



This information is available free of charge in electronic, audio, Braille and large print versions.

For assistance in understanding or reading this document or specific information about this Agenda call the Committee Team on 01629 761133 or e-mail: committee@derbyshiredales.gov.uk

5 January 2022

To: All Councillors

As a Member of the **Licensing & Appeals Committee**, please treat this as your summons to attend the meeting on **Thursday 13th January 2022** at **6.00pm** in the **Council Chamber, Town Hall, Matlock DE4 3NN**.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James McLaughlin'.

James McLaughlin
Director of Corporate & Customer Services

AGENDA

1. APOLOGIES

Please advise the Committee Team on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by email) **BY NO LATER THAN 12 NOON OF THE WORKING DAY PRECEDING THE MEETING**. As per Procedural Rule 14.4 at any one meeting no person may submit more than 3 questions and no more than 1 such question may be asked on behalf of one organisation.

3. MINUTES OF THE LAST MEETING

21 October 2021

4. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

- | | | |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 5. | REVIEW OF GAMBLING STATEMENT OF PRINCIPLES (LICENSING POLICY) | 03 - 34 |
| | To provide the Committee with an update on the 3-yearly formal review of the Council's Licensing Policy relating to gambling activities, and to inform Members that the final draft Policy will be considered at the January meeting of the full Council, for re-publishing by 31st January 2022. | |
| 6. | LICENSING & APPEALS SUB-COMMITTEE PROCEDURES | 35 - 43 |
| | To seek the Committee's approval of written procedures on the Sub-Committee Hearings. | |
| 7. | IMPLEMENTATION OF NATIONAL TAXI AND PRIVATE HIRE VEHICLE LICENSING STANDARDS - PROGRESS REPORT | 44 - 48 |
| | To provide the Committee with a brief update on the progress made since the last meeting, in implementing the requirements of the Department for Transport's (DfT's) National Taxi and Private Hire Vehicle Licensing Standards. | |
| 8. | THE MOBILE HOMES (REQUIREMENT FOR MANAGER OF SITE TO BE A FIT AND PROPER PERSON) (ENGLAND) REGULATIONS 2020 - INTRODUCTION OF FEES POLICY | 49 - 52 |
| | This report seeks the Committee's consideration and approval of a Fees Policy required under The Mobile Homes (Requirement for Manager to be Fit and Proper Person) (England) Regulations 2020. | |

Members of the Committee: Councillors Jacqueline Allison, Paul Cruise, Graham Elliott, Clare Gamble, Dawn Greatorex, Alyson Hill, Stuart Lees, Tony Morley (Chairman), Michele Morley, Andrew Statham (Vice Chairman), Colin Swindell, Steve Wain and Mark Wakeman.

**LICENSING AND APPEALS COMMITTEE
13TH JANUARY 2022**

Report of the Director of Regulatory Services

REVIEW OF GAMBLING STATEMENT OF PRINCIPLES (LICENSING POLICY)

PURPOSE OF REPORT

The purpose of the report is to provide the Committee with an update on the 3-yearly formal review of the Council’s Licensing Policy relating to gambling activities, and to inform Members that the final draft Policy will be considered at the January meeting of the full Council, for re-publishing by 31st January 2022.

RECOMMENDATION:

That the revised Gambling Statement of Principles be referred to the January meeting of the full Council for consideration for adoption and re-publishing, from 31 January 2022 for a period of 3 years.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council’s Place objective, in terms of keeping the Derbyshire Dales clean, green and safe.

1 Background

1.1 Under the Gambling Act 2005, the Council is responsible for issuing premises licences for casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres. It also issues permits for gaming machines in pubs, clubs and other alcohol licensed premises. Since the introduction of the Act in 2007, no licence applications for casinos or bingo halls have been received.

1.2 The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority.

These objectives are pivotal to the regulatory regime and 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; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 1.3 The Gambling Act 2005 imposes a statutory requirement on the District Council, to prepare a Statement of Principles (Gambling Licensing Policy). This is the Council's tool for regulating gambling in the district. It sets out the Council's expectations operators and also ensures that the general public and the Responsible Authorities, specified in the legislation, are aware of the Council's regulatory approach to gambling activities.
- 1.4 In 2018/19 a full review of the Policy was undertaken to ensure that it remained consistent with the statutory guidance at that time, and shared a common format to other licensing authorities in Derbyshire, to promote consistency and transparency when dealing with applications, particularly from national Operators.
- 1.5 The Policy was published on 31 January 2019 and has been kept under review since then. There have not been any issues for concern, and a draft Policy document with the administrative changes identified at the time was reported to this Committee for consideration in April last year. These changes are not a modification to the content of the policy, simply an update to references within the document.
- 1.6 The Act requires the Council to republish its policy every three years and the final draft Policy must be considered by a meeting of the full Council, before this can be done. Historically the Council's Policy has been updated every 3 years since 2007, and very few changes have been required, with the exception of administrative ones or to reflect any changes made to the Guidance to Licensing Authorities produced by the Gambling Commission.
- 1.7 Before the Policy Statement of Principles can be approved and re-published a consultation exercise in respect of any proposed changes is required. An internal review of the Policy was undertaken in August, with only administrative changes being required. A wider consultation was due to be carried out in time to report any comments back to an earlier meeting of this Committee, as a matter of courtesy, before referral to Council. However, this was unavoidably delayed, and in December a simple consultation was carried out with the main stakeholders (Gambling Commission, Responsible Authorities named in the legislation and current licence-holders). At the time of writing the report comments are awaited and any received after this report has been published will be reported verbally at the meeting.
- 1.8 A copy of the Draft Policy document for referral to Council, is produced in **Appendix 1**, and any other amendments required following the receipt of comments from stakeholders will be included if the Committee is in agreement.

2 RISK ASSESSMENT

2.1 Legal

The Council has a statutory obligation to review and re-publish its Gambling Licensing Policy statement every 3 years. Not to do so could result in the policy being challenged, and if challenged successfully, could result in the Council's reputation being harmed.

There may be potential for decisions made in determining licensing applications that become the subject of judicial review or appeal. If the Licensing Policy is not credible it may be subject to legal successful challenge.

The report is intended to address issues that may give rise to the need for change, and the legal risk is therefore assessed as being low.

2.2 Financial

There are no significant financial considerations arising from this report at this stage. The costs of the review and consultation exercise can be contained within existing budgets. The financial risk is therefore assessed as low.

3 **OTHER CONSIDERATIONS**

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, environmental, health, human rights, personnel, and property.

No climate change impact assessment is required at this stage.

A partial Equalities Impact Assessment (EqIA) has been completed as part of reviewing the Gambling Licensing Policy.

