

Committee: **Licensing Committee**
Date: **Tuesday 15 December 2009**
Time: **6.30 pm**
Venue **Bodicote House, Bodicote, Banbury, OX15 4AA**

Membership

Councillor Eric Heath (Chairman)	Councillor Tony Ilott (Vice-Chairman)
Councillor Fred Blackwell	Councillor Margaret Cullip
Councillor Mrs Diana Edwards	Councillor Michael Gibbard
Councillor P A O'Sullivan	Councillor George Parish
Councillor G A Reynolds	Councillor Rose Stratford
Councillor Douglas Webb	Councillor John Wyse

AGENDA

1. Apologies for Absence and Notification of Substitute Members

2. Declarations of Interest

Members are asked to declare any interests and the nature of that interest which they may have in any of the items under consideration at this meeting.

3. Petitions and Requests to Address the Meeting

The Chairman to report on any requests to submit petitions or to address the meeting.

4. Urgent Business

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. **Minutes** (Pages 1 - 4)

To confirm as a correct record the Minutes of the meeting of the Committee held on 7 October 2009.

6. **Minutes of meeting Thursday 29 October 2009 of Licensing Sub Committee** (Pages 5 - 6)

To note the minutes of the Licensing Sub Committee meeting held on 29 October 2009.

7. **Gambling Act 2005 - Revised Statement of Licensing Policy** (Pages 7 - 46)

Report of Head of Urban and Rural Services

Summary

To seek final approval of revisions to the Statement of Licensing Policy.

Recommendations

The Committee is recommended:

- (1) To accept the amendments to the Statement of Licensing Principles as presented and adopt the revised Statement of Licensing Principles for publication.

8. **Hackney Carriage Vehicle Associations** (Pages 47 - 50)

Report of Head of Urban and Rural Services

Summary

1. To brief the Committee on the position with associations representing the taxi trade.
2. To secure approval for minimum requirements the Council requires taxi trade association to meet for the Council to consider them to be representative of the trade.

Recommendations

The Committee is recommended:

- (1) To note the position with trade associations across the District.
- (2) To approve the minimum requirements required from trade associations: being properly constituted, hold AGM's to elect Association Officers, to minute meetings, and to provide annual list of members.
- (3) To authorise officers to consult formally only with trade associations that meet these requirements.

9. Taxi License Applications and Appeals Process (Pages 51 - 60)

Report of Head of Urban and Rural Services

Summary

1. To secure approval for an amendment to the Council's Constitution and to the Scheme of Delegation relating to licensing activities within the Council.
2. To secure approval for revised Licensing Committee processes specifically in relation to dealing with Licence appeals by Hackney Carriage Vehicle (HCV) and Private Hire Vehicle (PHV) licence holders.
3. To secure approval for changes to the HCV and PHV license application process, specifically the Knowledge Test and disability awareness training.
4. To secure approval for inclusion of additional Conditions on HCV and PHV drivers licences.

Recommendations

The Committee is recommended:

- (1) To approve amendment to the Scheme of Delegation to clarify delegation to Head of Urban and Rural Services of enforcement powers and associated actions relating to both the Licensing Act 2003 and Gambling Act 2005.
- (2) To approve the amendments to the Taxi Licensing Appeals process as set out in this report by removing from Licensing Committee responsibility the function of receiving and hearing appeals.
- (3) To recommend to Council that the Council's Constitution is amended to reflect the recommendations in 1 and 2 above.
- (4) To approve the changes proposed for the Knowledge Test and Disability Awareness training for HCV and PHV licence applicants/holders as set out in this report.
- (5) To approve the inclusion of additional Conditions on HCV and PHV driver licences as set out in this report.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwell-dc.gov.uk or (01295) 221591 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item. The definition of personal and prejudicial interests is set out in Part 5 Section A of the constitution. The Democratic Support Officer will have a copy available for inspection at all meetings.

Personal Interest: Members must declare the interest but may stay in the room, debate and vote on the issue.

Prejudicial Interest: Member must withdraw from the meeting room and should inform the Chairman accordingly.

With the exception of the some very specific circumstances, a Member with a personal interest also has a prejudicial interest if it is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Queries Regarding this Agenda

Please contact Alexa Coates, Legal and Democratic Services alexa.coates@cherwell-dc.gov.uk (01295) 221591

Mary Harpley
Chief Executive

Published on Monday 7 December 2009

Agenda Item 5

Cherwell District Council

Licensing Committee

Minutes of a meeting of the Licensing Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 7 October 2009 at 6.30 pm

Present: Councillor Eric Heath (Chairman)

Councillor Tony Ilott
Councillor Margaret Cullip
Councillor Michael Gibbard
Councillor P A O'Sullivan
Councillor George Parish
Councillor G A Reynolds
Councillor Rose Stratford
Councillor Douglas Webb
Councillor John Wyse

Substitute Members: Councillor Lawrie Stratford (In place of Councillor Mrs Diana Edwards)

Apologies for absence: Councillor Mrs Diana Edwards

Officers: Chris Rothwell, Head of Urban & Rural Services
Natasha Barnes, Licensing & Vehicle Parks Manager
Alexa Coates, Senior Democratic and Scrutiny Officer

11 **Declarations of Interest**

There were no declarations of interest.

12 **Petitions and Requests to Address the Meeting**

The Chairman informed the committee that Mr Hayat, Chairman of the Cherwell Valley Taxi association had requested to address the committee but that this request had been withdrawn.

13 **Urgent Business**

There was no urgent business.

