



# CHELTENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Full Licensing Committee

**Wednesday, 1 September 2021**

**6.00 pm**

**Council Chamber - Municipal Offices, Promenade**

<b>Membership</b>	
<b>Councillors:</b>	David Willingham (Chair), Angie Boyes (Vice-Chair), Jonny Brownsteen, Steve Harvey, Tim Harman, Alisha Lewis, Diggory Seacome, Jo Stafford, Simon Wheeler and Suzanne Williams

The Council has a substitution process and any substitutions will be announced at the meeting

### Agenda

***This meeting will commence with a short presentation by the Thomas Pocklington Trust on how to assist blind or visually impaired taxi passengers***

<b>1.</b>	<b>APOLOGIES</b>	
<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>	<b>PUBLIC QUESTIONS</b> These must be received no later than 12 noon on the fifth working day before the date of the meeting	
<b>4.</b>	<b>MINUTES OF THE PREVIOUS MEETING</b> To approve the minutes of the last meetings held on 3 March and 9 June 2021	(Pages 3 - 10)
<b>5.</b>	<b>MINUTES OF SUB-COMMITTEE MEETINGS</b> To approve the minutes of the meetings of : <ul style="list-style-type: none"><li>• the Licensing Sub Committee Alcohol and Gambling Committee held on 3 March 2021 and 22 June 2021</li></ul> and <ul style="list-style-type: none"><li>• the Licensing Sub Committee Miscellaneous held on 7<sup>th</sup> April 2021, 28<sup>th</sup> April 2021 and 7<sup>th</sup> July 2021</li></ul>	(Pages 11 - 30)
<b>6.</b>	<b>REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE</b> Mr Khalid Mahmood – HCD205	(Pages 31 - 38)

7.		<b>CONSULTATION ON REVISED GAMBLING STATEMENT OF POLICY</b> Report of Licensing Team Leader	(Pages 39 - 76)
8.		<b>TEMPORARY ADJUSTMENT TO LICENSED VEHICLE INSURANCE REQUIREMENTS</b> Report of Licensing Team Leader	(Pages 77 - 78)
9.		<b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION</b>	
10.		<p><b>LOCAL GOVERNMENT ACT 1972-EXEMPT INFORMATION</b>  <b>The committee is recommended to approve the following resolution:-</b></p> <p>“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:</p> <p>Paragraph 1; Information relating to any individual</p> <p>Paragraph 2; Information which is likely to reveal the identity of an individual</p>	
11.		<p><b>EXEMPT MINUTES OF SUB-COMMITTEE MEETINGS</b>  To approve the exempt minutes of the meetings of :</p> <ul style="list-style-type: none"> <li>• the Licensing Sub Committee Alcohol and Gambling Committee held on 3 March 2021</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• the Licensing Sub Committee Miscellaneous held on 28<sup>th</sup> April 2021</li> </ul>	(Pages 79 - 84)
12.		<b>DATE OF NEXT MEETING</b> 3 November 2021	

**Contact Officer:** Claire Morris, Democratic Services, 01242 264130  
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**Full Licensing Committee**

**Wednesday, 3rd March, 2021  
4.00 - 5.50 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Paul McCloskey (Vice-Chair), Angie Boyes, Mike Collins, Wendy Flynn, Tim Harman, Diggory Seacome, Jo Stafford, Roger Whyborn and Simon Wheeler
<b>Also in attendance:</b>	Vikki Fennell and Jason Kirkwood

**Minutes****1. APOLOGIES**

There were no apologies received.

**2. DECLARATIONS OF INTEREST**

Councillor Willingham declared that he has shares in Tesco.

Councillor Stafford declared that she works at Tesco although not this branch.

The Legal Officer deemed that this would not have any effect on the matter in hand.

**3. MINUTES OF THE PREVIOUS MEETING**

Minutes of the meeting held on 2<sup>nd</sup> December 2020 were approved and signed.

**4. MINUTES OF SUB-COMMITTEE MEETINGS**

The minutes of the sub committee held on 25 January 2021 were approved and signed.

**5. APPLICATION FOR A STREET TRADING CONSENT**

The Senior Licensing Officer gave his report as published.

The matter then went to Members to ask questions of the Senior Licensing Officer. They were as follows:

- Covid dispensation to have chairs and tables on the highway, will there be a proliferation of chairs and tables on premises nearby. The Senior Licensing Officer confirmed that they understand that there aren't premises nearby that will be effected. Not aware of any premises in the area that have applied.
- If Huffkins that is in John Lewis apply for tables and chairs would that have an effect on the application. Senior Licensing Officer confirmed that they have not received an application from John Lewis and this was not mentioned in their objection.

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The applicant was then asked if she had any questions for the Senior Licensing Officer – confirmed not at this moment.

The objector was then asked if she had any questions for the Senior Licensing Officer she confirmed that she did as follows:

- Wondered how this application sits beside the part of the policy regarding sustaining local businesses – SLO replied that this could be seen as effecting local businesses or it could bring more customers to this part of the High Street. This was covered in his report.
- John Lewis is being referred to in particular but in the near vicinity is Soho Coffee and Costa Coffee that also sell soft drinks and refreshments has this been taken into account? The SLO replied that they had not received any representations from those premises with any specific concerns. Members need to consider if there would be damage to the other businesses or not.

The objector on behalf of Cheltenham BID was then asked to speak, her objections were as follows:

- Feedback from the businesses that the BID represent will have an effect on them, they have all had a really tough time, the grants have been very welcome but this does not cover the costs. Under normal circumstances they would be paying rates which helps the town.
- Social distancing may cause a problem and this will put a strain on Council officers and the Police.
- Other concerns were more around the number of businesses such as this, there is a doughnut stall and a falafel stall in the area which are in direct competition with businesses which pay business rates. The BID feels that there may be a better place for them to be situated.
- Also made the point that a lot of the businesses are closed at the moment therefore the staff are on furlough and would not be picking up emails which meant that they may have wanted to respond but haven't due to the circumstances.

The Chair then asked Members if they had any questions for the objector:

- There were no Member questions for the objector.

The Chair then asked the applicant if she had any questions for the objector that she would like to ask via the chair:

- She confirmed that she had no direct questions.

The Applicant was then given the opportunity to address the committee, she made the following points:

- She explained the nature of her business and that she was the owner and director.
- She stated that she believed that the business will bring an enhancement to the High Street and assist giving people more confidence in visiting the town centre.
- She explained that it is theatrical and will be a spectacle for people to enjoy, she hopes that it may enhance foot fall and where it is situated will hopefully bring foot fall into John Lewis.

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- Customer service and food hygiene of complete importance all staff will be uniformed and trained to the highest level.
- Covid social distancing rules will be maintained – they will bring in barriers as and when required.
- Ice cream pots and the spoons will both be fully recyclable and will encourage customers to recycle in the recycling bins around the town.
- The ice cream roll is very popular on social media and will be advertised on social media that will hopefully bring new people into the town.

The matter then went to Member questions as follows:

- Is the image in the report the actual unit? Confirmed that is not the actual unit but very similar.
- Why this location? Location chosen with consultation with the licensing department, fantastic footfall with being by John Lewis
- Where else do you currently operate? Do not have any other places they operate but they do some events
- How many staff will be employed? 4-6 members of staff on a part time rota basis alongside the applicant and her husband.
- Have you considered that queueing and social distancing might block emergency vehicle access – please can you explain where an emergency vehicle might come through? The queueing system will be within the boundary and not encroach they will add to the plan.
- Will there be someone to monitor the queue? Yes, we will have someone monitoring the queue if that is still needed by government guidelines.
- With regard to the recycling bins will you provide your own? The idea was to encourage people to use the recycling bins in town however more than happy to provide a bin for customers to use. They will also make sure that their litter is picked up at the end of the day.
- How long will 2 theatrically produced ice cream for people? 1 ice cream will take 2.5 minutes to prepare, customer picks flavours and toppings, clarified that 2 servings won't take 5 minutes as there will be 2 pans going all the time so 2 servings will take approximately 3-3.5 minutes.
- Also your licence requests permission to sell confection and drinks? Were hoping to have a waffle machine and a soft ice cream machine, however if this means that they can't have the site then they will withdraw this. The waffle machine is so that people can have it with an ice cream roll. They were hoping to sell soft drinks too but are happy to work with Members if this is a problem.
- The applicant was asked to explain how cool rolls are made which she did in detail.
- How much is the cost of one of these items? Between £3 and £3.50 per portion
- And what is the typical calorie content? Rough guess is approximately 400 calories depending on topping.
- Please can you clarify which direction the queue would be? Would be facing Barclays but would like to mark the map rather than pick it out.

There were no further Member questions.

The objector via the chair asked for further clarification on intention to work with local businesses and what benefit would it bring? The applicant is open to suggestions and doesn't want to work against businesses and would be happy to work in partnership with stores to promote both the stall and store.

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The matter then went to Member debate:

- Concern was raised that need to kickstart the town centre as we are in difficult times, doesn't see that social distancing is a reason to refuse. There is maybe some discussion required over the queueing.
- Is there a breach of regulations in that it is not an authorised plot, doesn't believe that it good tread on the toes of other shops, it's not so much food vending it is theatrical and a unique system people will come just to see – they are not just going to buy the ice cream and walk away. This can only be a benefit to that part of the town and can't see how it will take trade from the surrounding businesses.
- The High Street was already going through a hard time before Covid struck does this stall add to the offer in that part of Cheltenham or will it take away from it. Doesn't see that this will detract from the High Street.
- Innovative and fun concept and doesn't believe that 3 food stalls in the High Street are an excessive amount.
- Concern was raised about childhood obesity and the fact that it is in conflict with the licensing policy keeping children safe. The Chair explained that this application did not fall into this category.
- Supportive and will add to the town.
- This is a unique product that is on sale so doesn't believe that there is competition.
- Please can you clarify the rules for emergency vehicular access, if the queue is being marshalled does not seem to pose a problem.
- Public nuisance and public safety do not seem to be an issue, and it is up to the queue marshal to make sure that it is orderly, the vehicle design offers no issues. Would be minded that if approved a bin is offered at the location. Would like it to come back to committee if it will be renewed.

The Chair then asked the Senior licensing Officer is there was any accuracy points to raise:

- Wouldn't want to see a queue across the highway.

The Legal Officer was then asked for any comment and the comment was made that it was a productive debate.

The Applicant was then asked to make final comments:

- They will deal with the queue and if needed will submit a plan and will make sure Covid rules are maintained.
- The obesity point was then addressed and stated that they will encourage people to be treat wise. This is a treat and not a regular food item.

The matter of a recyclable bin was confirmed as to be added as a condition and when the licence is renewed that it comes to committee again to see if a success.

