterior bodywork of the vehicle should not:**
 - a) have 2 or more dents greater than 10mm in length in any direction**
 - b) have 4 or more dents less than 10mm in length in any direction**
 - c) have fittings that are missing, broken or damaged.**
- 3. Have wheels and wheel trims that have significant damage which detracts from the overall excellent condition of the vehicle.**

4. ***The vehicle must be submitted for inspection in a clean state such that an effective inspection is possible. Should the vehicle be submitted in an unclean state then the application shall be refused.***
5. ***The engine compartment must not be in a dirty condition or have evidence of leaks including water, oil or hydraulic fluids.***

Interior of vehicle

6. ***The seating and carpet areas of the vehicle shall not show signs of:***
 - a) ***staining***
 - b) ***damp***
 - c) ***fraying or ripping of the material***
 - d) ***seat covers that are loose or badly fitted.***
7. ***The seats should provide sufficient support for comfortable travel and should not demonstrate excessive compression of the seating area or wear within the support mechanism.***
8. ***Interior panels and fittings within the vehicle should not be damaged nor show excessive wear, or staining.***
9. ***The interior of the vehicle should not have damp or other obnoxious smells.***

2.6 Advertising

No proposed changes

2.7 Temporary Replacement Vehicles

No proposed changes

2.8 IVA

No proposed changes

2.9 Disabled Access

2.9.1 Vehicle Standards

A Hackney Carriage Vehicle licence will not be issued (other than by way of renewal) to any vehicle, unless it is accessible for disabled persons. All vehicles subject to a Hackney Carriage Vehicle application and those Private Hire Vehicles which have been adapted or manufactured for disabled access must comply with the following standards in addition to those detailed in the paragraphs above;

- i. The vehicle must be able to accommodate a fully grown adult passenger **whilst seated** in their wheelchair (i.e. there must be adequate headroom for the passenger).

- ii. Seats should not have to be removed to in order to accommodate a wheelchair.
- iii. The ramp(s) must be carried within the vehicle at all times. There should be suitable means of securing the ramp(s) safely away, this should include an adequate locking device to ensure that the ramp(s) do not slip or tilt when they are used.
- iv. There must be a means of securing both the wheelchair and its occupant when the vehicle is in motion.
- v. Seats must be suitable to allow all persons, in particular the elderly and disabled, easy access into and egress out of the vehicle. Additional handholds/grab rails and a portable step should be provided if necessary.

Amend to add the following to 2.9.1

All wheelchair accessible vehicles must be capable of accommodating an adult in a DfT reference wheelchair in the passenger compartment. A wheelchair space shall not be less than—

- (i) 1300mm measured in the longitudinal plane of the vehicle;***
- (ii) 750mm measured in the transverse plane of the vehicle; and***
- (iii) 1500mm measured vertically from any part of the floor of the wheelchair space;***

Any entrance or exit which is intended to provide access for a wheelchair user shall have a clear unobstructed width of not less than 800mm.

2.9.2 Vehicle Type Approval

Where a vehicle has been manufactured for disabled access, the applicant will need to provide a VCA certificate confirming that the vehicle has been built in compliance with British Safety and Environmental Standards.

Amend to remove and replace with the following:

All vehicles that are designed to accommodate wheelchair users must have all modifications and adaptations, including all seats, seat belts and anchorages, retested to meet either the European Whole Vehicle Type Approval or the UK Low Volume Type Approval in the M1 category (evidence of this must be produced). Those vehicles which have not been “type approved” to the M1 category (e.g. conversions) must be presented with approved certification that the specific vehicle meets the requirements of that category. Vehicles may be inspected for suitability by an officer. It is recommended that prior to purchasing any new vehicle, advice be sought from the Licensing Team.

NB A technical specification with regard to the dimensions and standards required of wheelchair accessible vehicles may be introduced by the Department for Transport under the Act at some time in the future.

Roof Signs

No proposed changes

2.10 Dispensation Certificates

No proposed changes

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TITLE	Review Of Statement Of Licensing Policy
FOR CONSIDERATION BY	Licensing and Appeals Committee 21 March 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Wokingham Borough Council is required to prepare and publish a Statement of Licensing Policy ('SLP') every five years in accordance with section 5 of the Licensing Act 2003 ('the Act'). The SLP outlines the general approach of the licensing authority when making licensing decisions under the Act and can be reviewed and revised by the authority at any time. The Wokingham Borough Council SLP must undergo a review and be re-published by the end of September 2018.

RECOMMENDATION

That the Committee agrees

- i) for consultation to commence with the proposed revised policy at Annex A, and
- ii) for the matter to return for consideration at the next meeting in June prior to Council approval.