14 **Minutes**

The minutes of the meeting held on 11 June 2009 were approved as a correct record and signed by the Chairman.

15 **Minutes of meeting Friday, 1st May, 2009 of Licensing Sub Committee**

The minutes of the Licensing Sub Committee meeting held on 1 May 2009 were noted by the Committee.

16 **Minutes of meeting Wednesday, 15th July, 2009 of Licensing Sub Committee**

The minutes of the Licensing Sub Committee meeting held on 15 July 2009 were noted by the Committee.

17 **Minutes of meeting Tuesday, 4th August, 2009 of Licensing Sub Committee**

The minutes of the Licensing Sub Committee meeting held on 4 August 2009 were noted by the Committee.

18 **Specification for Taxis and Private Hire Vehicles - Consultation**

The committee considered a report of the Head of Urban and Rural Services which reported the responses to the consultation on the Hackney Carriage Vehicles and Private Hire Vehicles Specification. The committee were advised that the specification would be effective from 1 December 2009.

The committee discussed how purpose built vehicles would be identifiable as licensed taxis and were advised that the vehicles would have to be easily identifiable and that many purpose built vehicles are wheelchair accessible and by allowing purpose built vehicles this would increase the number of wheelchair accessible vehicles in operation.

The committee considered whether advertising on the rear of roof signs was appropriate, the committee requested that non-religious was added to list of approved advertising.

Resolved

- 1) That the feedback received on the vehicle specification consultation is noted
- 2) That the amendments to the current Vehicles Specification with the amendments set out in Appendix 1 in the minute book is agreed subject to the following amendments:

- a) Ref no 6.2 that non-religious is added to the list of approved advertising.
- b) That metric measurements are used consistently through the document.

The meeting ended at 7.20 pm

Chairman:

Date:

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Agenda Item 6

Cherwell District Council

Licensing Sub Committee

Minutes of a meeting of the Licensing Sub Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 29 October 2009 at 1.30 pm.

Chief Executive's Office

Mary Harpley Chief Executive

The logo for Cherwell District Council, featuring the word "Cherwell" in a stylized, serif font with a wavy underline.

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NORTH OXFORDSHIRE

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Direct Dial*

*Our ref NB/7904
Fax 01295 263143 Email*

Your ref

29 October 2009

Licensing Sub Committee - Hackney Carriage/Private Hire Vehicle Driver's Licence

I refer to the meeting of the Licensing Sub-Committee ("the Panel") meeting on Wednesday 29 October 2009 when the Panel considered your appeal against the Head of Urban and Rural Services' decision to refuse your application for a Hackney Carriage/Private Hire Vehicle Driver's Licence.

After careful consideration of the factors relevant to your case as presented by the Licensing Team Leader, and having listened to the representations made by you and your representatives the Panel decided to uphold the decision of the Head of Urban and Rural Services to refuse your Hackney Carriage/Private Hire Vehicle Driver's Licence.

The Panel came to this decision for the reason that you are not a fit and proper person to hold a Hackney Carriage/Private Hire Vehicle License. In reaching their decision the Panel had regard to you criminal conviction for battery, the Council's guidelines and the overriding need to ensure public safety and protection.

You have a right of appeal to the Magistrates' Court against the Panel's decision. The appeal must be lodged with the court within 21 days of the date you received this letter. You are strongly advised to contact your solicitor to ensure that you are aware of your rights.

Yours sincerely

Councillor Rose Stratford
Chairman of the Licensing Sub Committee 29/10/09

cc. Head of Urban & Rural Services
Members of the Licensing Sub Committee – Cllr Blackwell and Cllr O’Sullivan
Angela Porter Solicitors

The meeting ended at 2.00 pm

Licensing Committee

Gambling Act 2005 – Revised Statement of Licensing Principles

15 December 2009

Report of Head of Urban & Rural Services

PURPOSE OF REPORT

To seek final approval of the revised Statement of Licensing Principles.

This report is public

Recommendations

The meeting is recommended:

- (1) To accept the amendments to the Statement of Licensing Principles as presented and adopt the revised Statement of Licensing Principles for publication.

Executive Summary

Introduction

- 1.1 The development and adoption of the Statement of Licensing Principles (the “Statement”) is a statutory requirement under the Gambling Act 2005. Once published the Licensing Authority must review the Statement before each successive period of three years and publish any revision before giving it effect.
- 1.2 The function of approving the Statement and the subsequent reviews is the responsibility of the Licensing Committee.

Proposals

- 1.3 The proposed amendments are reflected as tracked changes in the Revised Statement Consultation Document which is attached as Appendix 1.
- 1.4 The amendments reflect updates and changes to the Guidance to Licensing Authorities issued by the Gambling Commission (May 2009) as well as updating relevant information relating to the district and Cherwell District Council.

Conclusion

- 1.5 There have been no significant amendments to the Statement. The only amendments suggested reflect the changes to guidance and regulations so that the Licensing Authority can carry out its Licensing functions in accordance with the legislation. This follows best practice and guidance.

Background Information

- 2.1 The current Statement was adopted and published in 2007 after a lengthy development and consultation period. The published document was approved for a period of three years.
- 2.2 The revised Statement was developed in liaison with the other district councils of Oxfordshire and discussion with the relevant Responsible Authorities.
- 2.3 In preparing the revised Statement, officers have had full regard to the Guidance to Licensing Authorities issued by the Gambling Commission (May 2009) and relevant Statutory Instruments
- 2.4 In accordance with the requirements of the Gambling Act 2005 the Licensing Authority consulted on the draft revisions. The consultation period ran from 22 October 2009 until 29 November 2009. Details of the consultees are given below.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The Committee are asked to consider that, as with the current Statement, the revised Statement has been developed in accordance with best practice and guidance as well as meeting legislative requirements.
- 3.2 A thorough consultation exercise has been carried out inviting in excess of 370 consultees to make comments regarding the revisions. A copy of the consultation letter is attached as Appendix 2.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One To accept the amendments to the Statement of Licensing Principles as presented and adopt the revised Statement of Licensing Principles for publication for a period of 3 years.