Vote was taken on that basis and 1.5.1:

For: 8

Against : 2

**GRANTED** with added conditions.

**6. AUTHORITY'S RESPONSE TO REVIEW OF THE GAMBLING ACT - CALL FOR EVIDENCE**

The Senior Licensing Officer introduced the report relating to the Council's response for evidence to the Government's review in December 2020 of the Gambling Act 2005. The report gave members the opportunity to comment on and endorse the response. The Officer pointed out that many of the areas were not directly relevant to licensing authorities and that the draft response was outlined in the Appendix 1 to the report.

There were no questions from members, however the Chair wished to ensure that the response pointed out there was no evidence that the Cheltenham run lottery was producing any harmful gambling and to ensure it did not undermine the huge amount of good work that was carried out to raise money for good causes through the lottery.

Alistair Henry (Licensing Enforcement Officer) was asked if he had any comments. He stated he had nothing much to add other than to clarify that reference was only made to the National Lottery regarding the intention to raise the participation age from 16 to 18 as there was a risk with scratch cards etc. Local Authorities who ran a lottery engaged a Lottery Manager to ensure all regulations regarding the Licensing Act were adhered to and he had no concerns over this.

A member suggested it would be possible to ascertain if there was any evidence of gambling abuse or addiction in connection with the Cheltenham Lottery. The Chair replied that he had already asked this question of the Officer responsible for the Lottery and that the reply had been there was no such evidence.

There being no further comments, the Chair asked if members were happy with the proposed letter in his name being sent as the response.

All members were in agreement.

**7. CHAIRS BRIEFING**

The Chair referred to the letter drafted by Officers and sent in his name to the All Party Parliamentary Group for the Night Time Economy calling for evidence into Covid 19 and the Night Time Economy. The Chair reminded members that Cheltenham was one of only seven local authorities mentioned in the report as contributing significantly and the only Tier 2 Authority. He felt this showed Cheltenham going above and beyond and gave credit to the Licensing Team for their work on the night time economy.

The Chair also mentioned the LGA webcast where the work the Council had done to support licensed premises throughout the pandemic had been highlighted and that the Purple Flag Accreditation documents were in the public domain showing what Cheltenham is doing to retain the Purple Flag and to keep the night time economy diverse, safe and enjoyable.

The Chair referred to the briefing note outlining the work that had been done following two licensing sub committees relating to late night recorded music and sale of alcohol at 129-131 the Promenade. Debriefs with Officers following these committees has resulted in printed copies of all Licensing Policies being available for the Chair at meetings; request for further member training and development which will happen after the elections in May and sub committees now being able to defer the decision making until after the meeting to enable Legal advice with a full written decision with reasons.

The Committee noted all of the above.

**8. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**

There were none, however as the next meeting was after the elections, the Chair wished to thank the Licensing, Legal and Democratic Services teams for all their dedicated work and support to the Licensing committees.

**9. DATE OF NEXT MEETING**

9 June 2021

David Willingham  
**Chairman**

**Full Licensing Committee**

**Wednesday, 9th June, 2021**

**6.00 - 6.10 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Jonny Brownsteen, Barbara Clark, Steve Harvey, Tim Harman, Diggory Seacome, Jo Stafford, Simon Wheeler and Suzanne Williams

**Minutes**

**1. ELECTION OF CHAIR AND VICE CHAIR**

The Legal Officer introduced the item.

Councillor Willingham was nominated as the Chair by Councillor Harvey and seconded by Councillor Stafford.

Councillor Boyes was nominated as the vice-chair by Councillor Willingham and seconded by Councillor Wheeler.

**2. APOLOGIES**

Apologies were received from Councillor Boyes.

**3. MINUTES OF THE PREVIOUS MEETING**

Approval was deferred until the next full committee on 1<sup>st</sup> September.

**4. MINUTES OF SUB-COMMITTEE MEETINGS**

Approval was deferred until the next full committee on 1st September.

**5. CONFIRMATION OF MEMBERSHIP OF SUBCOMMITTEES**

The Licensing miscellaneous committee was proposed as follows:

Councillor Willingham as Chair  
Councillor Boyes as Vice Chair  
Councillor Stafford  
Councillor Clark  
Councillor Seacome

The Alcohol and Gambling committee was proposed as follows:

Councillor Brownsteen  
Councillor Harvey  
Councillor Wheeler  
Councillor Williams  
Councillor Harman

The proposals went to the vote and were unanimously agreed.

**6. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**

There were no urgent matters, however the Chair gave notice that at the next meeting there will be a public speaker to talk about taxi accessibility for the visually impaired. He also gave notice that he intends to ask Licensing to look at the street trading policy to consider the parishes.

The meeting closed at 18:07

**7. DATE OF NEXT MEETING**

Next meeting to be held on 1<sup>st</sup> September at 18:00

David Willingham  
**Chairman**

## Licensing Sub Committee-Alcohol and Gambling

**Wednesday, 3rd March, 2021  
2.00 - 2.35 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Paul McCloskey (Chair), Tim Harman and Roger Whyborn
<b>Also in attendance:</b>	Vikki Fennell and Jason Kirkwood

### Minutes

**1. ELECTION OF CHAIR**

Cllr McCloskey was elected as Chair for the meeting.

**2. DECLARATIONS OF INTEREST**

None.

**3. LOCAL GOVERNMENT ACT 1972 EXEMPT INFORMATION RESOLVED THAT**

“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 3, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

Paragraph 2; Information which is likely to reveal the identity of an individual

**4. SECTION 132A LICENSING ACT 2003 - LICENSING AUTHORITY CONSIDERATION OF SUSPENSION OR REVOCATION OF A PERSONAL LICENCE**

The Senior Licensing Officer introduced the report and after consideration by members of the Committee, it was agreed not to revoke or suspend the personal licence and upon a vote of no further action, it was agreed:

**FOR : 3**

**AGAINST : 0**

**ABSTAIN : 0**

**CARRIED UNANIMOUSLY THAT NO FURTHER ACTION BE TAKEN**

**5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

None.

Paul McCloskey  
**Chairman**

**Licensing Sub Committee-Alcohol and Gambling**

**Tuesday, 22nd June, 2021  
2.05 - 3.20 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Angie Boyes and Tim Harman
<b>Also in attendance:</b>	Vikki Fennell and Jason Kirkwood

**Minutes**

**1. ELECTION OF CHAIR**

Cllr Willingham was elected as Chair.

**2. DECLARATIONS OF INTEREST**

Cllrs Boyes and Willingham had visited the site both independently and prior to the meeting.

**3. APPLICATION FOR A PREMISES LICENCE FOR 87 SALISBURY AVENUE, CHELTENHAM GL51 3DA**

The Senior Licensing Officer presented the report regarding an application for a premises licence for the sale of alcohol for retail at the premises located at 87 Salisbury Avenue between the hours of 06.00 and 23.00 hours.

Conditions had been added to the application by the Police Authority which the applicant was happy to comply with if the application was approved by the committee.

30 representations had been received from local objectors and those were attached to the report.

A member queried the determination of the application regarding the variance in the core time for selling alcohol of 9am as stated in the policy and the applicants request for 6am. The Officer explained this depended on any relevant representations to the earlier opening time.

In reply to whether certain community groups in the area had been able to submit objections, the Officer confirmed that all representations received were attached to the report.

The objector queried the opening times and these were confirmed by the Officer as being 6am to 11pm.

The Chair invited Mr Allan Knight who spoke in objection to the application to address the committee. Mr Knight thanked members for this opportunity. He stated he was disappointed that alcohol would be on sale for 17 hours every day. He pointed out the detrimental effects that alcohol had on the body, as well as the increasing risk of anti-social behaviour related to alcohol misuse and that this was not wanted in Warden Hill. He said betting shops and off licences

often attracted bad behaviour and crime and disorder and now that the betting shop in this locality had closed, a premises selling alcohol was not welcome. He believed that the conditions put on this application by the Police, suggested what could happen in the area. He pointed out the nature of this residential area with many local facilities frequented by families and children and did not want to see the fabric of the community destroyed by attracting more anti-social problems. He referred to the nearby Co-op and Morrisons and questioned the need for more buying capacity for alcohol. Mr Knight told members he had personal experience of the effects of alcohol on a person and believed all four licensing objectives would be broken in time if this premises licence was permitted. He suggested the committee had a moral and social obligation to reject the application.

The Chair explained that the committee needed evidence that the application would cause problems and clarified that the Police put similar conditions on most premises licences. He suggested the premises could be well run and asked if the objector had any evidence there would be a problem. Mr Knight replied he did not have any evidence as the shop was not currently there yet, but referred to evidence that could be found from google or other Police reports.

The Chair invited the second objector, ward councillor, Cllr Dobie, to address the committee. He confirmed that the committee had already received a letter from his colleague, Cllr Oliver, and that his comments were supplementary to that letter and he was objecting on behalf of the people. He stated that the business model seemed to be based on selling alcohol very early in the morning and late in the evening and that this was an area where children and adolescents played, with teenagers gathering later into evening who could be tempted to buy alcohol. He said the closing time was even later than the Co-op and with people living in the flat above the proposed shop, residents would be likely to suffer more noise nuisance. Those suffering from alcoholism could be attracted to the area and this could lead to rough sleeping with public nuisance consequences. He felt this was not suitable in this residential area, where neighbours would be disturbed, children exposed to risk and a temptation to alcoholics.

In reply to a question as to whether there was evidence of homelessness in Warden Hill which could be exacerbated, Cllr Dobie said there was no chronic problem in Warden Hill, but that was not to say that rough sleepers would not be attracted to this location with the opportunity to get alcohol very early in the morning. He stressed it was a very settled community.

In response to a further question on the age of the teenagers congregating, Cllr Dobie explained the teenagers were not actually hanging about but using the multi-use games area opposite which was very well used. It was more a risk of others buying for younger teenagers and that young people had ways of getting what they wanted, i.e forged identity cards. He hoped this risk would be mitigated by those running the shop but it was a risk that would not be removed.

The objector Mr Knight stated that alcoholics hid their addiction very well and would do anything to get a fix and were very good at adapting to what was around and that he did not feel the shop was relevant in this area.

The applicant confirmed that they actually planned to open from 7am to 10pm and that the reason they had applied for 6am – 11pm was so they could open earlier or close later on special days.

The Chair invited the applicant to address the committee. Mr Weerasinghe explained that he ran three businesses and that Alisha Gulwell would be the DPS for this premises and would be the main person at this location.

Alisha Gulwell addressed the committee stating that she had worked alongside the other two gentlemen present at their Northway store which was located in a very similar situation to the one that would be in Salisbury Avenue, with a Co-op, school, park etc all close by. She had applied to run this shop and explained that her father was helping her out financially and that she was getting her alcohol licence.