SUMMARY OF REPORT

The purpose of this report is to provide the Committee with a chance to give initial comments on the draft policy to go out for consultation. Members of the Committee will be consulted on the content of the Policy as a matter of course. Members may also wish to add details of any proposed consultees to the list at Annex B.

Background

Before determining the policy for any five year period, the licensing authority must consult the persons listed in section 5(3) of the Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates
- Persons or bodies representative of businesses and residents in its area

The views of all consultees should be given appropriate weight when the policy is determined. Beyond the statutory requirements, it is for the licensing authority to decide the full extent of its consultation. Whilst it is clearly good practice to consult widely, this may not always be necessary or appropriate.

Analysis of Issues

If the authority does not have a robust policy in place then there is an increased risk of successful challenges to decisions made by the Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

Statement of Licensing Policy (Sept 2013)
Section 182 Guidance (April 2017)

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 7 March 2018	Version No. 1.2

List of Consultees

- Association of Convenience Stores
- Association of Licensed Multiple Retailers
- Bingo Association
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Committee of Registered Club Associations
- Community Safety Team
- Drug and Alcohol Action Team
- Federation of Licensed Victuallers Associations
- Guild of Master Victuallers
- National Federation of Community Organisations
- Parish and Town Councils
- Premises licence / club premises certificate holders
- Pubwatch
- Responsible Authorities including Thames Valley Police, Royal Berkshire Fire and Rescue Service, Trading Standards, Environmental Health and Public Health
- Society of Licensed Victuallers
- Wokingham Borough Citizens Panel

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WOKINGHAM BOROUGH COUNCIL

Statement of Licensing Policy

July 2018

Deleted: September 2013

Contents

Section	Page
1	The Four Licensing Objectives
2	Terminology
3	General Considerations
4	Activities Regulated by this Policy
	Licensing Objectives
5	1.The Prevention of Crime and Disorder
6	2. Public Safety
7	3. The Prevention of Public Nuisance
8	4. Protection of Children from Harm
9	Operating Hours
10	Cumulative Impact
11	Licensing and Appeals Committee
12	Licensing Decisions
13	Licensing Conditions
14	Enforcement
15	Policy Review

1 The Four Licensing Objectives

All the Council's actions under the Licensing Act 2003 will be carried out in order to achieve the licensing objectives. Only these matters may be taken into consideration, and no others, when determining a course of action. Each objective is of equal importance.

The four licensing objectives are:-

1. The prevention of crime and disorder
2. Public safety
3. The prevention of public nuisance, and
4. The protection of children from harm

2 Terminology

Throughout this Policy the following terms are used which are defined in the Licensing Act 2003. For simplicity, abbreviated meanings are given below; although these meanings should not be used as a replacement for the legal definitions:

Licensable Activity – One or more of:-

- a) The sale by retail of alcohol
- b) The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- c) The provision of regulated entertainment
- d) The provision of late night refreshment

Licence

A Premises Licence, Club Premises Certificate or a Personal Licence

Licensee and Licence Holder

A person or organisation that holds a Premises Licence, Club Premises Certificate or a Personal Licence.

Regulated Entertainment

Entertainment provided for the public, members of a qualifying club and their guests, or for profit; and being:-

- a) A performance of a play
- b) An exhibition of a film
- c) An indoor sporting event
- d) A boxing or wrestling entertainment
- e) A performance of live music
- f) Any playing of recorded music
- g) A performance of dance
- h) Activities similar to e, f or g above

Live unamplified music taking place between 08.00 hours and 23.00 hours and live amplified music taking place between 08.00 hours and 23.00 hours before audiences of no more than 200 people on premises authorised to supply alcohol on the premises or in

workplaces is not regulated entertainment by virtue of amendments made to the Licensing Act 2003 by the Live Music Act 2012

Late Night Refreshment

The supply to the public of hot food or drink after 23.00 and before 05.00.

3 General Considerations

3.1 The Council recognises that licensed activities are an important part of the cultural life in our community and they make an important contribution to the economy of the Borough. By regulating activities under this legislation it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all views will be taken into account when making licensing decisions or determining a course of action.

3.2 This policy relates to the provisions of the Licensing Act 2003 and subordinate legislation made under that Act and nothing in this policy is intended to indicate that the requirement of any other enactment is superseded or duplicated.

3.3 It is the responsibility of the applicant to ensure that they comply with all relevant legislation. Examples of other areas where legislation may apply to licence holders and potential licence holders are:-

- Building Regulations
- Disability Discrimination
- Environmental Protection
- Food Safety
- Health and Safety At Work
- Fire Safety Legislation
- Town and Country Planning
- Working Time Legislation

3.4 It is acknowledged that public concern over disorder in particular may be thought to be a result of licensing legislation only. The council can only have regard to the provisions of the Licensing Act 2003 when determining an application. However the Council also realises that other mechanisms exist to control bad and unlawful behaviour, e.g. planning controls, town centre management arrangements, confiscation of alcohol from adults and children in designated areas, and Police enforcement powers.