4 **CONTACT INFORMATION**

Eileen Tierney, Licensing Manager
Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

5 **BACKGROUND PAPERS**

Draft EqIA – Initial Equalities Impact Assessment – Nov/Dec 2021

6 **ATTACHMENTS**

Appendix 1 – Draft Gambling Licensing Policy

STATEMENT OF PRINCIPLES: LICENSING POLICY 2022-2025 Gambling Act 2005

Approved by Council XXXXXXXX
Takes effect from 31st January 2022

All references to the Gambling Commission's Guidance for local authorities in this document, refer to the revised Guidance issued to Licensing Authorities (5th Edition),
September 2015 April 2021

**The Licensing Manager
Regulatory Services
Derbyshire Dales District Council
Town Hall
Matlock Derbyshire DE4 3NN**

**(01629) 761313
Email: licensing@derbyshiredales.gov.uk**

This information is available free of charge in electronic, audio, Braille and large print versions, and in other languages on request. For assistance in understanding or reading this document, please telephone 01629 761313

INDEX

PART A BACKGROUND		
1	The Licensing Objectives	To be completed
2	Introduction	
3	Declaration	
4	Responsible Authorities	
5	Interested Parties	
6	Exchange of Information	
7	Enforcement	
8	Licensing Authority Functions	
PART B PREMISES LICENCES		
1	General Principles	
	- <i>Location</i>	
	- <i>Duplication with other Regulatory Regimes</i>	
	- <i>Licensing Objectives</i>	
	- <i>Local Risk Assessments</i>	
	- <i>Conditions</i>	
	- <i>Door Supervisors</i>	
2	Adult Gaming Centres	
3	Licensed Family Entertainment Centres	
4	Casinos	

PART B PREMISES LICENCES	
5	Bingo Premises
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 Machine Permits
5	Temporary Use Notices
6	Occasional Use Notices
7	Small Society Lotteries
ANNEXE 1 - Responsible Authorities Contact Details	
ANNEXE 2 - Principles to determine whether a person is an Interested Party	
ANNEXE 3 - Administration, Exercise and Delegation Functions	
ANNEXE 4 - Licensing Authority - Contact Information	
ANNEXE 5 - Policy Statement Consultees	

PART A

BACKGROUND

1 The Licensing Objectives

1.1 The Licensing Authority will have regard to the licensing objectives as set out in Section 1 of the Gambling Act 2005 (“the 2005 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.

2 Introduction

2.1 The District of Derbyshire Dales District Council is an area of spectacular countryside approximately half of which lies within the Peak District National Park. The District is home to 71,000 people living in four main centres of population – Ashbourne, Bakewell, Matlock and Wirksworth - and 100 or so smaller towns and villages.

2.2 Some premises already licensed under the Licensing Act 2003 to sell alcohol and provide entertainment and late night refreshment, are also affected by the provisions of the Gambling Act 2005 - having Amusement with Prizes machines (AWPs). In addition these premises, the 2005 Act affects betting shops and tracks, family entertainment centres, bingo, casinos, adult gaming centres (arcades with high stake/prize machines) and travelling fairs. Also affected are operations not licensed generally for gambling purposes but could be used for certain types of gambling for limited periods – these will be covered by Temporary and Occasional Use Permits. For example, in Derbyshire Dales there is an annual point-to-point race meeting and a harness racing event.

2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of principles which they propose to apply when exercising their functions. This statement has to be published at least every three years and can also be reviewed from “time to time” with any amended parts being re-consulted upon. The statement is then re-published. The Statement sets out the manner in which applications are considered. Each application will be considered on its individual merits.

2.4 Before determining this Statement of Principles Licensing Authorities are required to consult:

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

2.5 This Licensing Authority has consulted with:

- Derbyshire Constabulary's Chief Officer of Police
- Local Safeguarding Children Board (Derbyshire County Council)
- Public Health (Derbyshire County Council)
- Persons/Bodies Representative of Trade Associations
- Persons/Bodies Representative of Residents Associations
- Derbyshire Trading Standards Service
- Elected Members of Derbyshire Dales District Council
- Town and Parish Councils, and Parish Meetings

(For a list of bodies/organisations consulted see page 26 of Policy)

The original consultation in 2007 was carried out using the HM Government Code of Practice (July 2008) as guidance.

Details of comments made, and the consideration given to them by the Council is available on request from the Licensing Manager, Derbyshire Dales District Council, Town Hall, Matlock, Derbyshire, DE4 3NN.

The Policy was first approved at a meeting of the full Council on 14 December 2006, with further reviews in 2009, 2013, 2016, 2019 and 2022.

2.7 This 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

3.1 In producing the Statement of Principles, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the Statement.

4 Responsible Authorities

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

The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Derbyshire County Council's Local Safeguarding Children Board for this purpose.

- 4.2 The contact details of all the Responsible Authorities under the Gambling Act 2005 are detailed in Annexe 1, and are also available via the Council's website at www.derbyshiredales.gov.uk.

5 Interested Parties

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

"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 application 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)".

- 5.2 The licensing authority is required by the Guidance 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 contained in Annexe 2.

- 5.3 The Gambling Commission recommends that the licensing authority states that interested parties includes trade associations, trade unions, residents' and tenants' associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 – ie someone who lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

- 5.4 Interested parties can be persons who are democratically elected such as councillors and Members of Parliament. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however, this authority will generally require written evidence that a person/body (eg advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities, and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.5 An individual wishing to approach councillors to ask him/her to represent his/her views should ensure that the councillor(s) is/are not part of the Licensing Sub-Committee dealing with the licence application. Information in respect of Members of the Licensing & Appeals Sub-Committees is available from the Council's Democratic Services Team – 01629 761300.

6 Exchange of Information

- 6.1 Licensing authorities are required to include in their Statements, the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information taking into account the provisions of the Data Protection Act 1998. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Protocols exist for exchanging information with other statutory organisations, and information will only be shared in accordance with the protocols.

7 Enforcement

- 7.1 In exercising the functions under Part 15 and section 346 of the Gambling Act 2005, respectively, this licensing authority will inspect premises and take any enforcement action in respect of offences specified in accordance with its Corporate Enforcement Policy, the Gambling Commission's Guidance, the Regulators' Compliance Code and the principles of the Legislative and Regulatory Reform Act 2006.
- 7.2 The main enforcement role of the licensing authority will be to ensure compliance with the premises licence and other permissions which it authorises.
- 7.3 This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to licensing authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

In accordance with the Gambling Commission's Guidance, it will also endeavour to avoid duplication with other regulatory regimes so far as is possible.

7.4 The Gambling Commission is the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines are not be dealt with by the licensing authority but should be notified to the Gambling Commission.

8 Licensing Authority Functions

8.1 The 2005 Act requires this licensing authority 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 (if applicable) that 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 licenses issued.
- Maintain registers of the permits and licences that are issued under these functions.

8.2 Licensing authorities are not involved in licensing remote gambling. This regulatory responsibility lies with the Gambling Commission via operating licences.