The business partner, Mr Bandara, made the following points to the committee:

- Regarding competition with the Co-op – he did not feel this was a fair objection in a democratic society when anyone could set up a business.
- Regarding safety – they planned to open from 7am to 10pm the same as the Co-op and Morrisons.
- Concerning teenagers in the play area, they could just as easily already go and buy alcohol from the Co-op.
- The shop in Northway had recently been commended by the Council for their community service in keeping the area clean and tidy and they planned to do the same and maintain the same standard here.
- Regarding alcoholics coming to the area, he pointed out all the premises in Bath Road only 5 minutes away and did not feel they would walk past those to get alcohol from them.
- The shop in Salisbury Avenue would be selling other household goods, it was not just alcohol.
- Re car parking, the back of the building had a large car parking space as well as the front, so parking would not be an issue.
- Would enforce Challenge 25 and have CCTV and have previous experience and know what to do. Also it was a decent area so not anticipating problems but do have experience in preventing crime.
- They would be happy to provide bins and keep the area clean.
- They would train staff.
- Finally he hoped local people would support them and the shop would provide jobs for local people.

In response to members' questions:

- Alisha Gulwell confirmed that she has a premises licence and that she hoped to get her alcohol licence that day. Mr Weerasinghe had an alcohol licence whilst Alisha was getting hers. She confirmed she used to work at the Northway store and thus had experience of running such a premises, including the Challenge 25 Scheme. She was also happy with the conditions imposed by the Police.
- Mr Bandara stated that they had asked the landlord and property agency about the car parking space at the rear and whether it was just for residents, but had been told using the space for customers was not a problem.

- With regard to mitigating potential risks to children the applicants had spoken to the relevant people and would take the necessary steps to avoid any harm.

The Objector, Mr Knight, queried the car parking situation suggesting the rear was for residents and operational running of the shops and not for customers. The Chair suggested it was not a matter that licensing could consider and was a civil matter between the applicant and their landlord.

There being no further questions the Chair opened the application for debate. Members fully understood the views of the objectors but they were constrained by law and the licensing policies. The proposed opening hours of 7am to 10pm were an improvement, but if the application was granted the applicant could revert to opening 6am to 11pm. It was thus suggested that a condition or variation be added to operate from 7am-10pm.

Another suggestion was to specify how many times a month / year they could operate the longer hours, but some members felt that for clarity a definite time would be preferable. The Licensing Officer proposed that the applicant could amend the application with the shorter time being the default with requests for any extensions. The applicant was happy to do this.

The Chair suggested however that members should vote on the longer time of 6-11, stating that it could be a well-managed shop and that unless there was evidence he was not convinced that there was a strong enough case to move away from that. If the premises was not well run a review of the conditions could be called and then there would be evidence and a stronger case for shorter hours.

A member accepted the difficult situation but wished to consider a slight amendment that would be more acceptable to residents and would not like to vote on the full hours requested.

The Chair proposed an amendment for the licence to run from 7am to 11pm and the applicant agreed to this.

A member recapped that the Police were the only ones who had come back with concerns and those had been satisfied with conditions. She felt there was no evidence to say the opening of the shop would pose any more of a problem, although she did empathise with the objectors. She felt measures were in place to comply with the licensing objectives and that there was not enough evidence to deviate from policy so would be minded to grant.

The Chair concurred with those thoughts stating that competition and things that were not material could not be taken into account. There could be a problem, but the applicants had experience and would hopefully run a tight ship. If not this could be reviewed and then there would be evidence from responsible authorities or objectors that there was a problem and this could be acted upon.

There being no further comments or questions the Chair moved to vote to grant the application with specific conditions as set out in the report and with the amendment of hours from 7am to 11pm.

**GRANTED unanimously**

The Chair concluded that the Licensing Officer would be in touch with the applicant to confirm the details and advised the objectors that if there was any evidence against the licensing objectives to contact the Police, Parish Council or Licensing Authority to request a review. All parties were reminded of their right to appeal to the local magistrates court within 21 days of the decision.

**4. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

None.

David Willingham  
**Chairman**

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**Licensing Sub-Committee - Miscellaneous**

**Wednesday, 7th April, 2021**

**4.00 - 5.25 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Mike Collins, Wendy Flynn (Vice-Chair), Diggory Seacome and Simon Wheeler
<b>Also in attendance:</b>	Jason Kirkwood and Vicki Hanstock

**Minutes**

**1. APOLOGIES**

There were no apologies.

**2. DECLARATIONS OF INTEREST**

Cllrs Willingham and Seacome declared they had visited the site with the Licensing Officer.

**3. APPLICATION FOR A STREET TRADING CONSENT - THE BEECHES CHARLTON KINGS**

The Senior Licensing Officer presented the report relating to a street trading consent from Melissa Hobbs to sell drinks and refreshments from a mobile unit at The Beeches Playing Fields, Charlton Kings. The consent was for 9 months and to operate from 07.00 to 18.00 hours every day. One objection had been received from a local business trader. The application was before committee as the Council's policy had permitted locations which were entirely within the town centre and this proposal was away from the town centre. An Officer recommendation was not given on this occasion and members were reminded to act in the public interest by considering the potential benefits for the wider community.

In reply to members' questions, the Officer confirmed:-

- That an initial charge of £113 was required to determine the application and if consent was granted there would be an additional charge to pay which was somewhat higher than in other places.
- That the lease was for a 9 month trial period and any effect or risk to existing nearby businesses would be monitored during this time.
- That pages 9 and 11 of the report had been duplicated.
- The normal process was that consultation with the Parish Councils was not undertaken, but they had been consulted on the disposal of the lease and were happy with this.

The objector, Mr Raymond Dowling was invited to address the committee. He said that members had seen his correspondence and objections so would not

dwelt on those but wished to refer to some points in the Officer's report. He stated that his ward councillors had raised concerns about the whole process and that he was not aware if the parish council had been consulted, nor had he been aware of any risk assessment having been carried out and thus it had not addressed any effect on the local economy. Regarding the disposal of the land for street trading, Mr Dowling had objected to this but not being au fait with the process may have done so incorrectly. He drew members attention to some points in the policy, namely to sustain established shop keepers and felt there was some unconscious bias in the report. He said that people did currently make the 10 minute round trip from the playing fields to his café for refreshments, but if there was a kiosk on the field then they would not and this highlighted the negative impact this would have on his business. He stated he had custom from all parts of the village and Sixways as he was situated in the hub of the community, but felt customers might by-pass him if there was another kiosk in the playing fields. He said he was all for competition but that the margins were so tight, especially recently with the pandemic, and even a small negative trade impact could result in him folding and could also not be sufficient to sustain the kiosk. He stated his café was in a good location and was a community asset, they had opened during the pandemic and had managed to keep going with support from the Council, and were just beginning to see light at the end of the tunnel which was being taken away by the opening up of a kiosk selling similar items.

In reply to a member question, the objector stated that his custom came largely from all around Charlton Kings, especially recently with the lockdown travel restrictions, as they were not a destination attraction.

The Chair invited the applicant's representative, Emma, to address the committee. Emma stated she fully understood the objector's concerns as it was a difficult time for all businesses, and said the applicant herself would normally be travelling around to festivals and events but that all her business had dried up. The applicant had approached the Council regarding several sites and this one was put forward which seemed favourable as she was from Charlton Kings and knew the area. During the tender process they looked to see if there would be enough trade to support the kiosk and they felt there was, as a shop closed down which children went to after school so felt this was a draw for youngsters at the back of the Beeches. Emma felt a lot of Mr Dowling's business came from the sheltered housing and felt people with mobility issues would not make the round trip to the kiosk along an uneven surface. She informed members they had joined Charlton Kings Business Connect Group and were keen to work together to increase footfall within Charlton Kings and support other local businesses. They had looked at Moosh's offering so that theirs would be different and felt local walkers in the field wouldn't necessarily go into the centre of Charlton Kings so would attract more spending locally. She acknowledged it was hard to work out exact figures at the moment with the pandemic and suggested it would change again as children went back to school and into the playing fields. She concluded by saying she felt a presence in the Beeches may help alleviate the antisocial behaviour that occurred in that area.

A member raised a point of order on equality and fairness in that the applicant's representative, Emma, and objector, Mr Dowling, should both be referred to in a similar manner. The Chair acknowledged this and apologised, but said it was

how the names appeared in his script and on the Web-ex screen. Emma did not offer her surname to amend how she was to be addressed.

A member asked a question about the disposal of litter, as this was an area of great concern at the moment in parks and open spaces. The applicant stated that at their kiosk in Burrows playing fields they supplied additional bins to those provided by the council, encouraged patrons to use the bins and recycled everything, which they would do at The Beeches. Prior to lockdown they had offered loyalty cards to encourage teenagers to litter pick in return for free drinks and they planned to do this again. Also at the end of each day they would clear their litter and that of others from the site. She also confirmed that all products would be sold in recyclable material, all cups being bio-degradable.

Another member asked the Objector about price comparability of products on sale, to which he replied that they appeared pretty much the same with some prices at the kiosk higher than his on some products and lower on others and vice versa.

The Objector asked the Applicant what evidence there was that the shop, The Forge, had been a thriving business, which closed down because of the pandemic resulting in a gap that needed to be filled. However, the Chair said this meeting was about looking at this application and although his representations could be taken into account, other businesses were not a material consideration.

The Licensing Officer summed up and clarified that this was not a re-run of the process to dispose of the lease. These were two completely separate processes and members must have regard to the Licensing Policy and act in the public interest. Additionally, concerning comments on competition, he pointed out that street trading guidance was not to regulate competition but not to promote unfair competition.

The Chair reiterated to members that they were considering the street trading consent only and that any decision made should be rational, reasonable and proportionate. If members wished to add any conditions, for example the applicant supplying litter bins, then this should demonstrate that this would prevent public nuisance and enhance the environment, with clear reasons given for that decision.

During the debate, members made the following comments:-

- Sympathised with both the Objector and Applicant. In these unprecedented times, we have a new business trying to make its way and an established business trying to keep going.
- Believed there was a clientele for both because of their locations, unless the quality of the offer varied.
- Think the kiosk would draw on a new clientele that would not necessarily go down to Moosh to get refreshments.
- As prices were deemed to be very similar, could not see this as being unfair, although there was obviously competition.
- Citing visits to other parks as examples, speculation on numbers of customers was pointless; the issue was the legality or otherwise of the kiosk being situated there and not the people patronising it.
- Did not believe the kiosk was unfair competition.

The Chair summed up stating that the Licensing Policy did not prohibit street trading outside of the town centre and consent had been granted in the past, so he was happy to vary that part. He thought that on balance the kiosk would be beneficial to the area and would serve people who used that part of the playing fields and also that he did not think this represented unfair competition. He felt the street trading kiosk was unlikely to cause an increase in public nuisance but that the presence of a business overlooking a skate park could deter anti-social behaviour in the area. He stated the appearance of the kiosk was acceptable and in keeping with guidelines and that the packaging and waste met the environmental credentials. Finally, he asked that if it were not already a standard condition of consent, that a condition be added stating that a bin must be provided by the applicant and litter taken away. He could see no material reasons to object and suggested it might improve the area and was happy to support it.