Option Two To accept the amendments to the Statement of Licensing Principles as presented, add any further amendments suggested by the Licensing Committee and adopt the revised Statement of Licensing Principles for publication for a period of 3 years

Option Three To reject the amendments to the Statement of Licensing Principles as presented and adopt the current Statement of Licensing Principles for publication for a period of 3 years

Consultations

The Act requires that before publishing revisions the Licensing Authority must consult the following on the Draft Statement:

The Chief Officer of Police No comments were received from 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 The Licensing Authority received one representation from the British Amusement Catering Trades Association (BACTA) on behalf of their members. The response stated:
"We note that your consultation follows the model format circulated by LACORS (Local Authorities Coordinators of Regulatory Services) and commend this as we believe that premises licence decisions should be administered consistently between local authorities."

The representation then went on to request that the Licensing Authority have regard to their further comments when making decision on applications made under the Gambling Act 2005.

The areas highlighted by BACTA are covered by the revised Statement, the Gambling Act 2005, the Guidance and the relevant Statutory Instruments and therefore have not necessitated any further amendments to the revised Statement.

The full response is provided at Appendix 3.

One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005 No comments were received from persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005.

Implications

- Financial:** There are no financial effects from adopting the Statement other than the cost of communicating the revision to the relevant parties. There are financial consequences for the preparatory work of publishing the revised Statement which can be met from existing revenue budgets.
- Comments checked by Karen Muir, Corporate System Accountant 01295 221559
- Legal:** The revised Statement of Licensing Principles has been developed in accordance with the relevant legislative requirements and a full consultation has been carried out. Approval of the revised Statement will be published in accordance with the Statutory Instrument 2006 No. 636 **The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.**
- Comments checked by Nigel Bell, Solicitor
01295 221687
- Risk Management:** There is a risk that the Statement of Licensing Principles could be challenged at Judicial Review, this risk is mitigated however by the fact that Officers have developed the Statement in accordance with the relevant legislative requirements and a full consultation has been carried out.
- Comments checked by Rosemary Watts, Risk Management & Insurance Officer, 01295 221566

Wards Affected

All wards

Document Information

Appendix No	Title
Appendix 1	Revised Statement of Licensing Principles Gambling Act 2005 - Consultation Document
Appendix 2	Copy of Consultation Letter.
Appendix 3	Response from British Amusement Catering Trades Association (BACTA)
Background Papers	
Gambling Act 2005 Guidance to Licensing Authorities issued by the Gambling Commission (May 2009)	
Report Author	Natasha Barnes, Licensing & Vehicle Parks Manager
Contact Information	01295 753738 natash.barnes@Cherwell-dc.gov.uk



**REVISED STATEMENT OF
LICENSING PRINCIPLES
GAMBLING ACT 2005**

**(CONSULTATION DOCUMENT)
OCTOBER 2009**

**CLOSING DATE FOR RESPONSES
29 NOVEMBER 2009**

FOREWORD

This Statement of Licensing Principles ('The Statement') has four main purposes, which are:

- To confirm to elected Members of the Licensing Committee, the boundaries and powers of the Authority and the parameters within which to make decisions.
- To inform licence applicants of the parameters within which the Authority will make licensing decisions and therefore how licensed premises are likely to be able to operate within the area.
- To inform local residents and businesses of the parameters within which the Authority will make licensing decisions and therefore how their needs will be addressed.
- To support a case in a court of law if the Authority has to show how it arrived at its licensing decisions.

This Statement details the policies of Cherwell District Council in its capacity as the Licensing Authority under The Gambling Act 2005. It deals specifically with the activities that are licensable under the Act, there are however a number of exemptions relating to small scale activities.

Further information regarding the exemptions may be found through the Department for Culture Media and Sport website www.culture.gov.uk or by contacting the Licensing Team at the address below.

If you have queries about licensing issues, please contact:

Licensing Team
Urban & Rural Services
Cherwell District Council
Bodicote House
Bodicote
Banbury
OX15 4AA

Telephone: 01295 753744
Fax: 01295 221878
Email: licensing@cherwell-dc.gov.uk
Website: www.cherwell.gov.uk

Any queries regarding licensing policy issues should be forwarded in writing to the above address.

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1. Introduction

1.1 The Licensing Objectives

1.1.1 The Gambling Act 2005 ('the Act') gives licensing authorities various regulatory functions in relation to gambling. The main functions are:

- Licensing premises for gambling activities;
- Considering notices given for the temporary use of premises for gambling;
- Granting permits for gaming and gaming machines in clubs and miners' welfare institutes;
- Regulating gaming and gaming machines in alcohol licensed premises;
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- Granting permits for prize gaming;
- Considering occasional use notices for betting at tracks;
- Registering small societies' lotteries.

1.1.2 Cherwell District Council ('the Council') is a Licensing Authority for the purposes of the Act.

1.1.3 Annex 1 gives a summary of the Licensing Authority delegations permitted under the Act.

1.1.4 In exercising most of their functions under 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 Cherwell District

1.2.1 This Statement has been formulated taking into account the character of the District and the nature of the entertainment and hospitality industry in the District.