PART B

PREMISES LICENCES

1 General Principles

- 1.1 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions 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.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it 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.

The Gambling Commission has advised that "moral objections to gambling are not a valid reason to reject applications for premises licences", and that unmet demand is not a criterion for a licensing authority.

- 1.3 Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence provided that they are for different parts of the building, and the different parts of the building can properly be regarded as being separate premises.

The Gambling Commission states in the fourth edition of its Guidance to Licensing Authorities (issued in September 2012) that:

"In most cases the expectation is that a single building /plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and the ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as separate premises will depend on 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".

1.4 This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities in respect of access to gambling by children and young people, which states that,

"Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act", and

"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 that entrances 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.

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

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

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

1.5 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives can be. This licensing 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.

1.6 **Duplication with other regulatory regimes** - This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. However, it will 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.

1.7 **Licensing Objectives** - Premises licences granted must be reasonably consistent with the licensing objectives:

- **preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**

1.7.1 This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling being a source of crime. Where an area has known high levels of crime this authority will consider whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance, and will consider factors such as whether police assistance was required and the extent to which the behaviour was threatening, so as to make that distinction. Issues of nuisance cannot be addressed by the Gambling Act provisions.

- **Ensuring that gambling is conducted in a fair and open way;**

1.7.2 This 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. (Tracks are dealt with differently – see pages 15/16).

- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

1.7.3 This licensing authority acknowledges the Commission's Guidance, that this objective means preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at, or are, particularly attractive to children.

1.7.4 Consideration will be given as to whether specific measures should be required at particular premises – these could include, supervision of entrances, machines, segregation of areas etc.

1.7.5 In the absence of a practical definition of 'vulnerable persons' the licensing authority acknowledges that for regulatory purposes the Commission assumes, "...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."

1.7.6 The licensing authority will consider this licensing objective on a case-by-case basis.

1.7.7 The licensing authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards the licensing objective, protecting children and other vulnerable persons from being harmed or exploited by gambling, in relation to specific premises such as casinos.

It is understood that a Code for casinos must:

- specify steps that the premises licence holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino, do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person ("the supervisor") who is responsible for compliance with the code of practice; and

- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

1.8 **Local Risk Assessments** - from 6 April 2016 a new requirement was introduced requiring licensed operators of certain gambling establishments to undertake local risk assessments.

1.8.1 This requirement was formalised in the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) which were revised and published in February 2015 and updated in January 2018 to take effect from 4th April 2018.

1.8.2 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.

1.8.3 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.

1.8.4 Licensees are required to undertake a local risk assessment:

- a) when applying for a new premises licence;
- b) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- c) when there are significant changes at a licensee's premises that may affect mitigation of local risks; and
- d) when applying for a variation of a premises licence.

1.8.5 The risk assessment must be reviewed as necessary.

1.8.6 The new social responsibility provision is supplemented by an ordinary code provision recommending as good practice that:

- a) licensees should share their risk assessment with licensing authorities when applying for a premises licence; or
- b) applying for a variation to an existing licensed premises;
- c) or at the request of the licensing authority.

1.9 **Conditions** – This licensing authority will only attach conditions to a licence that are proportionate and:

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

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

- 1.13 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track. This licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.14 There are conditions which the licensing authority cannot attach to premises licences.

These are:

- any condition on the premises licence which makes it impossible to comply with an operating licensing condition;
- conditions relating to gaming machine categories, numbers or methods 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.

- 1.15 **Door Supervisors** - The Gambling Commission advises in its Guidance that licensing authorities may consider whether there is a need for door supervisors to protect children and vulnerable persons from being harmed or exploited by gambling and also to prevent premises becoming a source of crime. It is noted though that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA). Where it is determined that door supervisors are required, the licensing authority will consult with the Police.
- 1.16 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether or not these need to be SIA licensed. It will not be automatically assumed that they need to be.

2 Adult Gaming Centres

- 2.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.
- 2.2 Appropriate licence conditions may cover issues 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-barring schemes
 - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.3 This licensing authority notes that the holder of an Adult Gaming Centre premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change in the legislation need to make alterations to the structure/layout of the premises.
- 2.4 The holder of an Adult Gaming Centre premises licence granted on or after 13 July 2011, but before 1 April 2014, was entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; however, from 1 April 2014 these premises were entitled to only 20% of the total number of gaming machines.

3 (Licensed) Family Entertainment Centres

- 3.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the

applicant to satisfy the authority, for example that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

3.2 This licensing authority will expect applicants to offer their own measures to meet this licensing objective; appropriate licence conditions may cover issues such as:

- CCTV
- Supervision of Entrances/Machine Areas
- Physical Separation of Areas
- Location of Entry
- Notices/Signage
- Specific Opening Hours
- Self-barring 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 or exhaustive – it is merely indicative of example measures.

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

4 Casinos

4.1 This licensing authority has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision would need to be made by the full Council.

5 Bingo Premises

5.1 This licensing authority notes that the Gambling Commission Guidance states in paragraph 18.4, that:

“Licensing authorities 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.”

5.2 and in paragraph 18.6, that:

“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.”

- 5.3 This licensing authority also notes that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change to the legislation need to make alterations to the structure/layout of the premises.
- 5.4 The holder of a bingo premises licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.
- 5.5 This licensing authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

6 Betting Premises

- 6.1 This licensing authority will, as stated in 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 or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It is an offence for those under 18 to bet.

7 Tracks

- 7.1 This licensing authority is aware that tracks may be subject to one, or more than one, premises licence, provided each relates to a specified area of the track.
- 7.2 Consideration will be given to the third licensing objective; in particular, the need to ensure that entrances to each type of premises are distinct and children are excluded from gambling areas where they are not permitted to enter.
- 7.3 This licensing authority will therefore expect premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.4 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however, appropriate measures/licence conditions may cover issues 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-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory or exhaustive - it is merely indicative of example measures.

- 7.5 This licensing authority will have regard to further guidance from the Gambling Commission in respect of where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing with them.
- 7.6 Gaming Machines - Consideration will be given to the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, (other than category D machines) these machines are located in areas from which children are excluded.
- 7.7 Betting Machines - This licensing authority will take into account the size of the premises 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.
- 7.8 This licensing authority notes the suggestion in the Guidance that it may wish to restrict the number and location of such machines in respect of applications for track betting premises licences.
- 7.9 This licensing authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.
- 7.10 This licensing authority will require detailed plans for the race-track and the area that will be used for the temporary “on-course” betting facilities (often known as the “betting ring”) and in the case of dog tracks and horse racecourses, fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.
- 7.11 This licensing authority would prefer that all self-contained premises operated by off-course betting operators on track be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track

operator and the off-course betting operator running a self-contained unit on the premises.