There being no further comments or questions, the Chair moved to vote on 1.5.1 of the report to approve the application.

For : 5

Against : 0

Abstain : 0

**GRANTED UNANIMOUSLY**

The condition to provide a litter bin was stated in the contract and therefore no vote on this was needed.

**4. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION**

The Chair wished to advise members of two points:-

- The current Licensing Policy did not require Parish Councils to comment and he recommended that this be re-considered at the next full licensing committee.
- In his role as Chair, he had received an anonymous complaint about an app based private hire operator. He stated that anonymous complaints could not be investigated, so if someone had evidence of wrong doing, they needed to make a complaint in writing to the Licensing Team.

David Willingham  
**Chairman**

**Licensing Sub-Committee - Miscellaneous**

**Wednesday, 28th April, 2021  
6.00 - 6.35 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Wendy Flynn (Vice-Chair), Diggory Seacome and Simon Wheeler
<b>Also in attendance:</b>	Claire Morris, Harry Mayo, Louis Krog, Vikki Fennell and Jason Kirkwood

**Minutes**

**1. APOLOGIES**

Apologies were received from Cllr. Collins.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest, though Cllr. Willingham stated that he visited the 2 proposed sites.

**3. APPLICATION FOR STREET TRADING CONSENT - BANCA ALVES CORTICEIRO COFFEE VAN**

The Licensing Team Leader presented the report, which related to an application for street trading consent to sell hot drinks, cakes, pastries and biscuits from a van on the pavement adjacent to Imperial Gardens.

Cllr. Wheeler asked when the railings would likely be installed. The Licensing Team Leader responded that this work was due to commence this year.

The applicant (Mr Daniel Corticeiro) thanked members for considering the application and responded to the objections. The van would increase access to artisanal coffee in the town and enhance the area. He acknowledged that there might be a small queue at the entrance of the park and possibly an issue with the railings but would take these into consideration. He did not intend to disrupt any local traders or events, and rejected the notion of possible market saturation in the area. He also suggested that he would be happy to accept a shorter license than 12 months, in line with the council's Covid recovery plan.

Cllr. Flynn asked the applicant about the orientation of the van. The applicant responded that he intended to have it pointing north, so any queues would take up no more than half of the pavement, but that he would be happy to reposition it if necessary.

Cllr. Seacome asked whether waste bins would be provided. The applicant responded that there would be a 30 litre bin next to the van.

Cllr. Willingham suggested that the plan seemed viable. Competition with other premises would be negligible and it would not cause a public nuisance or any safety issues. He was sure that there would be conditions on how the vehicle arrived from the public highway, as on similar sites. The appearance of the unit was appealing and the environmental credentials, including waste disposal, seemed solid.

Cllr. Flynn agreed that it would be an attractive addition, but was concerned about its proximity to the entrance of the park, and possible issues that may arise when the railings were installed.

Cllr. Willingham suggested that if the committee was minded to approve the application, they could apply conditions requiring the van to cease operation during large events organised by Marketing Cheltenham, and requiring it to be parallel to the pavement.

Cllr. Seacome asked the applicant from which part of the vehicle the coffee was served. The applicant responded that this was done from the back of the vehicle. Cllr. Seacome suggested that any queue should form along the railings so it did not block the pavement.

Cllr. Wheeler suggested that as there were no street traders currently on the site, the application would not crowd the area.

Cllr. Seacome asked if there were any reason why the van could not be parked closer to the Queens Hotel, which would avoid blocking off a bench. The Licensing Team Leader responded that although the application needed to be considered on the basis of the information provided, neither 131 nor the Queens Hotel had objected so it would not materially change the application too much. The applicant responded that he would be happy to move closer to the hotel if necessary.

The Chair moved to a vote on the application, on the conditions that it move slightly towards the Queens Hotel, that the serving hatch face the hotel, and that trading consent might be suspended for the installation of the railings.

The Legal Officer conducted the vote.

For: 4  
Against: 0  
Abstain: 0

#### **4. APPLICATION FOR STREET TRADING CONSENT - LA PIZZERIA**

The Licensing Team Leader introduced the report, which related to an application for street trading consent to sell Italian-style made-to-order stone baked pizza, barista coffee and soft drinks from a trailer.

Cllr. Willingham asked whether the land was private. The Licensing Team Leader responded that it was not on a public highway.

The applicant (Mr Richard Hancock) addressed the committee, emphasising his experience in the hospitality and retail sector and the quality of the product. The stall would employ at least 8 people and source plenty of ingredients locally to support local businesses.

Cllr. Seacome asked whether the vehicle would be left there set up each night or moved overnight. The applicant responded that it would remain in place overnight, and that the owners of the land had given permission for it to do so.

Cllr. Wheeler was concerned that it was a large vehicle which might dominate the street. However, there had been no objections on this basis from nearby shops or otherwise.

Cllr. Flynn described it as a suitable location for the unit, and noted that the food on offer would complement other local options.

Cllr. Willingham noted that due to Covid restrictions it would be beneficial to have another option for members of the public to eat outside. The clay ovens could be a potential nuisance but any problems would be dealt with by Environmental Health. It was on private land and there did not seem to be any public safety issues. Having visited the site, he reassured Cllr. Wheeler that it was not an overbearing unit. The applicant confirmed that waste would be disposed of promptly.

Cllr. Seacome noted that several nearby pubs served hot food, so the unit risked causing saturation. Cllr. Wheeler suggested that since the pubs served alcohol too, the offer was not quite the same.

Cllr. Wheeler added that he was concerned about the amount of room for queuing, considering social distancing guidelines. Cllr. Willingham noted that the report seemed to show an adequate amount of room for people to queue without blocking the footpath.

The Legal Officer conducted the vote on whether to grant the consent, not subject to any conditions.

For: 3  
Against: 1  
Abstain: 0

**5. LOCAL GOVERNMENT ACT 1972 EXEMPT INFORMATION RESOLVED**

“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

Paragraph 2; Information which is likely to reveal the identity of an individual

**6. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE**

The Senior Licensing Officer presented the report.

It was unanimously agreed that there would be no further action at this time.

**7. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION**

The Chair suggested that there should be some referral for drivers suffering from mental health issues as the last year has been extremely difficult for them.

David Willingham  
**Chairman**

**Licensing Sub-Committee - Miscellaneous**

**Wednesday, 7th July, 2021**

**6.00 - 6.45 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Angie Boyes (Vice-Chair), Alisha Lewis, Diggory Seacome and Jo Stafford
<b>Also in attendance:</b>	Claire Morris, Louis Krog and Vikki Fennell

**Minutes**

**1. APOLOGIES**

None

**2. DECLARATIONS OF INTEREST**

None

**3. APPLICATION FOR A STREET TRADING CONSENT**

The Licensing Team Leader introduced the report relating to an application from Marketplace Europe Limited for a street trading consent to operate the 2021 Cheltenham Christmas market. The market would operate from 24 November to 23 December, with the proposal to be located on the pedestrianised area outside Cavendish House on the Promenade, along the Long Gardens and Imperial Gardens to the Queens Hotel.

Representations both for and against this application had been received and most of the 24 objections related to the impact this would have on a couple of existing markets operated by Cotswold Markets Limited who would not have a location for their markets. However the objections had now largely been discharged as agreement had been reached over new locations along the High Street for the Cotswold Markets. Members would also have to approve the alternative locations for Mr Danter's roundabout and Mr Raviv Hadad's falafel stall, if they approved the main application.

In response to questions from members, the Officer replied:

- With regard to temporary positions falling within normal street trading locations, the falafel stall would only relocate a little further towards the junction with Winchcombe Street and so would still be within those bounds; the Danter's roundabout would move further down the High Street nearer the junction with Cambray Place and this was not in a permitted street trading area. However this was only for 3 weekends and this would not impact on future applications or set a precedent as each application had to be dealt with on its own merit. However the

Officer stated it would be preferable to find a long term solution to this, so that this was not repeated next year.

- In a normal year, discussions were held with the two different market operators to discuss when they would be on site and where, to avoid any clashes.
- Stall holders rent should not increase and their market share should not reduce as the new proposed location could accommodate the same amount of stalls.
- The objections were submitted before discussions were held with Cotswold Markets and Mr Joynes was happy with the new proposals on location and satisfied he could sell it to his traders.
- Regarding using an outside company for the Christmas market and pushing aside local businesses, this was beyond the Council's control. The bidding process was handled by the BID and Marketplace Europe were awarded it and Cotswold Markets were unsuccessful.

Mr Pigeon, Operations Manager from Marketplace Europe, was invited to speak in support of the application. He explained that he had tendered for this contract in March 2020 and been successful and that he operated weekly markets across the UK with Christmas markets in Bath, Glasgow and Belfast amongst others. He emphasised that he wanted to work with and include as many local traders and businesses as possible. It was not his ethos to come in and take over he wanted to add value to the town centre and local businesses. He said all the stalls would be wooden chalets and his application was for a longer period of time as renting or hiring for 2 weeks was too costly. He had visited all the proposed sites and wanted to include the Cotswolds markets who would be trading as well for the last 2 weeks and suggested this would bring people into the town and increase footfall. He wanted it to become a premier place locally for Christmas markets and for people to stay in Cheltenham rather than visit other Christmas markets in nearby cities. He would work closely with the BID and Marketing Cheltenham.

Jess Goodwin, Events Manager for Marketing Cheltenham and the Cheltenham BID, also spoke in support of the application. She said they wanted to regenerate the town centre, aid the town's economic recovery and increase footfall and that Christmas was a critical trading period. Due to Covid and the cancellation of the market last year, this year was even more important. She continued that previously the Christmas market did not attract visitors from beyond the county and that it was essential to put Cheltenham back on map and to stop people going to other places nearby. She felt Marketplace Europe could help do this and had the commitment to support the local economy. They organised the Belfast Christmas market which was now one of best in Europe. They were already reaching out to coach companies and running a successful educational programme working with local schools. She also welcomed the move to the High Street of the Arts and Crafts Market and said the two markets together would increase footfall in Cheltenham in the pre-Christmas period.

In reply to member questions, Mr Pigeon stated that Cotswold Markets liked to trade for 2 weeks only with shorter trading hours. It was also not feasible for a trader to rent a chalet on the Christmas market for just 2 out of the 4 weeks with another trader taking the other 2 weeks and for economic reasons it was more profitable to rent for 4 weeks. There had been much discussion about the

elements of trading between the two market holders, which had now been agreed.