3.5 It is the responsibility of the licence holder to ensure that staff members are sufficiently trained to fulfil their duties and to fully comply with the requirements of the licence.

3.6 Under this policy, each application will be considered on its individual merits.

3.7 In imposing conditions to any licence, the Council recognises that the licensee is only responsible for those matters under the licensee's control and that conditions can only be imposed, as a result of relevant representations. Any conditions set will be proportionate and appropriate to secure the licensing objectives.

3.8 The Council recognises the need to encourage and promote live music, dancing and theatre and is aware of the need to avoid measures which deter these activities. To this end the Council, as the Licensing Authority, will consider applications for publicly owned land and buildings, to facilitate their use by performers and entertainers, without the need for them to individually apply for a licence or give a temporary event notice.

3.9 The Council is conscious of Race Relations legislation and when considering licensing matters will give due regard to the elimination of unlawful discrimination, the promotion of equality of opportunity and good relations between persons of different racial groups. In all its work the Council has regard to its race equality scheme.

3.10 For advice on the application of the Licensing Act 2003, or for assistance in determining whether or not an activity requires a licence, please contact the Licensing Team as follows:

By telephone: 0118 974 6358

By e-mail: Licensing@wokingham.gov.uk

By fax: 0118 974 6401

By letter: Licensing Service
Wokingham Borough Council
PO Box 155
Shute End
Wokingham
RG40 1WW

Website: www.wokingham.gov.uk

4 Activities Regulated by this Policy

This Policy sets out the Council's position regarding regulation of activities under the Licensing Act 2003. The following are covered by this Policy:-

Premises Licences

i.e. A premises where one or more of the following takes place:-

- The sale of alcohol by retail
- The provision of regulated entertainment
- The provision of late night refreshment

Club Premises Certificates

i.e. A club premises is a premises which is occupied by and habitually used for the purposes of a club, which has met the criteria to become a 'qualifying club'

Permitted Temporary Activities

i.e. Use of premises for licensable activities for:-

- a period of less than 168 hours, and for
- no more than 499 persons

Personal Licences

i.e. A licence which authorises an individual to supply alcohol, or authorise the supply of alcohol

5 Licensing Objective 1: The Prevention of Crime and Disorder

5.1 The Council is committed to work in reducing crime and disorder in the Borough and will consider these matters when fulfilling its functions, as required by the Crime and Disorder Act 1998. When applying conditions, the Council will be mindful of the local Community Safety Strategy.

5.2 The Council acknowledges that its duties, under the Licensing Act 2003, are a key way of reducing crime and disorder in the Borough and through this mechanism, will seek to bring about improvements, with particular emphasis on alcohol-related disorder and anti-social behaviour.

5.3 Licence Holders play a key role in the prevention of crime and disorder and will be expected to address these issues in their Operating Schedule.

5.4 The Council encourages the use of Closed Circuit Television (CCTV) surveillance as a deterrent to crime and disorder. The Council may require the installation of a Digital CCTV system which is capable of retaining recording images for a period of 31 days from the date of an event and to an identifiable standard if it is believed that this will assist in reducing the incidence of crime and disorder.

5.5 The Council encourages the usage of community watch schemes. The active membership of schemes such as 'Pub watch' and the like will be seen as an indicator of attempts to reduce crime and disorder.

5.6 When considering new or proposed premises, the Council will expect the building design to be agreed with the Police Prevention & Design Advisor and/or Crime Prevention and Reduction Advisor with a view to 'designing out' crime.

5.7 The Council supports the establishment and implementation of an enforcement protocol, agreed with the Thames Valley Police, for the reduction of crime and disorder associated with any licensed activities.

6 Licensing Objective 2: Public Safety

6.1 The Council is committed to ensuring public safety in licensed premises by working in partnership with the Royal Berkshire Fire and Rescue Service and other responsible authorities.

6.2 Conditions relating to public safety measures may be attached to a licence in order to meet any requirement identified by the Royal Berkshire Fire and Rescue Service or other responsible authority. These conditions may include an occupancy limit which would enable one or more of the licensing objectives to be met.

6.3 The Council encourages measures to promote anti-drink/driving campaigns.

6.4 Special effects, such as smoke, lasers, or foam may be controlled by the use of conditions.

NB There is an overriding legal duty to comply with the provisions of Health and Safety at Work legislation, including risk-assessment and control.