8 Travelling Fairs

- 8.1 Low-stake (category D) fruit machines can be made available at fairgrounds along with coin pushers, cranes and grabbers, but higher stake gaming machines (category B and C), like those typically played in arcades and pubs, are not permitted. Fairground operators must source all their machines from Gambling Commission licensed suppliers, and all employees working with gaming machines must be at least 18 years old.
- 8.2 However, it will fall to this 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.
- 8.3 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It has been noted that the 27 day statutory maximum for the land being used as a fair, is per calendar year, 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 boundaries is monitored so that statutory limits are not exceeded.

9 Provisional Statements

- 9.1 An application for a provisional statement shall include such plans and other information in relation to the construction, alteration or acquisition as prescribed in regulations.
- 9.2 In terms of representations about premises licence applications, following 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:
- (a) which could not have been raised by objectors at the provisional licence stage; or
 - (b) which, in the authority's opinion, reflects a change in the operator's circumstances.
- 9.3 This licensing authority will not take into account irrelevant matters; one example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

10 Reviews

10.1 A review of a premises licence may be made by interested parties or responsible authorities. However, the licensing authority will decide whether the review is to be carried out.

This licensing authority will consider if 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;
- in accordance with the authority's Statement of Licensing Policy; and
- whether the request for a review is frivolous or vexatious.

10.2 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PART C

PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES

1 Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 Paragraph 7)

- 1.1 Where premises do not have a premises licence but wish to provide gaming machines, an applicant may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 1.2 A permit may be granted only if this licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC), and if the Chief Officer of Police has been consulted on the application. Some considerations to take into account would be the applicant's suitability to operate a family entertainment centre, the suitability of the location of the premises, and any issues about disorder.
- 1.3 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and other vulnerable persons 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 be considered on their merits.
- 1.4 Applicants will have to demonstrate that they and their staff have a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs.
- 1.5 Applicants should have no relevant convictions, as set out in schedule 7 of the Act.
- 1.6 The Licensing Authority cannot attach conditions to this type of permit.
- 1.7 With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local

authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

2 Alcohol Licensed Premises Gaming Machine Permits (Schedule 13 Paragraph 4(1))

- 2.1 Premises licensed to sell alcohol for consumption on the premises can automatically have two gaming machines, of categories C and/or D. The proprietor of the premises must give notification to the licensing authority.
- 2.2 The licensing authority may 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;
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises.
- 2.3 If a proprietor of a premises wishes to have more than two machines, he/she must apply for a permit and the licensing authority must consider the application based on the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005.
- 2.4 This licensing authority will also consider 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.
- 2.5 Measures that can be may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage should be considered. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.6 It is recognised that some local licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for and dealt with as an Adult Gaming Centre premises licence.
- 2.7 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than applied for.
- 2.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

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

- 3.1 The licensing authority has not prepared a Statement of Principles on Permits. Should it decide to do so it will include details in a revised version of this Statement of Principles.
- 3.2 In making its decision on an application for a permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.
- 3.3 In the Gambling Act 2005 there are conditions the permit holder must comply with but that the licensing authority cannot attach as 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

- 4.1 Members' Clubs and Miners' Welfare Institutes (but not commercial clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (a maximum of three machines of categories B, C or D), equal chance gaming and games of chance. A Club Gaming Machine Permit will enable the premises to provide gaming machines (a maximum of three machines of categories B, C or D).
- 4.2 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 the Royal British Legion and clubs with political affiliations.
- 4.3 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.

4.4 There is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a licensing authority can refuse a permit are reduced.

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.

5 Temporary Use Notices

- 5.1 The licensing authority will decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site.
- 5.2 This was a new permission in 2005 and this licensing authority will object to notices if it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

6 Occasional Use Notices

- 6.1 The licensing authority has limited discretion regarding these notices, other than ensuring that the statutory limit of eight days in a calendar year is not exceeded. The licensing authority will determine the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

7 Small Society Lotteries

- 7.1 This licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exhaustive, could affect the risk status of the operator:
 - submission of late returns (returns must be submitted no later than 3 months after the date on which the lottery draw was held)
 - submission of incomplete or incorrect returns
 - breaches of limits for small society lotteries

- 7.2 Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part

of the proceeds is for private profit or gain. The proceeds of such events may benefit one of more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

If charities or community groups need further advice, the Council's Licensing Team can help – 01629 761313.

RESPONSIBLE AUTHORITIES – CONTACT DETAILS

Section 157 of the Gambling Act 2005 identifies the bodies that are to be treated as responsible authorities. They are:

- (a) a licensing authority in England and Wales in whose area the premises is wholly/partly situated.

**Derbyshire Dales District Council, Licensing Manager, Regulatory Services,
Town Hall, Matlock, Derbyshire, DE4 3NN**

- (b) the Gambling Commission; Victoria Square House, Victoria Square, Birmingham, B2 4BP

- (c) the chief officer of police/chief constable for the area in which the premises is wholly/partially situated;

**Derbyshire Constabulary, North Division, Silverlands, Buxton,
Derbyshire, SK17 6QJ**

- (d) the fire and rescue service for the same area;

**Derbyshire Fire and Rescue Service, Area Office, Staden Lane, Buxton,
Derbyshire, SK17 9RZ**

- (e) the local planning authority;

**Derbyshire Dales District Council, Development Manager, Regulatory Services,
Town Hall, Matlock, Derbyshire, DE4 3NN**

Or if premises situated in the Peak District National Park:

**Planning Service, Peak District National Park, Aldern House, Baslow Road,
Bakewell, Derbyshire, DE45 1AE**

- (f) an authority which has functions in relation to pollution to the environment or harm to human health;

**Derbyshire Dales District Council, Principal Environmental Health Officer,
Regulatory Services, Town Hall, Matlock, Derbyshire, DE4 3NN.**

Or if premises enforced by Health & Safety Executive:

**Health & Safety Executive, Band 5 Admin Leader, 1st Floor, The Pearson
Building, 55 Upper Parliament Street, Nottingham, NG1 6AU**

- (g) anybody designated in writing by the licensing authority as competent to advise about the protection of children from harm;

**Safeguarding Children Board, Safeguarding and Specialist Services,
Derbyshire County Council, County Hall, Matlock, Derbyshire, DE4 3AG**

- (h) HM Revenue & Customs (Notts & Derbyshire):

Howard House, Castle Meadow Road, Nottingham, NG2 1AB

and

- (i) any other person prescribed in regulations by Secretary of State.

Annexe 2

PRINCIPLES TO DETERMINE WHETHER A PERSON IS AN INTERESTED PARTY

2.1 Sufficiently close to the premises

When determining what “sufficiently close to the premises” means (in each case), this licensing authority will consider:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely affected” could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems, and (c) a residential hostel for vulnerable adults.