A member asked how the education programme worked. Jess Goodwin explained that they would be promoting the market by linking in with the No Child Left Behind programme which the majority of schools were part of. Mr Pigeon continued that in Belfast school tours around the market and the various international stalls were organised, so children could learn about the cultures of different countries. The pupils would then share their experience with family who would hopefully wish to visit. Engagement also took place with event management university students who could have a look behind the scenes and the logistical operational of such markets. They were open to suggestions particular to Cheltenham and a suggestion was made of involving Cheltenham's twin towns. Jess Goodwin confirmed that part of the tender criteria was to use as many local traders as possible with the support of the BID and not to bring in too many external businesses.

The Chair moved to the debate and members made the following comments:

- Satisfied that the Christmas market complied with street trading aims. That it sustained established shops by attracting more people to the town centre; maintained the quality of the townscape and would add value to the town by bringing in more trade and customers. It would also encourage inward investment as the town recovered from the pandemic.
- In the interests of the whole Borough, happy that the local offer running alongside the main Christmas market was good and would bring good benefits to Cheltenham.
- Pleased that alternative locations for existing traders had been found and that the High Street was a good alternative to reach out to more people.
- Ensure that local residents were aware of the dates and location of the Cotswold and Farmers markets.
- The Licensing Team had negotiated well with the other parties involved, as there were none of the 24 objectors present at the meeting which was evidence that all objections had been discharged by the Officers and objectors were happy.

In reply to a final question, it was confirmed that Marketing Cheltenham would be running a Christmas campaign to bring people into the town and that all the markets would be included in this together with their locations and dates and times of operating.

There being no further questions or comments, the Chair moved to vote:

To approve the application as members were satisfied that the location was suitable in light of the policy provisions.

### **APPROVED unanimously**

To approve the alternative locations for Cotswold Markets Ltd, Mr Danter and Mr Raviv Hadad.

**APPROVED unanimously**

To delegate authority to the Licensing Team Leader to put in place the practical arrangements to enable the relocations.

**APPROVED unanimously**

The Chair wished that thanks to the Licensing Team Leader and team be placed on record for their work in getting a solution to this and he hoped it would be successful.

**4. BRIEFING - RESPONSE TO CONSULTATION ON COMMON HACKNEY CARRIAGE & PRIVATE HIRE LICENSING STANDARDS FOR GLOUCESTERSHIRE**

The Licensing Team Leader reported on the response to the consultation, outlining the main points and those with particular relevance to Cheltenham. He stated that the same standards would apply across the whole of the county and that as there had not been any feedback on the consultation from the trade, assumed that there were no objections.

Members stated it was an excellent and very thorough policy and good that licensing standards for Hackney Carriage and Private Hire was all being brought into line across Gloucestershire. Members wished to thank Gloucestershire Licensing Officers for their work to make licensing safer in the county and were happy for the policy to be implemented.

Members agreed to:

- 1. Note the revisions to the revised policy as outlined in the report; and**
- 2. For their positive comments to be submitted to Cabinet, as lead consultee to the Cabinet Member Customer & Regulatory Services.**

**5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION**

The Licensing Team Leader up-dated members on the appeal regarding 131 which was scheduled for the end of the month. The Council was being represented by a Barrister, with local residents, businesses and councillors participating and there were no representations. He hoped the decision should be known before the next full committee meeting in September.

David Willingham  
**Chairman**

**Cheltenham Borough Council****Licensing Committee – 1 September 2021****Review of a Hackney Carriage Driver's Licence****Mr Khalid Mahmood – HCD205****Report of the Licensing Officer****1. Executive Summary and Recommendation**

1.1 Mr Khalid Mahmood holds Hackney Carriage Driver's licence HCD205 and has been licensed since 2018.

1.2 On 04 August 2021 Mr Mahmood reported to the authority that he had received notice that 3 penalty points were to be imposed on his DVLA driving licence for a speeding offence, bringing his total number of points to 9. Details of the offences are attached as background papers.

1.3 In light of the offences and the information provided, the matter is being referred to the licensing committee to allow Members the opportunity to consider whether Mr Mahmood is a fit and proper person to hold a licence.

**1.4 The committee can:**

**1.4.1 Determine to take no action if Members consider Mr Mahmood to be a fit and proper person to hold a licence; or**

**1.4.2 Take such of the following steps as the committee consider appropriate:**

**(a) Give a written warning**

**(b) Require the driver to pass an approved private hire driving test, at the driver's own expense, within 2 months of their decision**

**(c) Suspend the licence (please refer to paragraph 4.5 in relation to this option)**

**(d) Revoke the licence**

**1.4.3 Subject to 1.4.2(c) or (d), Members should consider whether such suspension or revocation should take immediate effect in the interests of public safety.**

**1.5 Implications**

- 1.5.1 Legal There is a right of appeal against the revocation or suspension of a Hackney Carriage Driver's licence which, in the first instance, is to the Magistrates' Court.

**Contact officer: Vikki Fennell**

**E-mail: [Vikki.Fennell@tewkesbury.gov.uk](mailto:Vikki.Fennell@tewkesbury.gov.uk)**

**Tel no: 01684 272015**

## **2 Background**

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage Driver's licence is a fit and proper person to hold that licence. The safety of the public is the paramount concern.

## **3. Policy Considerations**

### **Appendix J - Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators**

- 3.1 The licensing authority must be satisfied that all those who are licensed to drive hackney carriages and / or private hire vehicles, and those who are licensed to operate under a private hire operator's licence, are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant to be licensed, in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver or operator's licence has received a relevant conviction, caution or fixed penalty.

Additionally, it will be referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver or operator's licence and used to help inform any decision as to the licence-holder's continuing fitness to hold a licence.

These guidelines shall apply to all new applicants for, and all existing holders of, hackney carriage / private hire driver's licences and private hire operator's licences.

#### **General Policy**

Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.

The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.

Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.

When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.

A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a “fit and proper person”, but criminal proceedings.

Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy may refer the application to a Licensing Committee for determination. This will result in either the determination of the applicant as a “fit and proper person”, indicated by the issue of a licence, or the application being refused. In these circumstances, the applicant has the right of appeal to the Magistrates’ Court, such appeal to be lodged within 21 days of the decision being notified.

### **Some important areas that will be considered by the Council are:**

Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.

- 3.2 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public. Each case will be decided on its own merits. The Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behavior which will be taken into account.

### **3.5 Convictions / cautions / fixed penalty notices**

Licence holders must notify the Council in writing within 7 days if he or she is convicted or cautioned for an offence or receives a fixed penalty notice.

### **3.6 Motoring Convictions**

Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

Convictions for traffic offences may not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence.

An existing licence holder who has 7 penalty points or more on his or her driving licence due to multiple offences, or 6 penalty points or more for one isolated offence, will be required to appear before the Licensing Committee to explain their convictions. The Committee then have the option

to:

- a. Take no further action
- b. Give a written warning
- c. Require the driver to pass a DSA private hire/hackney drivers test, at the driver's own expense, within 2 months of their decision
- d. Suspend the licence upon conditions or for a period of time
- e. Revoke the licence.
- f. Refuse to renew the licence (if such an application is being considered)

#### 4. Statutory Taxi & Private Hire Guidance

4.1 The Department for Transport's statutory guidance for licensing authorities was published in July 2021 and places a statutory duty on licensing authorities who "must have regard" to it when exercising their licensing functions.

4.2 The DfT standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, therefore the "importance of thoroughly considering these standards cannot be overstated."

Fit and proper test

4.3 The statutory guidance defines "fit and proper" as:

*"Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?"*

4.4 The statutory guidance goes on to say at paragraphs 5.13 and 5.14:

**If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.**

Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. **This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence.** The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction. [Emphasis added]

#### 5. Licensing Comments

5.1 The licensing committee must have regard to the statutory guidance and the provisions of its own policy when coming to a determination of this application for a review.

5.2 The committee is under a statutory obligation to ensure that persons licensed as hackney carriage drivers are, and remain, fit and proper people.

- 5.3 The council's policy is that an existing driver who accrues 7 or more penalty points will be referred to the licensing committee. Mr Mahmood has accrued 9 penalty points.
- 5.4 It is the council's policy that all licensed drivers must notify the authority in writing within 7 days if they have been cautioned for an offence. Members are advised that Mr Mahmood has complied with this requirement.
- 5.5 Mr Mahmood has been sent a copy of this report and invited to attend the meeting to answer members' questions.
- 5.6 Members are advised that whilst the council's policy gives the committee the option of suspending a licence, this should not be used as a punitive measure but rather as a corrective one where members feel a driver is not a fit and proper person at the present time but will become fit and proper in due course. For example, it may be appropriate to suspend a licence until such time as a driver demonstrates their suitability by passing a driving test.

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### Background Papers

### Service Records

### Report Author

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## Cheltenham Borough Council

### Licensing Committee – 1 September 2021

#### Consultation on revised Gambling Statement of Policy

#### Report of the Licensing Team Leader

### 1. Executive Summary and Recommendation

- 1.1 Cheltenham Borough Council (“the authority”) is required under section 349 of the Gambling Act 2005 to review and republish its Statement of Principles every three years.
- 1.2 The authority must also ensure that it complies with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (S.I 636 of 2006). These regulations govern the form statements must take, the procedure to be followed in relation to the preparation, review or revision of statements and the publication of statements.
- 1.3 A review has been undertaken in accordance with the statutory requirements. Given that there have been no substantial changes to legislation and national guidance, the proposed changes to the Gambling Policy Statement are minimal.
- 1.4 In May 2021, the statutory guidance was updated, although the Commission commented that it did not consider that licensing authorities would have to make any significant changes (if any) to their Statement of Policy in relation to the new statutory guidance, given that the changes were minimal and of no significant importance.
- 1.5 As such, and aside from minor updates, the only section of the Statement of Principles that has seen any substantial updates is section 5 that deals with local risk assessments for premises. This section has been updated to strengthen and clarify the local expectations relating to risk assessments.
- 1.6 The work to create local area profiles is still ongoing. This work requires input from GCC Public Health, but due to the Covid pandemic, this work has not started. The Statement of Policy notes (section 4) that this work is yet to be completed but this will not be done prior to the adoption of this iteration of the policy review.
- 1.7 **The Committee is recommended to:**
  - 1.7.1 **Note the proposed revisions to the Gambling Policy Statement; and**
  - 1.7.2 **Acting as lead consultee on all matters licensing related, provide a response to the Cabinet Member Customer & Regulatory Services on the consultation.**

### 1.8 Implications

Legal

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### 2. Proposed Policy Revisions

Consultation on revised Gambling Statement of Policy		Last updated 23 August 2021
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- 2.1 The revised policy statement is attached **Page 40**2 of this report.
- 2.2 For the sake of ease, tracked changes have been preserved on the revised policy statement to allow Members easy access to these changes:
- 2.2.1 Local Risk Assessments – 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 to have policies, procedures and control measures to mitigate those risks.

Proposed changes to section 5 seek to strengthen local risk assessments by clarifying what this authority will expect the local risk assessment to consider as a minimum.