1.2.2 The area of the District comprises three main urban centres in Banbury, Bicester and Kidlington together with a rural area which comprises some 35% of the District population, which is now in excess of 137,500.

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1.2.3 Both Banbury and Bicester being market towns have long provided a focal point for entertainment for people from the immediate surrounding area. Kidlington being situated close to Oxford is affected by entertainment facilities provided there.

1.2.4 A map of Cherwell District is attached as Annex 2.

1.3 General Advice

1.3.1 The aim of the Statement is to ensure compliance with the Gambling Act 2005. namely:-

- To assist businesses so they do not breach licensing requirements
- To protect the health and welfare of the general public

1.3.2 The Council seeks to secure compliance with the law in a variety of ways. Most of the dealings with individuals and businesses are informal, providing advice and assistance over the telephone, during visits and in writing.

1.4 Consultation

1.4.1 This Statement has been produced in compliance with DCMS regulations, Gambling Commission and LACORS (the Local Authorities Coordinators of Regulatory Services) guidance. The Statement has been produced in liaison with the Oxfordshire Licensing Group. The following persons/bodies will be consulted upon this policy and any future revisions and their views will be taken into consideration when finalising the Statement:-

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

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1.4.2 The Statement will remain in force for no more than 3 years, but may be reviewed at any time.

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<#>A full list of consultees is attached as Annex 2.¶

1.5 Declaration

1.5.1 This Statement has been prepared with due regard to the licensing objectives, the guidance to Licensing Authorities issued by the Gambling Commission (May, 2009), and with due weight attached to any responses received from those consulted.

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1.5.2 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.

1.6 Responsible Authorities

1.6.1 Responsible Authorities are public bodies who must be notified of an application and are entitled to make representations to the Licensing Authority in relation to applications for, and in relation to, premises licenses. The Responsible Authorities under the Gambling Act 2005 for the area of the Cherwell District are:-

- The Licensing Authority (Cherwell District Council)
- The Gambling Commission
- The Chief Officer of Police for the area the premises is wholly or partially situated in
- The local Fire Authority
- The Planning Authority (Cherwell District Council)
- The Environmental Protection Department (Cherwell District Council)
- A body designated in writing by the Licensing Authority as competent to advise about the protection of children from harm
- HM Revenue and Customs
- Any other persons prescribed in regulations by the Secretary of State

In the event that the premise is a vessel, the following body also become responsible authorities

- The Environment Agency
- The British Waterways Board
- The Maritime and Coastguard Agency

1.6.2 The contact details of all the Responsible Authorities under the Act are attached at Annex 3 and available via the Council's website at www.cherwell.gov.uk.

1.6.3 In exercising the Council's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

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

1.6.4 Having regard to the above principles, the Council has designated the Oxfordshire Safeguarding for Children Board for this purpose.

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1.7 Interested Parties

1.7.1 Interested Parties can make representations about licence applications, or apply for a review of an existing licence. The Act defines Interested Parties as persons who, in the opinion of the Licensing Authority;

- (a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) have business interests that might be affected by the authorised activities; or
- (c) represent persons who satisfy paragraph (a) or (b) *

1.7.2 Whether or not a person is an Interested Party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults;
- the 'catchment' area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected.

1.7.3 This list is not exhaustive and other factors may be taken into consideration in an individual case.

1.7.4 * The Council considers the following bodies/associations fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:-

- trade associations;
- trade unions;
- residents' and tenants' associations;
- district ward/ county division/ town/ parish councillors;
- MPs.

1.7.5 This list is not exhaustive and other bodies/associations may also be considered. In other cases, the Council may require written evidence that the person/association/body represents an Interested Party.

1.8 Exchange of Information

1.8.1 The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council's functions, and to maintaining confidence between the people/ bodies the Council deals with. The Council ensures that it treats information lawfully and correctly.

1.8.2 The Council may share information in accordance with the following provisions of the Act: -

- Sections 29 & 30 (with respect to information shared between the Council and the Gambling Commission);
- Section 350 (with respect to information shared between the Council and the other persons listed in Schedule 6 to the Act).

1.8.3 In the exercise of the above functions, consideration shall also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Gambling Commission and to the Council's policies in relation to data protection and freedom of information.

1.8.4 *The Council will adopt the principles of better regulation.*

1.8.5 The Licensing Authority has a protocol on information exchange with the other four licensing authorities in Oxfordshire, Thames Valley Police, the Environmental Health Service of each district council in Oxfordshire and Oxfordshire County Council's Social and Health Care, Fire and Rescue Service and Trading Standards. This will be updated to reflect the 2005 Act and will be available on the Council's website or on request.

1.8.6 Any person wishing to obtain further information about their rights under the Data Protection Act 1998 or the Freedom of Information Act 2000 may view the Council's policies at www.cherwell.gov.uk or alternatively contact the Data Protection Officer, Head of Legal and Democratic Services on 01295 252535.

1.9 Enforcement

1.9.1 The Council will adopt a risk-based approach to the inspection of gambling premises. This will allow for the targeting of high-risk premises or those where a breach would have serious consequences. Premises that are low risk and/ or well run will be subject to a less frequent inspection regime.

1.9.2 Where necessary, appropriate enforcement (including prosecution under section 34(6) of the Act) will be carried out in a fair and consistent manner and in accordance with

- The Oxfordshire Joint **Enforcement** Protocol (to which the Council has signed up) (*)
- Cherwell District Council enforcement policies (*)
- Other National compliance or best practice guidance where applicable

1.9.3 (*) Copies of the above documents are available on request from the Licensing Team.