7 Licensing Objective 3: The Prevention of Public Nuisance

7.1 The Council is committed to minimising the adverse impact of licensable activity, whilst not unduly restricting the reasonable provision of licensed activity. In considering applications the Council will seek to ensure that personal and public amenity are maintained.

7.2 The nuisances which the Council will seek to control are, amongst others:-

- Noise and vibration
- Light
- Odour
- Litter
- Anti-social behaviour
- Unreasonable disturbance from customers arriving and leaving premises
- Impact of customer parking

8 Licensing Objective 4: Protection of Children from Harm

8.1 For the purposes of this Policy, a child is a person who has not yet reached their 18th birthday.

8.2 'Harm' is taken to mean activities that may damage the moral, psychological or physical wellbeing of a child. Activities that have the potential to cause harm to children include:-

- Entertainment or services of an adult or sexual nature
- Underage sales or drinking of alcohol
- Drug taking or dealing
- A strong element of gambling
- The consumption of alcohol on a premises where this is the exclusive or primary purpose of the premises
- Tobacco smoking
- Excessive noise
- Particular hazards, such as falls from height

8.3 It is expected that any operating schedule will demonstrate how the licensee will ensure that no harm comes to any child by virtue of the licensable activities. These may include:

- Limiting the hours that children may be present
- Excluding children when particular specified activities are taking place
- Limiting the parts of the premises to which children have access
- Age limitations
- Excluding under 18's from the premises when licensable activities are taking place
- Requiring that an accompanying adult be present
- Arrangements for restricting children from viewing age-restricted films
- Arrangements to ensure that sufficient adult staff are present to ensure that the children are protected from harm

8.4 The Council may impose conditions to ensure that no harm comes to any child by virtue of the licensable activities, although conditions cannot require that children be admitted, this is a matter for the licensee to determine.

8.5 To ensure that a licensee complies with this requirement, the Council encourages the use of 'Proof of Age' schemes.

8.6 The Council commends the work done by the Portman Group and supports the application of their Code of Practice which seeks to control the Naming, Packaging and Promotion of Alcoholic Drinks in a manner which may appeal to or attract minors.

8.7 In respect of Licensing matters the Council, as the Licensing Authority, recognises the Wokingham Safeguarding Children Board as the Responsible Authority in relation to the protection of children.

9 Operating Hours

9.1 The Council recognises that one important aspect of the Licensing Act 2003 provisions is the abolition of national operating times for premises selling alcohol. The Council is mindful of the view that longer licensing hours for the sale of alcohol will help ensure that the problems arising when large numbers of customers leave premises simultaneously are avoided.

9.2 With regard to shops, stores and supermarkets selling alcohol, the norm will be that they may sell alcohol at any time they are open for trading, unless there are good reasons for restricting those hours.

9.3 The Council will only determine the operating hours of any licensable activity, if there is the belief that by limiting the operating hours, one or more of the Licensing Objectives will be met.

9.4 The licensing hours for each case will be considered on the individual merits of the application.

10 Cumulative Impact

10.1 The Council recognises that the commercial demand for another premises in an area is not a matter for Licensing considerations. This matter is properly a matter for the planning process and the market.

10.2 The Council also recognises that where there are several premises providing licensable activity in the same vicinity, the cumulative impact may have an adverse effect on the community; in particular from nuisance and disorder. Accordingly, the Council may refuse additional applications if it believes that to grant a licence would undermine one or more of the Licensing Objectives, and/or representations have been received from a responsible authority or other person. In addition, the Council has to be satisfied that the criteria set out in the legislation are met. Reference to the General Considerations section of this Policy will demonstrate that each application will be considered on its own merits.

10.3 If the Council considers that a 'Special Policy' is needed to deal with the

cumulative impact of licensed premises, it will only do so following consultation as specified in the Licensing Act 2003 and following the proper process.

10.4 The Council will expect licensees and potential licensees within an area, to communicate with each other and prepare their Operating Schedules so that they complement each other and collectively meet the Licensing Objectives.

11 Licensing and Appeals Committee

11.1 Arrangements will be made for the Licensing and Appeals Committee to receive information on:-

- Crime Prevention
- Planning Strategies
- Transport Strategies and Plans
- Tourism Strategies
- Race Equality Schemes
- Cultural Strategies
- Employment in the Borough
- Arts Development

11.2 In addition the Licensing and Appeals Committee will provide information to the Planning Committee regarding the situation with licensed premises in the Borough, and in particular alcohol related crime and disorder.

11.3 To avoid duplication and inefficiency, the planning, building control and licensing regimes will be properly separated. It is expected that planning consent for a particular undertaking would normally be received prior to consideration of a licence application.