- 2.2.2 Updates to gaming machine stakes and prizes (Appendix E)
- 2.2.3 Other minor updates as outlined in the draft statement of licensing policy.

### **3. Gambling Act 2005**

3.1 The Gambling Act 2005 is the primary legislation regulating all forms of gambling activity in the UK. Under the Act, gambling is defined as:

- gaming (within the meaning of section 6);
- betting (within the meaning of section 9); and
- participating in a lottery (within the meaning of section 14).

3.2 The Act sets out a number of licensing objectives that the authority is bound by when discharging any of its functions under the Act:

- a. preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- b. ensuring that gambling is conducted in a fair and open way; and
- c. protecting children and other vulnerable persons from being harmed or exploited by gambling.

### **4. Consultation and feedback**

4.1 When reviewing its policy statement, the authority is required to consult with:

- the chief officer of police for the authority's area,
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
- 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 this Act.

4.2 The authority must also advertise the publication of the reviewed policy statement by publishing a notice on its website and in one or more of the following places:

- a local newspaper circulating in the area covered by the statement,
- a local newsletter, circular, or similar document circulating in the area covered by the statement,
- a public notice board in or near the principal office of the authority,
- a public notice board on the premises of public libraries in the area covered by the statement.

**Report Author**

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**STATEMENT OF PRINCIPLES  
GAMBLING ACT 2005**



All enquiries should be directed to:

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This Policy was approved on xxx

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## PART A

### 1. The Licensing Objectives

1.1 In exercising most of their functions under the Act 2005 (“the Act”), licensing authorities must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

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

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

1.3 Cheltenham Borough Council (“The authority”) is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Commission;
- in accordance with any relevant guidance issued by the Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the Authority’s Statement of Licensing Policy.

### 2. Introduction

2.1 The authority is required by the Act to publish a Statement of Principles (“Statement”) which they propose to apply when exercising their functions. This Statement must be published at least every three years. The Statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The Statement must be then republished.

2.2 The authority will consult widely upon this Statement before finalising and publishing. A list of those persons who will be consulted is provided at Appendix A. The Act requires that the following parties are consulted by licensing authorities:

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

2.3 The authority recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of all the responsible authorities, local businesses and residents.

2.4 The Statement was considered for approval at a meeting of the Full Council on xxx and will be published via our website [www.cheltenham.gov.uk/licensing](http://www.cheltenham.gov.uk/licensing) on or by xxx. The authority

Should you have any comments regarding this Statement please send them via email or in writing to the Licensing Section:

Address: Licensing Section, Municipal Offices, Promenade, Cheltenham, GL50 9SA

Email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)

2.5 It should be noted that 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 Act.

### 3. Area Profile

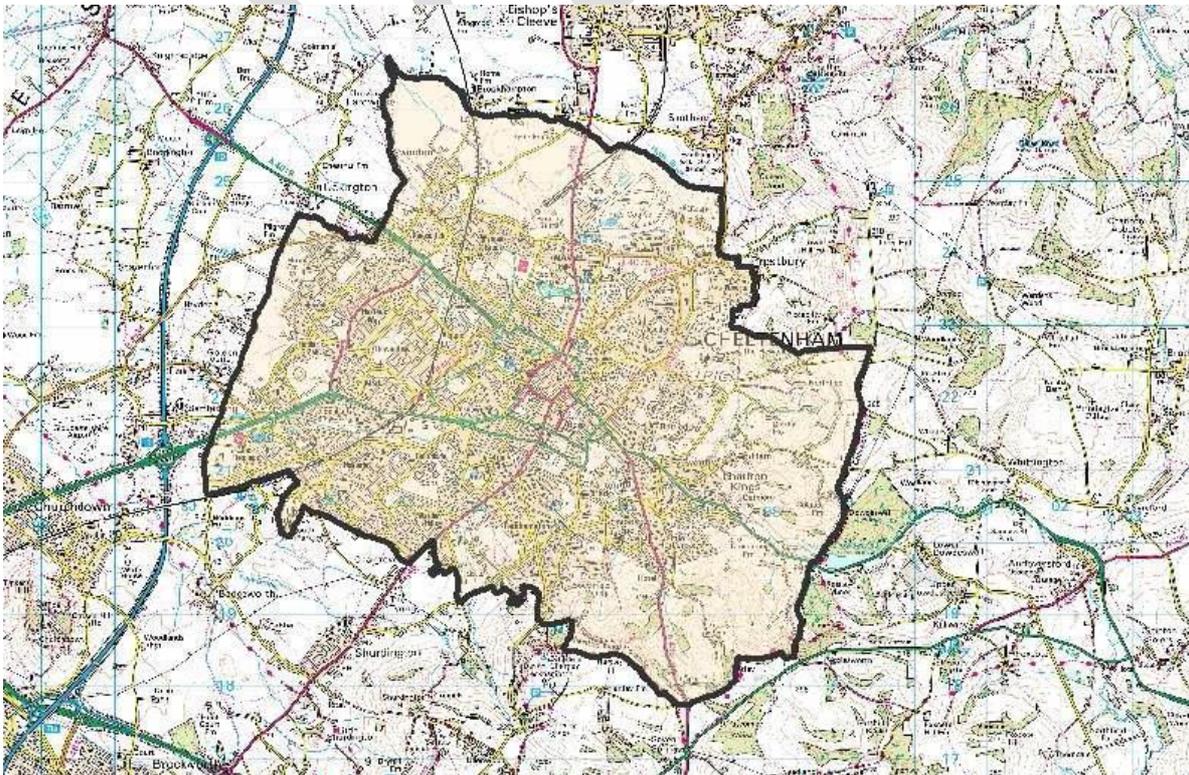
#### The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of approximately 116,500 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17% is designated as green belt and 22% as an area of outstanding natural beauty.

#### Demography

The population of approximately 116,500 will continue to rise over the next 20 years.



At the time of writing in 2021, the borough had 11 licensed betting premises, 1 track licence and 2 licensed Adult Gaming Centres.

## 4. Local Area Profile

4.1 The authority has not undertaken a local area profile at this stage. The authority does however recognise that gambling related health harm is often unknown and complex. The authority also notes that nationally 2.7% of the UK's population are recognised as problem gamblers. This Statement recognises that further work is necessary to understand the local picture of gambling-related harm in the borough.

4.2 Accordingly, it is the intention of the authority to engage with the County Council public health team in developing a local area profile, to assist applicants and licensees with their local area risk assessments.

## 5. Local Risk Assessments

5.1 The Commission's Licence Conditions and Code of Practice (LCCP) which were revised and published in February 2015 formalised the need for operators to consider local risks.

5.2 Social Responsibility (SR) code 10.1.1 requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to 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.

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

- when applying for a variation of a premises licence;
- to take account of significant changes in local circumstances, including those identified in this policy statement; and
- where there are significant changes at a licensee's premises that may affect their mitigation of local risks.

5.4 This authority will expect the local risk assessment to consider as a minimum:

5.4.1 the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;

5.4.2 the demographics of the area in relation to vulnerable groups;

5.4.3 whether the premises is in an area subject to high levels of crime and/or disorder.

5.4.4 how vulnerable people, including people with gambling dependencies are protected.

5.5 This authority will also expect local risk assessments to include, specifically, any relevant information about:

5.5.1 Self exclusion details

5.5.2 Attempts to gamble by under 18s

5.5.3 Outcome(s) of test purchase results

5.5.4 ASB issues on incident logs

5.5.5 Police reports and call outs

5.5.6 Sharing information with nearby agencies e.g. treatment centres

5.5.7 Any protections in place when footfall is the highest

5.5.8 Details of any best practise schemes such as Betwatch or similar

5.6 The SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority. Both provisions took effect from 6 April 2016.

5.7 Where concerns do exist, perhaps prompted by new or existing risks, the licensing authority will request that the licensee share a copy of its own risk assessment which will

set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of licence conditions are required.

### 4. Declaration

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

### 5. Responsible Authorities

7.1 Responsible Authorities are public bodies that must be notified of applications and who are entitled to make representations to the authority, if they are relevant to the licensing objectives.

7.2 The 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 it 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 authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

7.3 In accordance with the suggestion in the Commission's guidance for local authorities the designated body is the Gloucestershire Safeguarding Children Board for this purpose.

The contact details of all Responsible Authorities are attached as Appendix B.

### 6. Interested Parties

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

8.2 "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 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)."

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

8.4 Each case will be decided upon its merits. The authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Commission's guidance for local authorities.

8.5 It will also consider the Commission's guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- 8.6 Interested parties can be persons who are democratically elected, such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required, as long as the councillor or MP represents the ward likely to be affected.
- 8.7 Likewise, Parish Councils likely to be affected will be considered to be interested parties.
- 8.8 Other than these however, the authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 8.9 If individuals wish to approach Councillors to ask them to represent their views, care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. For more information, please refer to the adopted Licensing Committee's adopted "Probity in licensing".

### **7. Exchange of Information**

- 9.1 The authority will act in accordance with the provisions of the Act in its exchange of information, which includes the provision that the General Data Protection Regulation and The Data Protection Act 2018 will not be contravened. The authority will also have regard to any relevant guidance, regulations and the Act.
- 9.2 Should any protocols be established regarding information exchange with other bodies they will be made available upon request.
- 9.3 In fulfilling its functions and obligations under the Act, the authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the authority will conform to the requirements of data protection and freedom of information legislation, in accordance with the authority's relevant policies.
- 9.4 Any matters of non-compliance with the Act will, where appropriate, be reported to the Commission.
- 9.5 The authority will share information with other responsible authorities and the Commission where there is evidence of non-compliance with other legislation and regulatory regimes, relevant to the operation of the applicant's business.

### **8. Enforcement**

- 10.1 Licensing authorities are also required to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified
- 10.2 This Council's principles are that:

It will be guided by the Commission's guidance for local authorities and will endeavour to be:

**Proportionate:** regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;

**Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;

**Consistent:** rules and standards must be joined up and implemented fairly;

- Transparent: regulators should be open and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

10.3 As per the Commission's guidance for local authorities, the authority will endeavour to avoid duplication with other regulatory regimes, so far as is reasonably practicable.

The authority has adopted and implemented an inspection programme based on:

- The Licensing Objectives;
- Relevant Codes of Practice;
- Guidance issued by the Commission, in particular at Part 36; and
- The matters set out in this Statement of Principles.

10.4 The main enforcement and compliance role for the authority in terms of the Act, will be to ensure compliance with the premises licences and other permissions which it authorises. The Commission will be the enforcement body for operating and personal licences. It is also worth noting that concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the authority, but should be notified to the Commission.

10.5 Bearing in mind the principle of transparency, the authority's enforcement/compliance protocols/written agreements are available upon request to the Licensing Section.