1.9.4 The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

1.9.5 Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission.

1.10 Appeals

1.10.1 Sections 206 to 209 of the Gambling Act provide a right of appeal to the Magistrates' Court against the decision of the Licensing Authority.

1.10.2 Notice of appeal must be given within 21 days of notice of the decision being received by the appellant to the Magistrates' Court.

1.10 Delegation of Licensing Functions

1.10.1 The Council has agreed a scheme of delegation that details which matters under the Act are to be dealt with by The Council, a Sub-Committee of the Licensing Committee and Officers.

1.10.2 The scheme of Licensing Authority delegations is attached as Annex 1.

2. Permits

2.1 Gaming Machine Categories

- 2.1.1 Gaming machines will be divided into categories, with different entitlements set out in the Act to use the various categories. This section requires the Secretary of State to define, in regulations, four classes of gaming machine, to be known as categories A, B, C and D.
- 2.1.2 The categorisation will refer to the particular facilities for gambling which are offered on the machine. In particular, *under subsection (4)*, the regulations can specify:
- the maximum amounts that can be paid to use the machine;
 - the value or nature of the prize delivered as a result of its use;
 - the nature of the gambling for which the prize is used; or
 - the types of premises on which it can be used.
- 2.1.3 The intention is that Category D will have the lowest levels of charge and prizes, and that these will increase in value, up to Category A, which will be a machine with no limits as to charges and prizes.
- 2.1.4 Categorisation of Gaming Machines are shown in Annex 4
- 2.1.5 Annex 5 sets out the permitted number of gaming machines at each type of premise.

2.2 Unlicensed Family Entertainment Centre Gaming Machine Permits (FECs)

- 2.2.1 Unlicensed Family Entertainment Centres will be able to offer category D machines if granted a permit by the Council. If an operator of an **FEC**, wishes to make category C machines available in addition to category D machines, they will need to apply for an Operating Licence from the Gambling Commission and a Premises Licence from the Council.
- 2.2.2 The Council can grant or refuse an application for a permit, but cannot attach conditions.
- 2.2.3 As unlicensed family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues, particularly where there is a mixture of category C and D machines.
- 2.2.4 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed **FECs**; that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

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2.3 (Alcohol) Licensed Premises Gaming Machine Permits

- 2.3.1 Premises licensed to sell alcohol for consumption on the premises, can automatically have 2 gaming machines, of categories C and/or D. The holder of the Premises Licence authorising the sale of alcohol will simply need to notify the Council, and pay the prescribed fee.
- 2.3.2 The Council 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 *this Section requires written notice and fee payable to the Licensing Authority*;
 - the premises are mainly used for gaming; or
 - an offence under the Act has been committed on the premises.
- 2.3.3 If a premise wishes to have more than 2 machines, then the holder of the Premises Licence will need to apply for a permit. The Council shall consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.
- 2.3.4 The Council shall determine what constitutes a relevant consideration on a case-by-case basis, but weight shall be given to the third licensing objective i.e. protecting children and vulnerable persons from being harmed or being exploited by gambling. To this end, the Council will expect applicants to demonstrate that there will be sufficient measures in place 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 **gaming** 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 **which effectively restrict access** may also be **required**. With respect to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare, which can be downloaded from www.gamcare.co.uk.
- 2.3.5 It is recognised that some alcohol-licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with under this Act.
- 2.3.6 The Council 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.
- 2.3.7 The holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

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2.4 Prize Gaming Permits

- 2.4.1 Applicants for prize gaming permits should set out the types of gaming that he or she is intending to offer. The applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations; and
 - that the gaming offered is within the law.
- 2.4.2 In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance. Weight will be given to child protection issues, and relevant considerations are

likely to include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits must disclose any previous relevant convictions to the Council.

2.4.3 The Council can grant or refuse an application for a permit, but cannot attach any conditions. However, there are 4 conditions in the Act that permit holders must comply with. These are:

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

2.5 Club Gaming and Club Machine Permits

2.5.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (4 machines of categories B3A, B4, C or D), equal chance gaming and games of chance.

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2.5.2 If a club does not wish to have the full range of facilities permitted by a Club Gaming Permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a Club Machine Permit, which will enable the premises to provide gaming machines (4 machines of categories B3A, B4, C or D).

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2.5.3 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.

2.5.4 An application may only be refused on one or more of the following grounds:

- 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;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a condition of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or;
- an objection has been lodged by the Gambling Commission or the Police

2.5.5 The Council shall have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.

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

2.5.7 The grounds on which an application under the fast track procedure may be refused are:

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

2.5.8 The Council can grant or refuse an application for a Club Gaming or Club Machine Permit, but cannot attach any conditions.

Deleted: However, there are a number of conditions in the Act that the holder must comply with.

Deleted: <#>Annex 6 sets out the permitted number of gaming machines at each type of premise.¶

3. Premises Licences

3.1 Decision Making - General

3.1.1 In accordance with Section 153 of the Act, the Council shall aim to permit the use of premises for gambling in so far as it thinks it **is**:

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

3.1.2 The Council will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

3.1.3 Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the Council when considering applications for Premises Licences.

3.2 Location

3.2.1 The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern

- schools
- vulnerable adult centres
- residential areas with a high concentration of children

3.2.2 Much will depend upon the type of gambling that it is proposed will be offered on the premises. The Council will, where appropriate, consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, the applicant will be invited to show how they propose to overcome such concerns.