2.2 Persons with business interests that could be affected

When determining what “a person with business interests that might be affected by the premises” means (in each case), this licensing authority will consider:

- the size of the premises;
- the ‘catchment’ area of the premise (ie how far people travel to visit); and
- whether the person making the representation has business interests in that ‘catchment’ area, that might be affected.

ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

The Powers and duties of the Council in respect of licensing may be carried out by the Licensing Committee, by a Sub-Committee or by officers acting under delegated authority. In the interests of efficiency and cost effectiveness the Council will delegate routine matters to officer level.

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officer
Final approval of 3 year Statement of Principles.	X		
Policy not to permit Casinos.	X		
Fee setting when appropriate.		X	Officers/Policy Committee
Applications for Premises Licences		Where representations have been received and not withdrawn.	Where no representations received / representations have been withdrawn.
Application for a variation to a licence.		Where representations have been received and not withdrawn.	Where no representations received / representations have been withdrawn.
Application for a transfer of a licence.		Where representations have been received from the Commission.	Where no representations have been received from the Commission.
Application for a provisional statement.		Where representations have been received and not withdrawn.	Where no representations received / representations have been withdrawn.
Initiate a Review of a premises licence.			X
Application for club gaming/club machine permits.		Where objections have been made and not withdrawn.	Where no objections have been made/ objections have been withdrawn.

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officer
Cancellation of club gaming/club machine permits		X	
Application 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
Decision on whether a representation is irrelevant, or falls within the categories defined within section 198 of the Act (frivolous, vexatious etc)			X
To determine whether the Licensing Authority should make a representation, and the content of it.			X
Small Society Lotteries		Where refusal or revocation is recommended.	Authority to grant or cancel small society registrations.

CONTACT INFORMATION

If you have any queries regarding any licensing matter contact:

Licensing Team
Regulatory Services
Derbyshire Dales District Council
Town Hall
Matlock
Derbyshire DE4 3NN

Tel: 01629 761313
e-mail: licensing@derbyshiredales.gov.uk
Website: derbyshiredales.gov.uk

LIST OF CONSULTEES ON ORIGINAL POLICY

- Gambling Commission;
- H M Customs and Excise;
- Responsible Authorities listed in Annexe 1 of this Policy;
- Derbyshire County Council Safeguarding Board and Public Health Authority;
- Neighbouring Licensing Authorities;
- **Persons/Bodies Representative of Trade Association;**

British Horse Racing Board, British Beer and Pub Association, British Amusement Catering Trades Association, The Bingo Association, British Holiday and Home Parks, Business in Sport & Leisure, Casino Operators' Association (UK), Racecourse Association Ltd, North Derbyshire Chamber of Commerce and Industry; all businesses currently licensed under the Gambling Act 2005 (eg betting shops, amusement arcades (and Head offices such as Ladbrokes, William Hill etc); pubs and clubs licensed to sell alcohol under the Licensing Act 2003 with amusement with prizes machines etc;

- **Persons/Bodies representing the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005;**

Gambler's Anonymous, Remote Gambling Association, Citizen's Advice Bureau, Derbyshire Primary Care Trust, Town/Parish Councils, and Parish Meetings, and Derbyshire Rural Community Council.

Licensing & Appeals Committee
13 January 2022

Report of the Director of Corporate & Customer Services

LICENSING & APPEALS SUB-COMMITTEE PROCEDURES

PURPOSE OF REPORT

To seek the Committee's approval of written procedures on the Sub-Committee Hearings.

RECOMMENDATIONS

That the procedures attached at Appendix 1 be approved.

WARDS AFFECTED

All

STRATEGIC LINK

The procedures will provide a better customer service as applicants and parties involved will have clear guidance on how a hearing will be conducted as well as assist in the making of more robust decisions

1 BACKGROUND

- 1.1 This report is brought back to Committee following a request to review the draft procedures by members at the last committee.
- 1.2 The Licensing & Appeals Sub-Committee have been delegated a number of decision making responsibilities. These are mostly under the Licensing Act 2003 and Gambling Act 2005 however there are other decisions that the Council will consider as part of the committee's functions
- 1.2 On review of the Council's constitution the Licensing and Appeals Sub-Committee are responsible for hearing appeals, in addition to licensing and gambling matters, on other licensing matters, for example taxi licensing appeals or sex entertainment venues as well as other non-licensing matters like appeals against a Tree Preservation Order. It is also the committee that hear appeals from employees which may include appeals against redundancy or dismissal.
- 1.3 The background of this report is that Officers wish to produce a list of procedures to cover the majority of hearings that would be referred to a sub-committee. This report therefore provides a number of procedures for member's approval.
- 1.4 Further reports are intended to be produced in the future to cover other procedures and produce a definitive list of matters which fall to be determined by the Licensing and Appeals Sub-Committee which will be used in the current constitutional review, however Officers have concentrated on Licensing Act

2003 appeals in this first report.

2 PROCEDURES

2.1 The following procedures are attached at appendix 1 for approval

- a) New Application for a Licence under the Licensing Act 2003
- b) Application to vary an existing Licence under the Licensing Act 2003
- c) Review of existing Licence under the Licensing Act 2003
- d) Objection to a Temporary Event Notice (TEN)

3 RISK ASSESSMENT

3.1 Legal

The Licensing Act 2003 and the Gambling Act 2005 have statutory hearing regulations that need to be followed. This report meets those requirements. Other appeal matters that do not have prescribed hearing regulations the Council must ensure that parties have a fair hearing under their statutory rights of Article 6 of The Human Rights Act 1998. These procedures ensure parties have an equal right to be heard and reduces the risk of a legal challenge, therefore the legal risk is low.

3.2 Financial

There are no significant financial considerations arising from this report. The financial risk is therefore assessed as low.

4 OTHER CONSIDERATIONS

4.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

Lee Gardner, Legal Services Manager
Tel: 01629 761319
Email: lee.gardner@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

6.1 None.

7 ATTACHMENTS

7.1 Appendix 1 – Procedures for Licensing & Appeals Sub-Committees

**PROCEDURE OF THE LICENSING AND APPEALS SUB-COMMITTEE
FOR THE DETERMINATION OF A NEW LICENCE UNDER THE
LICENSING ACT 2003**

1. Following the election of a Chair of the Sub-Committee, the Chair will ask fellow councillors and officers to introduce themselves to those present and explain their roles for the purpose of the hearing.
2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:
 - (a) The Licensing Officer(s) will present the relevant details, but make no recommendations regarding a decision on the application to the Sub-Committee, together with information regarding any details relevant to the application, which may have come to light since the report was written. Questions may then be put to the Officer(s), through and with the consent of the Chair.
 - (b) The applicant (licensee) or his/her representative can present his/her case, including calling any witnesses. Questions may then be put to the applicant, through and with the consent of the Chair.
 - (c) The other parties will present their case, but only where representations are unresolved. Responsible authorities (within the meaning of the legislation) will present their cases before interested parties. Questions may then be put to those persons, through and with the consent of the Chair.
 - (d) Before final submissions the Chair may seek clarification from any party during the hearing in response to issues raised in order for the Sub-Committee to make informed decision.
 - (e) The Licensing Officer(s) will be invited to sum up their case.
 - (f) The other parties will be invited to sum up their case.
 - (g) The applicant or his/her representative will be invited to sum up his/her case.
 - (h) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only colleagues who may remain with the Sub-Committee during its adjournment shall be the legal advisor and the Democratic Services Officer.
 - (i) Where the Sub-Committee has made a decision at the end of the hearing, all parties will be called back and informed orally of the decision of the Sub-Committee and any conditions made, with the reasons for those conditions.