## 9. Council Functions

11.1 The authority has a duty under the Act to licence premises where gambling is to take place and to licence certain other activities.

11.2 'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery. In particular, the authority will be responsible for:

- The licensing of premises where Activities are to take place by issuing *Premises Licences*.
- Issue *Provisional Statements*.
- Regulate *Members' Clubs and Miners' Welfare Institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits.
- Issue *Club Machine Permits to Commercial Clubs*.
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*.
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines.
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Register *small society lotteries* below prescribed thresholds.
- Issue *Prize Gaming Permits*.

- Receive and endorse *Temporary Use Notices*.
- Receive *Occasional Use Notices*.
- Provide information to the Commission regarding details of licences issued (see section above on 'Information Exchange').
- Maintain registers of the permits and licences that are issued under these functions.

11.3 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Commission via operating licences.

A table outlining how the authority will delegate its functions under this Act is attached at Appendix C.

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## **PART B**

### **PREMISES LICENCES : CONSIDERATION OF APPLICATIONS**

#### **1. General Principles**

- 1.1 Premises licences will be subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 The 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 Commission;
  - in accordance with any relevant guidance issued by the Commission;
  - reasonably consistent with the licensing objectives, and
  - in accordance with the Authority's Statement of Licensing Policy
- 1.3 It is appreciated that as per the Commission's guidance "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion.

**Meaning of "premises"** – In the Act, "premises" is defined as including "any place".

- 1.4 Section 152 therefore prevents more than one premises licence applying to any place. However, a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall, to obtain discrete premises licences where appropriate safeguards are in place.
- 1.5 The authority will however pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.
- 1.6 The authority takes particular note of the Commission's guidance which states that:

"Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice, that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling, where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable, so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context, it should normally be possible to access the premises without going through another licensed premises, or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

**The relevant access provisions for each premises type are reproduced below:**

### **Casinos**

- The principal access entrance to the premises must be from a 'street' (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage whether a thoroughfare or not);
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons; and
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

### **Adult Gaming Centre**

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

### **Betting Shops**

- Access must be from a street, or from another premises with a betting premises licence.
- There must be no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect, there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### **Tracks**

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

### **Bingo Premises**

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

### **Family Entertainment Centre**

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

1.7 Part 7 of the Commission's guidance contains further guidance on this issue, which this authority will also take into account in its decision making.

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

- 1.9 If the construction of premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, an application for a provisional statement should be made instead.
- 1.10 In deciding whether a premises licence can be granted where there is outstanding construction or alteration works at premises, the authority will determine applications on their merits, applying a two stage consideration process:
- First, whether the premises ought to be permitted to be used for gambling.
  - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 1.11 Applicants should note that the authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 1.12 **Location** – Demand-related objections and issues cannot be considered with regard to the location of premises, but the considerations in terms of the licensing objectives can.
- 1.13 As per the Commission’s guidance, the authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant to show how potential concerns can be overcome.
- 1.14 **Planning** – The authority has a duty to only take into consideration relevant matters, i.e. those related to gambling and the licensing objectives. An example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulation approval for their proposal.
- 1.15 It notes in particular from the Commission’s guidance:

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

***Duplication with other regulatory regimes, policies and strategies –***

- 1.16 By consulting widely prior to this Statement being published, the authority will take due account of local policies covering crime prevention, culture, transport, planning and tourism, as part of an integrated approach by the authority, Police and other agencies. Many of these strategies may not be directly related to the promotion of the three licensing objectives, but may indirectly impact upon them.
- 1.17 When considering any application, the authority will avoid duplication with other regulatory regimes as far as reasonably practicable. Therefore, the authority will not attach conditions to a licence, unless they are considered necessary, reasonable and proportionate to the use of premises for gambling, consistent with the licensing objectives.
- 1.18 **Licensing Objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the authority has considered the Commission's guidance and some comments are made below:
- 1.19 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - The authority is aware that the Commission will be taking a leading role in preventing gambling from being a source of crime. The Commission's guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime, the authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The authority is aware of the difference between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.
- 1.20 **Ensuring that gambling is conducted in a fair and open way** - The authority has noted that the 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. There is however, more of a role with regards to tracks which is explained in more detail in the 'tracks' section below - page 15.
- 1.21 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - The authority has noted the Commission's guidance that states this objective means preventing children from taking part in gambling (as well as the restriction of advertising so that gambling products are not aimed at, or particularly attractive to children). The authority will therefore consider, as suggested in the guidance, whether specific measures are required at particular premises, with regard to
- this licensing objective. Appropriate measures may include supervision of entrance/machines, segregation of areas etc.
- 1.22 The authority will also make itself aware of the Codes of Practice which the Commission issues as regards this licensing objective.
- 1.23 As regards the term "vulnerable persons", it is noted that the Commission is not seeking to offer a definition, but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs".
- 1.24 The authority will consider this licensing objective on a case by case basis. A list of organisations set up to give help and advice about problem gambling is attached at Appendix D.

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

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

1.26 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures The 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. The 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.

1.27 The authority will consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's guidance.

1.28 The authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective in preventing 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 of 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.

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

1.30 The authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Commission's guidance, the 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.

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

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

- conditions which provide that membership of a club or body be required (the Act 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.

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

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

### **Sharing local Risk Assessments**

1.34 The new code provision of 10.1.2 under the revised Licence Condition Codes of Practice from the Commission came into force in April 2016. Under this provision it states:

1.35 *Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licenced premises, or otherwise on request.*

1.36 In accordance with the new LCCP requirement, the authority will expect licensees to submit their local risk assessment when making an application in accordance with the code of practice's requirements.

## **2. Adult Gaming Centres**

2.1 The authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy The authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

2.2 The authority may consider measures to meet the licensing objectives such as:

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

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

## **3. (Licensed) Family Entertainment Centres**

3.1 The 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.

The authority may consider measures to meet the licensing objectives such as:

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

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

3.3 The authority will, as per the 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.

#### **4. Casinos**

4.1 *No Casinos resolution* - The authority has not passed a 'no casino' resolution under Section 166 of the Act 2005, but is aware that it has the power to do so. Should The authority decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision will be made by Full Council.

#### **5. Bingo Premises**

5.1 The authority notes that the Commission's guidance states:

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

5.3 A holder of a Bingo Premises Licence may make available for use, a number of Category B machines not exceeding 20% of the total number of gaming machines which are available for use.

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

#### **6. Betting Premises**

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

#### **7. Tracks**

- 7.1 The authority is aware that tracks may be subject to one, or more than one premises licence, provided each licence relates to a specified area of the track. As per the Commission's guidance, The authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) 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.
- 7.2 The authority will therefore expect the premises licence applicant 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, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3 The authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - Self-exclusion schemes
  
  - Provision of information leaflets/helpline numbers for organisations such as GamCare
- 7.4 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 7.5 *Gaming machines* – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 7.6 *Betting machines* – The 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 proposes to offer.

### **Applications and plans**

- 7.7 The Act requires applicants to submit plans of the premises with their application, in order to ensure that the authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the authority to plan future premises inspection activity.
- 7.8 Plans for tracks do not need to be to a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 7.9 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 7.10 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through 'occasional use notices' where the boundary premises do not need to be defined.

7.11 This Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

### **8. Travelling Fairs**

8.1 The authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than ‘an ancillary amusement’ at the fair is met.

8.2 This Council 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. The authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

### **9. Provisional Statements**

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

9.2 Section 204 of the Act provides for a person to make an application to the authority for a provisional statement in respect of premises that they:

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

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

9.4 In contrast to the premises licence application, the applicant does not have to hold, or have applied for, an operating licence from the Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

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

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

## 10. Reviews

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

- in accordance with any relevant Code of Practice issued by the Commission;
- in accordance with any relevant guidance issued by the Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the Authority's Statement of Principles.

10.2 The request for the review will also be subject to consideration by the authority as to whether the request is frivolous, vexatious, or whether it is substantially the same as previous representations or requests for review.

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

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

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

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

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

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

10.7 In particular the authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises.

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This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

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

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## PART C

### PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

#### 1. Unlicensed Family Entertainment Centre Gaming Machine Permits

- 1.1 Where a premises does not have a premises licence, but the owner wishes to provide gaming machines, they may apply to the authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 1.2 It should be noted that a Council cannot attach conditions to this type of permit.
- 1.3 The authority will expect the applicant to show that there are policies and procedures in place to protect children from harm.
- 1.4 Harm in this context is not limited to harm from gambling, but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truanting school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. The authority will also expect, as per Commission guidance, that applicants demonstrate:
  - a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - that staff are trained to have a full understanding of the maximum stakes and prizes.

#### 2. (Alcohol) Licensed Premises Gaming Machine Permits (Schedule 13 paragraph 4(1))

##### **Automatic entitlement: 2 machines**

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the authority. The authority can remove the automatic authorisation in respect of any particular premises if:
  - provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a condition of Section 282 of the Act (i.e. that written notice has been provided to The authority, that a fee has been provided and that any relevant code of practice issued by the Commission about the location and operation of the machine has been complied with);
  - the premises are mainly used for gaming; or
  - an offence under the Act has been committed on the premises.

##### **Permit: 3 or more machines**

- 2.2 If a premises owner wishes to have more than 2 machines, they need to apply for a permit and the Council must consider that application based upon the licensing

objectives, any guidance issued by the Commission issued under Section 25 of the Act 2005, and “*such matters as they think relevant*”.

- 2.3 The authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and it will expect the applicant to satisfy The authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.5 It should be noted that the authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

### **3. Prize Gaming Permits**

- 3.1 The Act states that a Council may “prepare a Statement of Principles that they propose to apply in exercising their functions under this Schedule” and “may, in particular, specify matters that the authority propose to consider in determining the suitability of the applicant for a permit”.
- 3.2 This Council expects that an applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
  - that they understand the limits to stakes and prizes that are set out in Regulations;
  - that the gaming offered is within the law;
  - clear policies that outline the steps to be taken to protect children from harm.
- 3.3 In making its decision on an application for this permit the authority does not need to have regard to the licensing objectives but must have regard to any Commission guidance.
- 3.4 It should be noted that there are conditions in the Act by which the permit holder must comply, but that the authority cannot attach conditions. The conditions in the Act are:
  - the limits on participation fees, as set out in regulations, must be complied with;
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if a non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling.

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#### **4. Club Gaming and Club Machines permits**

- 4.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 4.2 Commission guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations".
- 4.3 The Commission guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Commission's guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under Schedule 12;
  - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 4.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a Code of Practice about the location and operation of gaming machines.

#### **5. Temporary Use Notices**

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

TUN, according to the Commission, would include hotels, conference centres and sporting venues.