3.3 Multiple Licences/ Layout of Buildings

3.3.1 Premises are defined in the Act as including 'any place', but no more than one Premises Licence can apply in relation to any one place under this Act. A single building can be subject to more than one Premises Licence, provided they are for different parts of the building and those parts can reasonably be regarded as being different premises. **It should be noted that the Licensing Authority will refuse licences where the premises have been artificially sub-divided.**

3.3.2 Where multiple licences are sought, **and are not artificially sub-divided**, for a building (or a discrete part of a building used for other non gambling purposes), specific issues will need to be considered by the Council before such application(s) can be granted. These include

- the ability of children to gain access to or observe gambling facilities (even accidentally) – entrances and exits from parts of a building covered by more than one Premises Licence should be separate and identifiable so that the separation of different premises is not compromised and that people (and in particular children) do not drift into a gambling area.
- the compatibility of the 2 or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

3.3.3 In accordance with the Gambling Commission guidance, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

3.4 Conditions

3.4.1 Conditions may be imposed upon a Premises Licence in a number of ways. These are

- (a) Mandatory – set by the Secretary of State (some set out on the face of the Act) and some to be prescribed in regulations, for all, or classes of licence;
- (b) Default – to be prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the Licensing Authority;
- (c) Specific – conditions that can be attached to an individual licence by the Licensing Authority.

3.4.2 Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address. In particular, the Council will ensure that Premises Licence conditions:

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

3.4.3 Certain matters may not be the subject of conditions. These are:

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

3.5 Door Supervisors

3.5.1 It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if the Council does consider it necessary to impose a condition on a Premises Licence requiring the presence of door supervisors, such persons would normally need to hold a licence from the Security Industry Authority (SIA).

3.5.2 This requirement does not apply to door supervisors at licensed casino or bingo premises, who are exempt from the licensing requirements of the Private Security Industry Act 2001. The Council may however impose specific requirements on door supervisors at such premises if considered appropriate in an individual case.

3.5.3 In all cases the Council will ensure that any requirement for door supervision will be both necessary and proportionate.

3.6 Adult Gaming Centres

- 3.6.1 Persons operating an adult gaming centre must obtain an operating licence from the Commission and a Premises Licence from the Council. This will allow the operator to make category B, C & D machines available to their customers.
- 3.6.2 In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.
- 3.6.3 Applicants are encouraged to consider the following steps:
- Proof of age schemes;
 - CCTV;
 - Supervision of entrances / machine areas;
 - Physical separation of areas;
 - Location of and entry to premises (so as to minimise the opportunities for children to gain access);
 - Notices / signage;
 - Training for staff on challenging persons suspected of being under-age;
 - Specific opening hours;
 - Self-barring schemes;
 - Provision of information leaflets / helpline numbers for organisations such as GamCare.
- 3.6.4 This list is not exhaustive, and is merely indicative of example measures.
- 3.6.5 Please see paragraph 3.4 for details of conditions that may be attached to Premises Licences authorising adult gaming centres.

3.7 Licensed Family Entertainment Centres

- 3.7.1 Operators of licensed Family Entertainment Centres will require an Operating Licence from the Gambling Commission, and a Premises Licence from the Council. This will allow the operator to make category C & D machines available to their customers.
- 3.7.2 Children and young persons will be able to enter licensed Family Entertainment Centres and play on the category D machines. They will not be permitted to play on category C machines, as these are permitted for over 18's only.
- 3.7.3 As Family Entertainment Centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are available in licensed Family Entertainment Centres the Council will normally require that:
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where the machines are located;
 - access to the area where the machines are located is supervised;
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 3.7.4 Applicants are therefore encouraged to consider the following steps:
- CCTV;

- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of and entry to premises (so as to minimise the opportunities for children to gain access);
- Notices / signage;
- Training for staff on challenging persons suspected of being under-age;
- Specific opening hours;
- Self-barring schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

3.7.5 This list is not exhaustive, and is merely indicative of example measures.

3.7.6 Please see paragraph 3.4 for details of conditions that may be attached to Premises Licences authorising licensed Family Entertainment Centres.

3.8 Tracks

3.8.1 Tracks are sites (including racecourses and dog tracks) where sporting events take place; this will also apply to Point to Point events. Operators of tracks will require a Premises Licence from the Council, but they do not need to obtain an Operating Licence from the Gambling Commission (although they may have one).

3.8.2 Tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track.

3.8.3 It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This race day dispensation does not apply to the areas where gaming machines of category B & C are provided, and the Council will therefore wish to ensure that suitable measures are in place to prevent children from entering such areas.

3.8.4 Applicants are encouraged to consider the following steps:

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

3.8.5 This list is not exhaustive, and is merely indicative of example measures.

3.8.6 *Gaming machines* – holders of betting Premises Licences in respect of tracks who also hold a pool betting operating licence may make available up to 4 gaming machines (categories B2 to D) on the track. The Council will therefore expect the applicant to

demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

- 3.8.7 *Betting machines at tracks* - the Council will apply similar considerations to those set out in paragraph 3.10 (in relation to betting machines made available at off-course betting premises) to betting machines made available at tracks.
- 3.8.8 *Condition on rules being displayed* - the Council will attach a condition to track Premises Licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.
- 3.8.9 *Applications and plans* - the Council will require the following information from applicants for Premises Licences in respect of tracks: -
- detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”);
 - in the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.
- 3.8.10 Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence.