12 Licensing Decisions

12.1 The Council will seek to carry out its responsibilities under the Licensing Act 2003 speedily, efficiently and cost-effectively. To do this, functions are delegated from the Licensing and Appeals Committee to either Sub-Committees or officers, as appropriate. Licensing decisions will be delegated in the following manner; however the definitive delegations are included within the Council's Scheme of Delegations which can be found on the Council's website – www.wokingham.gov.uk.

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Policy Decisions	All cases		
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate or provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of minor variation application			All cases
Decision whether to consider other responsible authorities on minor variation application			All cases
Determination of application to vary premises licence at community premises to include alternative licence condition		If police objection	All other cases
<u>Decision to make a representation as a licensing authority</u>			<u>All cases</u>
<u>Power to suspend a licence for non-payment of annual fees and associated actions</u>			<u>All cases</u>

13 Licensing Conditions

13.1 Many licences are issued subject to conditions. These conditions are applied to a licence to ensure that one or more of the Licensing Objectives are met. The conditions applied to a licence will relate to that particular licence and will not be simply a standard set of conditions.

13.2 The Council will apply conditions following the guidance issued by the Secretary of State in addition to the mandatory conditions as laid down in the legislation and associated guidance. Notwithstanding this, other conditions may also be applied to specific licences.

13.3 It must however be noted that the attachment of conditions, or the compliance with them, will not relieve anyone of their statutory duties under other legislation, see section 3 – General Considerations.

14 Enforcement

14.1 Enforcement by the Council will be in accordance with the West Berkshire Enforcement Policy and West Berkshire Enforcement Concordat.

14.2 The West Berkshire Enforcement Policy is available at the Council offices and can be found on the Council's website at www.westberks.gov.uk.

14.3 The Enforcement Concordat is based on the principles that businesses should:

- Receive clear explanations from enforcers on what they need to do and by when;
- Have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
- Receive an explanation of their rights of appeal.

15 Policy Review

15.1 The Council's Statement of Licensing Policy will be published every five years.

15.2 During this period, the Policy will be kept under review and the Council may make such revisions as it considers appropriate. The Policy, complete with revisions, may be viewed on the Council's website www.wokingham.gov.uk, and is available at the Council's offices.

16 Early Morning Restriction Orders (EMROs)

16.1 The Licensing Act sets out powers conferred on licensing authorities to make early morning alcohol restriction orders. These powers are designed to help licensing authorities address specific problems caused by late night supply of alcohol in their areas allowing licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 12 midnight and 6am. Licensing Authorities may make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of the Borough of Wokingham. However, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between 12 midnight and 6am is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO the licensing authority will consider evidence

from partners, including responsible authorities and local Community Safety Partnerships or other sources. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about its proposal in accordance with legislation and national guidance.

17 The Late Night Levy (LNL)

17.1 Late night levy powers will allow licensing authorities to raise a contribution from late opening alcohol retailers (12 midnight to 6am) towards policing the late night economy. This is a power that licensing authorities can choose whether to adopt for their areas. If adopted the powers must apply to the whole of the licensing authority's area. Income from the net levy is to be split between the Police and the Licensing Authority on the basis of a minimum 70% allocated to the Police and a maximum 30% allocated to the licensing authority. At the time of writing this policy the Licensing Authority has no plans to collect a LNL. However the situation will be kept under review and prior to making a decision to implement a LNL, the licensing authority would have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce a LNL. If a proposal to implement a LNL arises in the future, the licensing authority will consult the PCC, the police, licence holders and others about its proposal.

DRAFT

TITLE	Review Of Statement Of Gambling Principles
FOR CONSIDERATION BY	Licensing and Appeals Committee 21 March 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Section 349 of the Gambling Act 2005 ('the Act') requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act ('Statement'). The Statement will last for a maximum of three years and can be reviewed and revised by the authority at any time.

The present Statement was published in November 2015 and therefore must undergo a review and be re-published before the end of November 2018.

RECOMMENDATION

That the Committee agrees

- i) for consultation to commence with the proposed revised policy at Annex A, and
- ii) for the matter to return for consideration at the next meeting in June prior to Council approval.

SUMMARY OF REPORT

The purpose of this report is to provide the Committee with a chance to give initial comments on the draft policy to go out for consultation. Members of the Committee will be consulted on the content of the Policy as a matter of course. Members may also wish to add details of any proposed consultees to the list at Annex B.

Background

The Statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349 of the Act. This includes the Chief Officer of Police, persons who represent the interests of persons carrying on gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

The views of all consultees should be given appropriate weight when the policy is determined. Beyond the statutory requirements, it is for the licensing authority to decide the full extent of its consultation. Whilst it is clearly good practice to consult widely, this may not always be necessary or appropriate.