- 5.2 The authority can only grant a TUN to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by TUN, and at the time of writing this Statement the relevant regulations (SI no.3157: The Act 2005 (Temporary Use Notices) Regulations 2007) state that TUNs can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards TUNs. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Commission guidance to Licensing Authorities. As with “premises”, the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”.
- 5.5 In considering whether a place falls within the definition of “a set of premises”, the authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.6 This Council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Commission’s guidance.

## **6. Occasional Use Notices**

- 6.1 The authority has very little discretion as regards these notices, aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The authority will though consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.
- 6.2 The authority will notify the Commission of any notices made under this provision and share with them any relevant information.

## **APPENDIX A**

## CONSULTEES

Current Licence Holders  
Responsible Authorities  
The People of Cheltenham  
Cheltenham Borough Council Members  
Parish Councils  
Director of Public Health

Casino Operators' Association  
British Amusement Catering Trade Association (BACTA)  
British Casino Association (BCA)  
Association of British Bookmakers Ltd (ABB)  
The Bingo Association  
Lotteries Council  
Hospice Lotteries Association

Citizens Advice Bureau  
Chamber of Commerce  
Cheltenham Business Partnership Improvement District

GamCare, 2&3 Baden Place, Crosby Row, London, SE1 1YW  
Gamblers Anonymous, PO Box 5382, London, W1A 6SA

Independent Betting Arbitration Service, PO Box 44781, London, SW1W 0WR

## APPENDIX B

**CONTACT DETAILS FOR RESPONSIBLE AUTHORITIES**

**COUNCIL LICENSING**

Licensing Section  
Cheltenham Borough Council  
Promenade  
Cheltenham  
GL50 9SA

Telephone: 01242262626  
Email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)

**LOCAL PLANNING AUTHORITY**

Planning Enforcement  
Built Environment Division  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Telephone: 01242 264138  
Email: [builtenvironment@cheltenham.gov.uk](mailto:builtenvironment@cheltenham.gov.uk)

**THE GAMBLING COMMISSION**

Victoria Square House  
Victoria Square  
BIRMINGHAM  
B2 4BP

Telephone: 0121 230 6500  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

**GLOUCESTERSHIRE CONSTABULARY**

Licensing Unit  
Community Engagement Dept.  
Police HQ  
No1 Waterwells  
Quedgeley  
Gloucester  
GL2 2AN

Telephone: 01452 754482  
Email: [Licensing@Gloucestershire.pnn.police.uk](mailto:Licensing@Gloucestershire.pnn.police.uk)

The main Police switchboard number is 101.

**GLOUCESTERSHIRE FIRE AND RESCUE**

Chief Fire Officer  
Fire Service Headquarters

Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Telephone: 01452 753333  
Email: [fire@glosfire.gov.uk](mailto:fire@glosfire.gov.uk)

**GLOUCESTERSHIRE ACPC**

Safeguarding Children's Partnership  
Room 128  
1<sup>st</sup> Floor, Block 4  
Gloucestershire County Council  
Shire Hall  
Westgate Street  
Gloucester GL1 2TG

Email: [gsce@gloucestershire.gov.uk](mailto:gsce@gloucestershire.gov.uk)

**HM REVENUE & CUSTOMS**

HM Revenue and Customs  
Excise Processing Teams  
BX9 1GL  
United Kingdom

Telephone 0300 322 7072 Option 7  
Email [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

## APPENDIX C

## TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by lead Executive Councillor)
Application 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 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

Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

## APPENDIX D

### LIST OF ORGANISATIONS THAT GIVE HELP AND ADVICE ABOUT PROBLEM GAMBLING

The following organisations are working to tackle problem gambling and may be able to help individuals and/or organisations.

#### Responsibility in Gambling Trust (RIGT)

10 Brick Street  
London  
W1J 7HQ  
Tel: 207 518 0023  
Fax: 207 518 0174  
Email: [enquiries@rigt.org.uk](mailto:enquiries@rigt.org.uk)

#### Citizens Advice

Gloucester and District Citizens Advice Bureau  
75 - 81 Eastgate Street  
Gloucester  
GL1 1PN  
Tel: 01452 527202

#### Gam Anon

PO Box 5382  
London  
W1A 6SA  
National Help Line: 08700 50 88 80  
Midlands 0121 233 1335

#### Gamblers Anonymous (UK)

Birmingham 0121 233 1335

#### Gam Care

2nd Floor  
7-11 St John's Hill  
London  
SW11 1TR  
Tel: 020 7801 7000  
Fax: 020 7801 7033  
Email: [info@gamcare.org.uk](mailto:info@gamcare.org.uk)

#### Gordon House Association

43-47 Maughan Street  
Dudley  
West Midlands  
DY1 2BA  
Tel: 01384 241 292  
Email: [help@gordonhouse.org.uk](mailto:help@gordonhouse.org.uk)

#### NCH Children's Charity

85 Highbury Park  
London  
N5 1UD  
Tel: 020 7704 9037  
Fax: 020 7704 7134

#### NHC South West

Horner Court  
Statement of Principles - Gambling Act 2005 (2021)

637 Gloucester Road  
Horfield  
Bristol  
BA7 0BJ  
Tel: 01179 354 440  
Fax: 01179 512 470

National Debt Line  
Tel: 0808 808 4000

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## APPENDIX E

<b>Machine category</b>	<b>Maximum stake (from April 2019)</b>	<b>Maximum prize (from January 2014)</b>	<b>Allowed premises</b>
A	Unlimited	Unlimited	Regional Casino
B1	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
B2	£2	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, Adult gaming centre and all of the above
B3A	£2	£500	Members' club or Miners' welfare institute only
B4	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
C	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licensed premises (without additional gaming machine permit), Qualifying alcohol licensed premises (with additional LA gaming machine permit) and all of the above
D money prize	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above
D non-money prize (other than crane grab machine)	30p	£8	All of the above.
D non-money prize (crane grab machine)	£1	£50	All of the above.
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)	All of the above.

## APPENDIX F

The authority requires applicants to provide a risk assessment when applying for a premises licence, or when applying for a variation to an existing licence. The authority would expect relevant matters to include the following:

- institutions, places or areas where the presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds, leisure centres, community centres and entertainment venues such as bowling allies, cinemas etc;
- locations where children may congregate including bus stops, cafés shops, including those aimed at children such as toy shops and any other place where children are attracted;
- areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking etc;
- the demographics of the area in relation to vulnerable groups;
- the proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, homeless hostels and addiction and mental health support services, or any place where people who have an alcohol or drug dependency may congregate;
- the ethnic profile of residents in the area;
- the proximity of places of worship such as churches, mosques, temples or any other place of worship, or meeting place of any faith group;
- whether the premises is situated in an area of deprivation;
- information held by the licensee regarding self-exclusions and incidences of underage gambling;
- gaming trends that may mirror days for financial payments such as pay days or benefit payments;
- the proximity of pawn brokers or pay day loan shops;
- the proximity of other gambling outlets;
- the proximity of banks, public houses etc;
- whether the premises is in an area known to have high levels of crime and/or disorder;
- the proximity or areas used by street drinkers/rough sleepers and drug dealing activities;
- policies and procedures in place at the premises detailing how children and vulnerable people, including people with gambling dependencies, are protected. this could include staff training records on how to identify excessive gambling and vulnerable people and the steps to be taken to mitigate the risk;
- the layout of the premises including the siting of age restricted gaming machines to ensure that staff have an unobstructed view at all times of persons using the premises;
- the location and operation of CCTV at the premises. This licensing authority will expect operators to retain images for a minimum of 31 days, images must be downloadable to disc and made available on request to a delegated officer of any of the responsible authorities named in the Act. If the equipment becomes inoperative the police and the licensing authority must be notified as soon as is reasonable practicable and steps must be taken to repair the system as soon as possible. Staffing levels should be taken into consideration during any period of downtime;
- keeping details of people who have self-excluded;
- keeping details of under-age refusals and the results of any test-purchasing carried out at the premises.

## Cheltenham Borough Council

### Licensing Committee – 1 September 2021

#### Temporary Adjustment to Licensed Vehicle Insurance Requirements

#### Report of the Licensing Team Leader

#### 1. Executive Summary and Recommendation

- 1.1 In 2017, the authority’s executive approved a policy that requires all licensed hackney carriages to be wheelchair accessible vehicles (WAVs) by 31 December 2021.
- 1.2 As such, non-WAV licensed hackney carriage vehicles that renew their licences in 2021 are issued with shortened licences (to 31 December 2021).
- 1.3 The authority’s current requirements demand a full annual insurance policy as a licensing requirement.
- 1.4 Proprietors of these non-WAV hackney carriage vehicles with shortened licenses understandably do not want to pay for expensive annual insurance policies.
- 1.5 The committee is therefore asked to consider a temporary policy change to allow shorter term insurance requirements for drivers affected by shortened licences.
- 1.6 **The Committee is recommended to:**
  - 1.6.1 **Approve the changes to the authority’s licensing policy as outlined in paragraph 2.5;**
  - 1.6.2 **Approve the changes for a limited period to 31 December 2021; and**
  - 1.6.3 **Delegate authority to the Licensing Team Leader to implement these changes as necessary.**

#### 1.7 Implications

Legal

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#### 2. Proposed Policy Revisions

- 2.1 The authority’s taxi and private hire licensing policy imposes a requirement as follows:  
  
 “All vehicles must have a current, valid, *annual policy of insurance* at all times appropriate to the vehicle, the certificate for which must be carried in the vehicle at all times and be made available for inspection on request by any authorised officer of the Council or any Police Officer.”
- 2.2 Implementing the authority’s wheelchair accessible vehicle (WAV) policy, certain non-compliant vehicles’ licences were shortened to comply with the implementation date of 31 December 2021.
- 2.3 In light of this, officers are seeking consent from the committee to temporarily change the annual policy of insurance requirement so that vehicle proprietors with shortened licences do not have to comply with the annual policy of insurance requirement.

Temporary Adjustment to Licensed Vehicle Insurance Requirements		Last updated 23 August 2021
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- 2.4 Instead, for these vehicle proprietors, a monthly insurance requirement will be imposed. The requested policy change for this group of affected drivers will be temporary to 31 December 2021.
- 2.5 For the avoidance of doubt, the revised policy requirement will be include an additional provision as follows:

“The authority will agree, on a case to case basis, shorter insurance requirements for licensed hackney carriage proprietors with shortened vehicle licences as a consequence of the WAV policy requirement.

All other vehicles must have a current, valid, *annual policy of insurance* at all times appropriate to the vehicle, the certificate for which must be carried in the vehicle at all times and be made available for inspection on request by any authorised officer of the Council or any Police Officer.”

### 3. Delegation

- 3.1 Part 3C, Committee Functions, of the authority’s constitution delegates authority to the Licensing Committee to “Adopt and amend standard conditions for hackney carriage and private hire licences”.

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**Background Papers**

Service Records

**Report Author**

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