3. The Council's constitution allows speakers 3 minutes in order to make their representations at Committee hearings. The Chair may allow more time if they consider it would help the Sub-Committee to hear all the evidence.
4. The Chair must allow equal time, in total, to both those for and against the application, For example if there are 10 speakers against given 3 minutes each, the applicant will be allowed 30 minutes to respond.
5. If a Ward Councillor wishes to speak at the Sub-Committee on behalf of residents they must inform the Democratic Services Officer prior to the hearing which residents they representing.

**PROCEDURE OF THE LICENSING AND APPEALS SUB-COMMITTEE
FOR THE DETERMINATION OF A VARIATION OF LICENCE UNDER
THE LICENSING ACT 2003**

1. Following the election of a Chair of the Sub-Committee, the Chair will ask fellow councillors and officers to introduce themselves to those present and explain their roles for the purpose of the hearing.
2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:
 - (a) The Licensing Officer(s) will present the relevant details, but make no recommendations regarding a decision on the application to the Sub-Committee, together with information regarding any details relevant to the application, which may have come to light since the report was written. Questions may then be put to the Officer(s), through and with the consent of the Chair.
 - (b) The applicant (licensee) or his/her representative can present his/her case, including calling any witnesses. Questions may then be put to the applicant, through and with the consent of the Chair.
 - (c) The other parties will present their case, but only where representations are unresolved. Responsible authorities (within the meaning of the legislation) will present their cases before interested parties. Questions may then be put to those persons, through and with the consent of the Chair.
 - (d) Before final submissions the Chair may seek clarification from any party during the hearing in response to issues raised in order for the Sub-Committee to make informed decision.
 - (e) The Licensing Officer(s) will be invited to sum up their case.
 - (f) The other parties will be invited to sum up their case.
 - (g) The applicant or his/her representative will be invited to sum up his/her case.
 - (h) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only colleagues who may remain with the Sub-Committee during its adjournment shall be the legal advisor and the Democratic Services Officer.
 - (i) Where the Sub-Committee has made a decision at the end of the hearing, all parties will be called back and informed orally of the decision of the Sub-Committee and any conditions made, with the reasons for those conditions.

6. The Council's constitution allows speakers 3 minutes in order to make their representations at Committee hearings. The Chair may allow more time if they consider it would help the Sub-Committee to hear all the evidence.
7. The Chair must allow equal time, in total, to both those for and against the application, For example if there are 10 speakers against given 3 minutes each, the applicant will be allowed 30 minutes to respond.
8. If a Ward Councillor wishes to speak at the Sub-Committee on behalf of residents they must inform the Democratic Services Officer prior to the hearing which residents they representing.

**PROCEDURE OF THE LICENSING AND APPEALS SUB-COMMITTEE
FOR THE DETERMINATION A REVIEW OF LICENCE UNDER THE
LICENSING ACT 2003**

1. Following the election of a Chair of the Sub-Committee, the Chair will ask fellow councillors and officers to introduce themselves to those present and explain their roles for the purpose of the hearing.
2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:
 - (a) The Licensing Officer(s) will present the relevant details, but make no recommendations regarding a decision on the application to the Sub-Committee, together with information regarding any details relevant to the application, which may have come to light since the report was written. Questions may then be put to the Officer(s), through and with the consent of the Chair.
 - (b) The Party or Parties that raised the review or his/her representative can present his/her case, including calling any witnesses. Responsible authorities (within the meaning of the legislation) will present their cases before interested parties. Questions may then be put to the party, through and with the consent of the Chair.
 - (c) The licensee or his/her representative will present their objections to the review. Questions may then be put to those persons, through and with the consent of the Chair.
 - (d) Before final submissions the Chair may seek clarification from any party during the hearing in response to issues raised in order for the Sub-Committee to make informed decision.
 - (e) The Licensing Officer(s) will be invited to sum up their case.
 - (f) The licensee will be invited to sum up their case.
 - (g) The Party or Parties that raised the objections will be invited to sum up his/her case.
 - (h) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only colleagues who may remain with the Sub-Committee during its adjournment shall be the legal advisor and the Democratic Services Officer.
 - (i) Where the Sub-Committee has made a decision at the end of the hearing, all parties will be called back and informed orally of the decision of the Sub-Committee and any conditions made, with the reasons for those conditions.

9. The Council's constitution allows speakers 3 minutes in order to make their representations at Committee hearings. The Chair may allow more time if they consider it would help the Sub-Committee to hear all the evidence.
10. The Chair must allow equal time, in total, to both those for and against the application, For example if there are 10 speakers against given 3 minutes each, the applicant will be allowed 30 minutes to respond.
11. If a Ward Councillor wishes to speak at the Sub-Committee on behalf of residents they must inform the Democratic Services Officer prior to the hearing which residents they representing.

**PROCEDURE FOR A HEARING FOR THE CONSIDERATION OF AN
OBJECTION BY RELEVANT PERSON(S) TO A TEMPORARY EVENT NOTICE
(TEN)**

1. Following the election of a Chair of the Sub-Committee, the Chair will ask fellow councillors and officers to introduce themselves to those present and explain their roles for the purpose of the hearing.

2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:
 - (a) The Licensing Officer(s) will present the relevant details, but make no recommendations regarding a decision on the matter to the Sub-Committee, together with information regarding any relevant details which may have come to light since the report was written. Questions may then be put to Officer(s) by all parties, through and with the consent of the Chair.
 - (b) The relevant person(s) who has/have made an objection can present their case including the calling of any witnesses. Questions may then be put to the relevant person, through and with the consent of the Chair.
 - (c) The premises user will present their case, and reply to the objection. Questions may then be put to that person, through and with the consent of the Chair.
 - (d) Summary from the Licensing Officer.
 - (e) The premises user will be invited to sum up their case.
 - (f) The relevant person(s) will be invited to sum up their case.
 - (g) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only colleagues who may remain with the Sub-Committee during its adjournment shall be the Democratic Services Officer and the Sub-Committee's legal advisor.
 - (h) Where the Sub-Committee makes a decision at the end of the hearing, all parties will be called back.
3. Decision Options
 - (a) Determine to issue a Counter Notice, which up holds the objection(s) and effectively prevents the licensable activities from being authorised to take place.
 - (b) Decide not to uphold the objection notice (thus allowing the licensable activities to proceed) and issue a notice stating why a Counter Notice wasn't issued. Where a premises licence is already in place this can include imposing one or more relevant conditions from the Premises Licence onto the Temporary Event Notice concerned

**LICENSING AND APPEALS COMMITTEE
13TH JANUARY 2022**

Report of the Director of Regulatory Services

**IMPLEMENTATION OF NATIONAL TAXI AND PRIVATE HIRE VEHICLE
LICENSING STANDARDS - PROGRESS REPORT**

PURPOSE OF REPORT

This report provides the Committee with a brief update on the progress made since the last meeting, in implementing the requirements of the Department for Transport's (DfT's) National Taxi and Private Hire Vehicle Licensing Standards.