Analysis of Issues

If the authority does not have a robust policy in place then there is an increased risk of successful challenges to decisions made by the Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

Statement of Gambling Principles (Nov 2015)

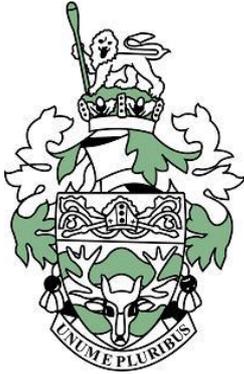
Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 March 2018	Version No. 1.3

List of Consultees

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- Bingo Association
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Committee of Registered Club Associations
- Federation of Licensed Victuallers Associations
- Gamblers Anonymous
- Gambling Commission
- GAMCARE
- Guild of Master Victuallers
- HM Revenue and Customs
- Holders of existing gambling licences / permits
- National Association of Bookmakers
- National Federation of Community Organisations
- Parish and Town Councils
- Royal Berkshire Fire and Rescue
- Thames Valley Police / Community Safety Partnership
- Wokingham Borough Citizens Panel
- Wokingham Borough Council Planning
- Wokingham Borough Council Environmental Health
- Wokingham Safeguarding Children Board

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Annex A



**WOKINGHAM
BOROUGH COUNCIL**

Statement of Gambling Principles

January 2019 – January 2022

Contents

Item	Page
Part A - General	
1. The licensing objectives	
2. Introduction	
3. Declaration	
4. Local Area Profile (LAP)	
5. Responsible Authorities	
6. Interested Parties	
7. Exchange of information	
8. Enforcement	
9. Risk Assessments	
10. Licensing authority functions	
Part B - Premises licences	
1. General Principles	
2. Adult Gaming Centres	
3. (Licensed) Family Entertainment Centres	
4. Casinos	
5. Bingo	
6. Betting premises	
7. Tracks	
8. Travelling fairs	
9. Provisional Statements	
10. Reviews	
Part C - Permits / Temporary and Occasional Use Notices	
1. Unlicensed Family Entertainment Centre gaming machine permits	
2. (Alcohol) Licensed premises gaming machine permits	
3. Prize Gaming Permits	
4. Club Gaming and Club Machines Permits	
5. Temporary Use Notices	
6. Occasional Use Notices	

*This Statement of Gambling Principles was approved by Wokingham Borough Council on *date**

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, updated September 2016

PART A - General

1. The Licensing Objectives

In exercising functions under the Gambling Act 2005, the Wokingham Licensing Authority will have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

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

Wokingham Licensing Authority is aware that, in accordance with 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 is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of principles