3.9 Casinos

- 3.9.1 *No Casinos resolution* - The Council has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Statement with details of that resolution.

3.10 Betting Premises

- 3.10.1 This paragraph deals with off-course betting, that is betting that takes place other than at a track (commonly known as a licensed betting office). Operators of betting premises will require an Operating Licence from the Gambling Commission and a Premises Licence from the Council.
- 3.10.2 The holder of a Betting Premises Licence may make available for use up to 4 gaming machines of category B (B2, B3A, B3 or B4), C or D.
- 3.10.3 The Council may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Council will take into account the following: -
- 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

3.10.4 Please see paragraph 3.4 for details of conditions that may be attached to Betting Premises Licences.

3.11 Bingo

3.11.1 Operators of premises offering bingo (cash or prize) will require a Bingo Operating Licence from the Gambling Commission, and a Premises Licence from the Council.

3.11.2 The holder of a Bingo Premises Licence may, in addition to bingo in all its forms, make available for use up to 4 category B gaming machines (B3 & B4) and any number of category C & D machines.

3.11.3 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Council will normally require that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

3.11.4 Please see paragraph 3.4 for details of conditions that may be attached to bingo Premises Licences.

3.12 Travellers Fairs

3.12.1 It will fall to the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit are 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.

3.12.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

3.12.3 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 applied to the piece of land which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with neighbouring authorities to ensure that land which crossed over boundaries is monitored so that the statutory limits are not exceeded.

3.13 Provisional Statements

- 3.13.1 This Licensing Authority notes the Guidance for the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a Premises Licence" and that "Requiring the building to be complete ensures that the Licensing Authority could, if necessary inspect it fully".
- 3.13.2 In terms of representations about Premises Licence application, following the grant of a Provisional Statement, no further representations from relevant Responsible Authorities or Interested Parties can be taken into account unless they concern matters which could not have been addressed at the Provisional Statement stage, or they reflect a change in the applicant's circumstances. In addition, the Licensing 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 Licence stage; or
 - which, in the Licensing Authority's opinion, reflect a change in the operator's circumstances.
- 3.13.3 This Council has noted the Gambling Commission's Guidance that "A Licensing Authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal".

4 Temporary and Occasional Use Notices

4.1 Temporary Use Notices

- 4.1.1 Temporary use notices allow the use of premises for gambling where there is no Premises Licence but where a person or company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling.
- 4.1.2 There are a number of statutory limits in regards to temporary use notices for example the same set of premises may not be the subject of a temporary use notice for more than 21 days in any 12 month period, but may be the subject of several notices provided that the total does not exceed 21 days.
- 4.1.3 If objections are received to a temporary use notice (from the Police, Gambling Commission, HM Revenues & Custom or any other Licensing Authority in whose area the premises are situated), the Licensing Authority must hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).
- 4.1.4 If the Licensing Authority, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it must issue a counter-notice which may:
- prevent the temporary use notice from taking effect;
 - limit the activities that are permitted;
 - limit the time period of the gambling; or
 - allow the activities to take place subject to a specified condition
- 4.1.5 The Licensing Authority will apply the principles set out in paragraph 3.1 of this Statement to any consideration as to whether to issue a counter-notice.

4.2 Occasional Use Notices

- 4.2.1 The Licensing Authority has very little discretion in determining occasional use notices other than ensuring that the statutory limit of 8 days in a calendar year is not exceeded.
- 4.2.2 However, the Licensing Authority will need to consider the definition of a 'track' and whether the applicant is permitted to use such a notice.

5 Reviews

5.1 Interested Parties or Responsible Authorities can request a review or a Premises Licence. However, it is for the Licensing Authority to decide whether to grant such an application for a review of the licence. The Licensing Authority will consider whether the request is:-

- frivolous;
- vexatious;
- certain not to cause the Licensing Authority to wish to alter, revoke or suspend the licence; or
- substantially the same as previous representations or requests for review.

5.2 The Licensing Authority will also consider whether the request is relevant to the following matters:

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Statement.

5.3 The Licensing Authority can also initiate a review of a licence on the basis of any reason that it considers appropriate.

Annex 1 Licensing Authority Delegations

1. Administrative matters

Matter to be Delegated	Officer(s) power is to be delegated to
<p>The power to</p> <ol style="list-style-type: none"> a. determine that any representations received under Part 8 of the Act are vexatious, frivolous, or certainly will not influence the Authority's determination of an application b. reject all or part of any application for a review of a Premises Licence in accordance with Section 198 of the Act c. revoke a Premises Licence for non-payment of the annual fee (s193) d. serve notification of intended refusal of any of the following:- <ol style="list-style-type: none"> i. Family Entertainment Centre Gaming Machine Permit (Sch 10 para 10) ii. Prize Gaming Permits (Sch 14 para 11) iii. Licensed Premises Gaming Machine Permits (Sch 13 para 6) and also, in the latter case, notice of intention to grant the application but for a smaller number of machines than specified and/or a different category of machines from that specified in the application. e. serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit (Sch 10 para 14 and 15 (1)(b)) f. serve notice of intention to cancel or vary any of the following:- <ol style="list-style-type: none"> i. Club Gaming permit or Club Gaming Machine permit (Sch 12 para 21) ii. Licensed Premises Gaming Machine permits (Sch 13 para 16) g. create and amend the Authority's application procedures in relation to applications for the following in accordance with any relevant legislation:- <ol style="list-style-type: none"> i. Family Entertainment Centre Gaming Machine Permits (sch10 paras 5 and 7) ii. Licensed Premises gaming Machine Permits (Sch 13 para 2) iii. Prize Gaming Permits (Sch 14 paras 6 and 8) 	<ol style="list-style-type: none"> 1. Head of Service responsible for licensing functions 2. Strategic Director for Environment and Community
<p>The power to set fees under any regulations made under S212 of the Gambling Act 2005, subject to the provisions of that section and such regulations. (For the first year only, thereafter power will revert to the Licensing Committee)</p>	<ol style="list-style-type: none"> 1. Head of Service responsible for licensing functions 2. Strategic Director for Environment and Community 3. Head of Finance