Approval is sought to review and update the Council's current Taxi and PHV Licensing Policy taking account of any recommendations/comments received following a short survey/consultation exercise, recently undertaken. Approval is also sought to carry out a 6-week wider consultation exercise on the revised draft of the Council's Taxi and Private Hire Licensing Policy.

RECOMMENDATION(S)

1. That any responses received to the survey/consultation exercise with the local taxi and private hire trade and relevant statutory authorities, on the proposed policy changes, are noted and considered by the Committee.
2. That any recommended changes approved by the Committee are included in a revised draft document of the Council's current Taxi and Private Hire Licensing Policy; and that a 6-week, wider, consultation exercise is carried out with all stakeholders, (including the general public) .
3. That any comments received in respect of the draft Taxi and Private Hire Licensing Policy are reported to the April 2022 meeting of this Committee for consideration for referral to the next available meeting of full Council, to seek approval to revise, republish and implement the updated Policy document as soon as is practicable.
4. That the Committee's views are sought in respect of a wider consultation exercise being carried out relating to the need for CCTV in all licensed taxis and private hire vehicles.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's Place objective, in terms of keeping the Derbyshire Dales clean, green and safe.

1 Background

1.1 DfT's Statutory Taxi and Private Hire Vehicle Standards

Members may recall that in October 2020, a report was considered which informed of how, on 21 July 2020, the Department for Transport (DfT) published taxi and private hire licensing statutory guidance to licensing authorities, outlining how they should carry out their licensing function. This was the first time statutory guidance had been issued for the Taxi and (PHV) Private Hire Vehicle sector of the transport trade.

1.2 Following consultation with the trade, regulators and safety campaign groups, the Government had issued these standards to replace relevant sections of the *Best Practice Guidance* issued by the DfT in 2010. Whilst the focus of these standards is on protecting children and vulnerable adults, it was considered that all passengers will benefit from the recommendations, which aim to better regulate the taxi and PHV sector.

1.3 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since 2010. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).

1.4 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services.

1.5 At the October 2020 meeting Members discussed the main recommendations in the Guidance document. It was pleasing to note that out of the 10 main bullet points the Council was already promoting or partially promoting approximately 70% of the standards.

1.6 The DfT had informed Councils that progress in implementing the standards would be monitored, and if necessary the DfT would work with authorities not meeting their responsibilities and would also look to introduce legislation if licensing authorities fail to adopt the standards and update their operations.

1.7 Update on Implementation of Standards

In October 2021 a further update report was considered by this Committee. The consultation exercise proposed at the meeting with the trade and public was unavoidably delayed until the end of the year.

1.8 A simple questionnaire/survey was circulated to the trade and the relevant statutory authorities to inform them of the changes needed for the Council's current Policy to address the national standards, and the action that the Council intended to take by incorporating some/all of these into its current Taxi and PHV Licensing Policy.

Comments were sought in relation to the following issues which it is proposed would be included/revised in an updated version of the Council's Taxi Licensing Policy document:

- To gather and share information with other Licensing Authorities – using the national register of taxi licence refusals and revocations.
- Requiring Taxi & PHV licensed drivers to self-report within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- Reviewing the Council’s Taxi Licensing Policy every 5 years, with interim reviews if changes necessary as a result of local needs, legislative change etc.
- Details of the Licensing Authority’s whistle-blowing policy for Officers and Councillors.
- The Licensing Authority working closely with/being part of Multi Agency Safeguarding Teams.
- Having an improved system for recording complaints against drivers, and a mechanism for making sure passengers know how to make a complaint to the Licensing Authority.
- Changing the current policy to require licensed drivers to have 6-monthly Disclosure and Barring Service (DBS) criminal record checks; and making it mandatory for licensed drivers to subscribe to the DBS On-line Update Service.
- To introduce a more robust fit and proper test including relevance of criminal convictions – to revisit and update the current Penalty Points Scheme for offences and breach of conditions.
- To introduce criminality checks for vehicle licence holders who are not licensed drivers or operators and not subject to DBS checks at present. For example anyone who owns/part owns a licensed vehicle but is not licensed.
- Introduce improvements to Private Hire Operator record keeping requirements.

Any responses received from the taxi trade and other stakeholders will be provided verbally at the meeting.

1.8 Before a final draft Policy is referred back to this committee for consideration, and then to the full Council for consideration for approval and re-publishing, a 6-week public consultation exercise is recommended to solicit views on the proposed changes, and to invite any other revisions to the 3 year old Policy that would improve not only public safety, but driver safety also. The survey emphasised how the changes proposed were aimed mainly at ensuring increased safety measures in vehicles, and improved ‘fit and proper person’ standards for licensed drivers and operators.

1.9 CCTV in Licensed Vehicles

The national standards also raised the question of whether CCTV in licensed vehicles should be mandatory.

“all licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues”.

1.10 At the October 2021 meeting, the Committee were advised by the Legal Services Manager that this is an area requiring separate consideration and consultation and that there are reasons for and against implementing this as a mandatory requirement. Members resolved that a simple consultation exercise should be carried out at this stage, but only with the relevant statutory authorities, such as the police and anti-social behaviour officers, fire service, safeguarding, public health, HSE and immigration; and some of the car insurance companies used by the Council’s licensed drivers.

1.11 One response has been received from the Health & Safety Executive (HSE).

“Many thanks for contacting HSE regarding this proposal. I’ve contacted the PRINCIPAL Inspector for Derbyshire and she has no comment to make at this time”.

1.12 The aim of this exercise was not to find out if people considered that CCTV should be mandatory in taxis, but to ascertain whether in fact there is any local evidence to suggest that this is proportionate/necessary.

1.13 Officers are seeking the Committee’s views in respect of whether a wider consultation exercise should now be carried out relating to the local need for CCTV in taxis and private hire vehicles licensed by the authority. It is important that any review of the Council’s current Taxi Licensing Policy reflects that the matter has been considered in relation to the national standards.