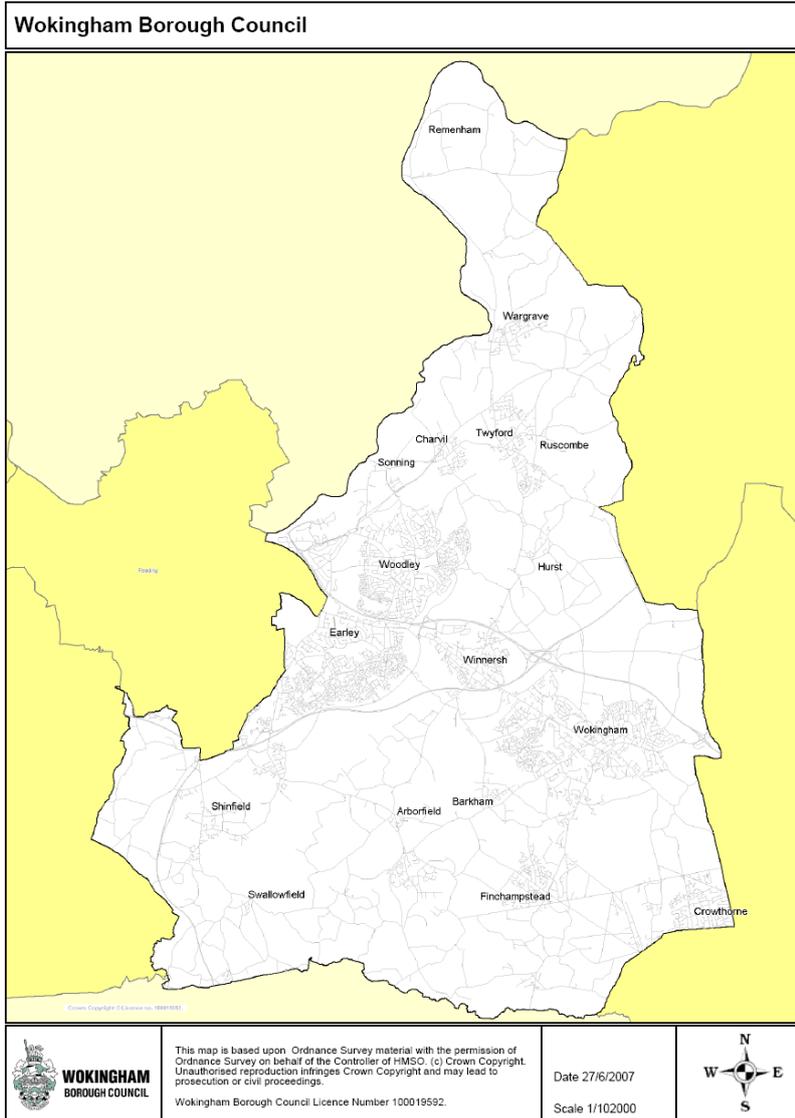
2. Introduction

Wokingham Borough Council is situated in the County of Berkshire, which contains 6 Unitary Councils in total. The Council area has a population of 154,380 (2011 Census). In terms of area it covers 17,892 hectares. The Council area is mixed rural/urban. The area is shown in the map below.

Deleted: 150,229

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Deleted: making it the largest in the County in terms of population



Wokingham Licensing Authority is required by the Gambling Act 2005 to publish a statement of the principles that they proposed 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 be re-published.

Wokingham Licensing Authority consulted widely upon this statement before finalising and publishing. A list of those organisations consulted is provided below.

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.

We consulted:

- Thames Valley Police / Community Safety
- Royal Berkshire Fire and Rescue Service
- Gambling Commission
- Wokingham Borough Planning and Environmental Health Services
- Wokingham Safeguarding Children Board
- HM Revenue and Customs
- Parish and Town Councils
- Wokingham Borough Citizens Panel
- Existing Gambling operators within the Wokingham Borough area
- Gambling Trade Associations
 - Association of British Bookmakers
 - Association of Licensed Multiple Retailers
 - British Amusement Catering Trade Association
 - British Institute of Inn Keeping
 - British Beer and Pub Association
 - Committee of Registered Clubs Association
 - Federation of Licensed Victuallers Associations
 - Gamblers Anonymous
 - GAMCARE
 - Guild of Master Victuallers
 - National Association of Bookmakers
 - National Federation of Community Associations
 - The Bingo Association

Our consultation took place during March and June 2018 and we followed the Cabinet Office guidance on Consultation (published July 2012), which is available at: www.gov.uk.

The full list of comments made and the consideration by the Wokingham Licensing Authority of those comments is available by request to:

Licensing Team
Wokingham Borough Council
PO Box 155
Shute End
Wokingham
RG40 1BN

e-mail: licensing@wokingham.gov.uk

and the Agenda and Minutes of the Council meetings where the Statement of Principles was considered can be viewed on the Council website at www.wokingham.gov.uk.

The policy was approved at a meeting of the Council on *date TBC – July* and was published on our website on *date TBC*.

Should you have any comments as regards this policy statement please send them to the Licensing Team as above.

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3. Declaration

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

4. Local Area Profiles (LAP)

Whilst not a requirement the authority may consider adopting a Local Area Profile in line with developing a more local focused statement policy which will be a relevant matter when determining applications or reviewing existing licences.

The nature and creation of such a profile involves a process of drawing together and presenting information about the area and in particular areas of concern within the locality. Information will be required from a number of bodies, e.g. public health, mental health, social housing providers, community groups and other partner organisations for the production of such a profile.

5. Responsible Authorities

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

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

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, Wokingham Licensing Authority designates the Wokingham Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.wokingham.gov.uk.

6. Interested parties

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

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person -

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represent the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, Wokingham Licensing 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.

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

Each case will be decided upon its merits. Wokingham Licensing Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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 team by email to licensing@wokingham.gov.uk or telephone 01189 746359.

7. Exchange of Information

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

The principle that Wokingham 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. Wokingham Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

8. Enforcement

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

Wokingham Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local 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.

In accordance with the Gambling Commission's Guidance for local authorities, Wokingham Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

Wokingham Licensing Authority has also adopted and implemented a risk-based inspection programme based on:

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

The main enforcement and compliance role for Wokingham 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 will not be dealt with by the Wokingham Licensing Authority but will be notified to the Gambling Commission.

Wokingham Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, Wokingham Licensing Authority's enforcement policy will be available upon request to the licensing team by email to licensing@wokingham.gov.uk or telephone 01189 746359. Our risk methodology is also available upon request.

9. Risk Assessments

The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) requires operators to consider local risks. Local risk assessments apply to all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.

Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In

undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.

Licensees are required to undertake a local risk assessment when applying for a new premises licence. Risk assessments must also be updated:

- When applying for a variation of a premises licence.
- To take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement.
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

The licensing authority has an expectation that all local risk assessments will take into account the local social profile of the area.

10. Licensing Authority functions

Licensing Authorities are required under the Act to:

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

It should be noted that local licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences. Remote gambling is defined as "gambling in which persons participate by the use of remote communication" namely, the internet, telephone, television, radio or "any other kind of electronic or other technology for facilitating communication".

The Council will carry out its responsibilities under the Gambling Act 2005 speedily, efficiently and cost-effectively. To do this functions are delegated from the Licensing and Appeals Committee to either Sub-Committees or officers as appropriate. Decisions will be delegated in the following manner; however the definitive delegations are included within the Councils Scheme of Delegations which can be found on the Council's website – www.wokingham.gov.uk:

Matter to be dealt with	Council	Sub-committee of licensing committee	Officers
Approval of statement of gambling principles	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences (new, variation and transfer) and provisional statements		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/ club machine permits		Where representations have been received (and not withdrawn)	Where no representations received/ representations 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	
Revocation of premises licence due to failure to pay annual fee			X
Registration of small society lotteries			X
Cancellation of registration of small society lottery due to failure to pay annual fee			X

X indicates the lowest level to which decisions can be delegated

PART B – Premises Licences

1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

(i) Decision – making

Wokingham 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 is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission ;
- reasonably consistent with the licensing objectives; and
- in accordance with the Wokingham Licensing Authority's statement of licensing policy.

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

(ii) Definition of "premises" – "Premises" is defined in the Act as "any place". Section 152 therefore prevents more than one premises licence applying to any place. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states that in the third edition of its guidance to Licensing Authorities that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence. But that does not mean that the premises 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."

Wokingham Licensing Authority takes particular note of the Gambling Commission's Guidance for local 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 licences should be separate and identifiable so that the separation of different premises is not compromised and that 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 named on the premises licence.

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

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

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

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

7.25:

Casinos

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

Adult Gaming Centre

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

Betting Shops

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

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

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

(iii) Premises "ready for gambling"

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

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

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will

determine applications on their merits, applying a two stage consideration process:-

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

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

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

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

(v) Planning:

The Gambling Commission Guidance to Licensing Authorities states:

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

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

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

(vi) Duplication with other regulatory regimes - Wokingham Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. Wokingham Licensing Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

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

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

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime - Wokingham Licensing Authority is aware that the Gambling Commission will be taking 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 Wokingham Licensing 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. Wokingham Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way - Wokingham Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

Protecting children and other vulnerable persons from being harmed or exploited by gambling - Wokingham Licensing Authority has noted the Gambling Commission's Guidance for local authorities states 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 Wokingham 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.

Wokingham Licensing Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

Regarding the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” Wokingham Licensing Authority will consider this licensing objective on a case-by-case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

Conditions - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures Wokingham 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. Wokingham Licensing Authority will also expect the licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

Wokingham 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.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;

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

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

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

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes.

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

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

2. Adult Gaming Centres

Wokingham 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.

Wokingham Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas

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

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

3. (Licensed) Family Entertainment Centres:

Wokingham 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.

Wokingham Licensing Authority may consider measures to meet the licensing objectives such as:

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

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

Wokingham Licensing Authority will, in accordance with 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. Wokingham Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

There are currently no casinos operating within the Wokingham Borough Council area.

This Council passed a 'no casino' resolution on 30 November 2006. Details of the resolution can be viewed on the Council's website.

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

5. Bingo premises

Wokingham Licensing Authority notes that the Gambling Commission's Guidance states:

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

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

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

6. Betting premises

Betting machines - Wokingham Licensing Authority will, in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7. Tracks

There are currently no tracks with the Wokingham Borough Council area. Should such a facility be proposed this Statement will be revised to include issues relating to this type of premises.

8. Travelling Fairs

It will fall to Wokingham Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

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

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

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

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

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made. The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the

- provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

10. Reviews:

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

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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

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

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

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

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

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

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

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

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

PART C - Permits / Temporary and Occasional Use Notices

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

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It

should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues." (24.6)

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

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

Statement of Principles - Wokingham 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. Wokingham Licensing Authority will also expect, in accordance with Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

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

Automatic entitlement: 2 machines

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

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

Permit: 3 or more machines

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

Wokingham 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 harm 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 that will monitor that the machines are not being used by those under 18. Compliance with the Gambling Commission Code of Practice will also be taken into consideration. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

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

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3. Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

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

Wokingham Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law.

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

4. Club Gaming and Club Machine Permits

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

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police."

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

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

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

5. Temporary Use Notices

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

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

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

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

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

6. Occasional Use Notices

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