2 RISK ASSESSMENT

2.1 Legal

The Council has a statutory obligation to protect the public and safeguard vulnerable adults and children when travelling in taxis and private hire vehicles, by ensuring that they are properly licensed by the Council.

Whilst the national standards are only guidance, it is clear that the DfT intends the guidance to carry significant weight, as paragraph 1.3 on page 4 of the document states: *“The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.”*

Policy is only effective if it is administered properly. Therefore a Council should review and republish its Taxi and Private Hire Licensing Policy regularly, as there may be potential for decisions made in determining licensing applications that become the subject of judicial review or appeal. If the Licensing Policy is not credible it may be subject to a successful legal challenge. This report is intended to address issues that may give rise to the need for change, and the legal risk is therefore assessed as being low.

2.2 Financial

There are no significant financial considerations arising from this report at this stage. The costs of any consultation exercise required can be contained within existing budgets. The financial risk is therefore assessed as low.

3 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, environmental, health, human rights, personnel, and property.

No climate change impact assessment is required at this stage. A CCI will be carried out on any resulting recommendations from the review of the Policy.

An Equalities Impact Assessment (EqIA) was completed as part of the 2018 review of the Council’s Taxi and Private Hire Licensing Policy.

4 CONTACT INFORMATION

Eileen Tierney, Licensing Manager
Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

5 BACKGROUND PAPERS

Statutory Taxi and Private Hire Vehicle Standards 2020 (Department for Transport)
<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

Working together to safeguard children 2018 (Department for Education)
<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

6 ATTACHMENT

None.

LICENSING AND APPEALS COMMITTEE

13TH JANUARY 2022

Report of the Director of Regulatory Services

THE MOBILE HOMES (REQUIREMENT FOR MANAGER OF SITE TO BE A FIT AND PROPER PERSON) (ENGLAND) REGULATIONS 2020 - INTRODUCTION OF FEES POLICY

PURPOSE OF REPORT

This report seeks the Committee's consideration and approval of a Fees Policy required under The Mobile Homes (Requirement for Manager to be Fit and Proper Person) (England) Regulations 2020.

RECOMMENDATION:

That the draft Licensing Fees Policy in respect of Residential Mobile Home Parks is approved for referral to a meeting of the full Council for consideration.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's Place objective, in terms of keeping the Derbyshire Dales clean, green and safe.

1 INTRODUCTION

1.1 The Regulations

Members are reminded of the report considered by them at the October meeting in respect of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020. The regulations, introduced a fit and proper person test for owners/operators of residential mobile home sites, to ensure that they are being managed properly.

1.2 There is an expectation that councils will inspect sites annually and use the additional powers to ensure compliance with site licence conditions.

1.3 These regulations also include powers for councils to charge fees for licensing functions in respect of "relevant protected sites" operating on a commercial basis. There is currently one residential mobile home park in the district to which the legislation applies.

1.4 Sites which do not fall within the definition of 'relevant protected sites' are still subject to the general licensing requirements contained within the Caravan Sites Control of Development Act 1960, but the provisions relating to payment of any fees do not apply.

1.5 Determining a Fees Policy

Before a Local Authority can charge a fee, it must prepare and publish a fees policy.

When setting a fee the Local Authority:

- must act in accordance with its fees policy
- may fix different fees in different cases
- may determine that no fee is required in some cases.

1.6 Any fees charged must cover the costs (or part of the costs) incurred by the Local Authority in performing its functions under Part 1 of the Mobile Homes Act 2013 (excluding the costs of enforcement action or any functions relating to prohibiting caravans on commons or provision of sites by the Local Authority itself).

1.7 The proposed fee levels have been calculated based upon average time and officer costs that are likely to be involved in undertaking the activities involved at a site. In calculating the fees the Council has had regard to the Government's guidance on fee options and found it to be a good methodology. The following link will open the guidance:

<https://www.gov.uk/government/publications/mobile-homes-act-2013-a-guide-for-local-authorities-on-setting-licence-fees>

1.8 The following matters may be considered as costs incurred, or likely to be incurred, when determining the fee for consideration of applications for entry on a fit and proper person register:

- (a) Initial enquiries;
- (b) letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;
- (c) sending out forms;
- (d) updating files/ computer systems and websites;
- (e) processing the application fee;
- (f) land registry searches;
- (g) time for reviewing necessary documents and certificates;
- (h) preparing preliminary and final decision notices;
- (i) review by manager or lawyers; review any representations made by applicants or responses from third parties;
- (j) updating the public register;
- (k) carrying out any risk assessment process considered necessary and
- (l) reviews of decisions or in defending appeals.

Charges will be limited to recovering the costs of exercising the fit and proper person test function only and no other costs that have already been charged for by other service areas.

Officers have estimated the average time to conduct a fit and proper person assessment and checks required to be included on the register and has applied hourly rates based on the posts that will be involved in conducting these assessments.

These calculations are outlined in the fees schedule in **Appendix 1** which provides a transparent justification for the fees to be imposed.

These are the first steps to setting the related fees and producing a fees policy for this area of licensing. As this is a new Policy, the final draft document will need to be referred to full Council for consideration for approval.

It is intended that the fees will be reviewed annually at the same time other fees charged by the Council, are reported to the Governance and Resources Committee.

1.9 Consultation

The regulations do not require the Council to consult with site owners or homeowners on setting these fees. However, as a matter of good practice the owner of the only affected site to date, will be notified of the proposed fees, and that the final Fees Policy will need to be approved by full Council.

2 **RISK ASSESSMENT**

2.1 Legal

The legislation states that the application must be accompanied by such fee as the local authority may fix. The local authority may decide the amount and frequency of any additional payments required by way of annual fee. A local authority must prepare and publish a fees policy and must act in accordance with their fees policy. This report details the first steps to setting fees and a policy in order to comply with the legislation, and therefore the risk is low.

2.2 Financial

Charges for registration must be limited to recovering the costs of exercising the fit and proper person test function only. If a fee is incorrectly determined, the Council will be unable to recover appropriate monies to support the regime (in a cost neutral manner) or, conversely, if the fee seeks to recover more than is permitted there is a risk of a legal challenge by site operators, which could incur costs for the Council.

As there is currently only one site affected by the introduction of fees, officers are confident that the proposed fees have been calculated with a degree of accuracy.

The financial risk is assessed as low.

3 **OTHER CONSIDERATIONS**

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, environmental, climate change, health, human rights, personnel, and property.

A partial Equalities Impact Assessment (EqIA) has been completed as part of producing the fees policy.

No climate change impact assessment is required at this stage. A CCI will be carried out on any resulting recommendations from a review of the policy.

4 CONTACT INFORMATION

Eileen Tierney, Licensing Manager
Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

5 BACKGROUND PAPERS

Draft EqIA – Initial Equalities Impact Assessment – Nov/Dec 2021

6 ATTACHMENTS

Appendix 1 – Schedule of Proposed Fees