<p>The power to appoint authorised persons under s 304 of the Act</p>	<p>1. Head of Service responsible for licensing functions 2. Strategic Director for Environment and Community</p>
<p>The power of the Licensing Authority</p> <ol style="list-style-type: none"> as a responsible authority, to make representations under Part 8 of the Act to propose to attach a condition to a Premises Licence in accordance with section 169(1)(a) of the Act in addition to the mandatory or default conditions to propose the exclusion of a default condition from a Premises Licence under S169(1)(b) of the Act as a responsible authority, to request a review of a Premises Licence under sections 197 or 200 of the Act to give a notice of objection to a temporary use notice under S221 of the Act. 	<p>1. Head of Service responsible for licensing functions 2. Strategic Director for Environment and Community 3. Chief Executive of the Council.</p>
<p>The Power to issue formal cautions and/or Instruct Legal Services to commence and defend proceedings under the Gambling Act 2005, its subordinate legislation, (and any legislation which may subsequently amend or replace it)</p>	<p>1. Head of Service responsible for licensing functions 2. Strategic Director for Environment and Community</p>
<p>The power to commence and defend proceedings both criminal and civil under The Gambling Act 2005 and its subordinate legislation, (and any legislation which may subsequently amend or replace it)</p>	<p>Head of Legal and Democratic Services.</p>
<p>The power to administer and carry out all other functions of the Licensing Authority capable of delegation under The Gambling Act 2005 and its subordinate legislation, (and any legislation which may subsequently amend or replace it,) which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees ("Panels"). This includes for example, (but is not limited to):-</p> <ol style="list-style-type: none"> to serve and receive service of all notices, counter notices, etc required or permitted to be served under the Act to determine points of clarification required for hearings to agree that a hearing is unnecessary to adjourn hearings where all parties are in agreement to determine applications where representations are withdrawn before the hearing to give effect to the decisions of the Magistrates Court on appeal 	<p>1. Head of Service responsible for licensing functions 2. Strategic Director for Environment and Community</p>

2. Determination of applications etc.

In relation to the following matters the Authority will, in the majority of cases, follow the table of delegated functions set out below. This table indicates the lowest level of the authority which will normally exercise the delegation though the Authority reserves the right, (where appropriate), for any particular matter to be dealt with at a higher level whilst having due regard to statutory requirements. For example, an Officer may choose not to exercise their delegated power and refer the matter to the Panel or the Panel itself may choose to refer the matter to the Full Council.

Matter to be dealt with	Council	Sub-committee of Licensing Committee	Officers *
Final approval of three year Statement of Licensing Principles	X		
Policy not to permit casinos	X		
Fee setting (For the first year)			X
Fee setting (From 2008 onwards)		X	
Application for Premises Licence (including applications for re-instatement under S195)		<p>i Where representations have been received and not withdrawn (S154 (4)(a)) and/or</p> <p>ii Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary</p>	Where no representations received or all have been withdrawn
Application for a variation to a Premises Licence		<p>i Where representations have been received and not withdrawn (S154 (4)(b)) and/or</p> <p>ii Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary (S187(3))</p>	Where no representations received or all have been withdrawn
Application for a transfer of a Premises Licence		Where representations have been received from the Commission and not withdrawn (S154 (4) (c))	Where no representations received from the Commission

Matter to be dealt with	Council	Sub-committee of Licensing Committee	Officers *
Application for a Provisional Statement		<ul style="list-style-type: none"> i Where representations have been received and not withdrawn (S154 (4)(d)) and/or ii Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary 	Where no representations received or all have been withdrawn
Review of a Premises Licence		X	
Application for club gaming/ club machine permits, renewals and variations		<ul style="list-style-type: none"> i Where objections have been made (and not withdrawn) ii Objection made and not withdrawn (Sch 12 para 28 (2)) iii Refusal of permit proposed on the grounds listed in Sch 12 paragraph 6(1)(a)-(d) , or paragraph 10(3) as applicable unless Authority and all relevant parties agree that a hearing is unnecessary (Sch 12 para 7) 	Where no representations received or all have been withdrawn and all other cases.
Cancellation of club gaming/ club machine permits		X	
Applications for other permits registrations and notifications			X
Cancellation of licensed premises gaming machine permits		Where Permit holder request a hearing under paragraph 16(2) or makes representations.	X
Consideration of temporary use notice (including notices modified under S223)		All cases where an objection notice has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary and the Head of Service responsible for licensing functions or the Strategic Director for Environment and Community is satisfied that a counter notice is not required (S 222 and 232).	All other cases
Decision to give a counter notice to a temporary use notice		X	

* These powers are delegated to

1. Head of Service responsible for licensing functions

2. Strategic Director for Environment and Community.

Annex 2 Map of Cherwell District Area



Annex 3 Responsible Authorities

The Responsible Authorities for the Cherwell District Council area under the 2005 Act, and their contact details are as follows.

Contact details may change, and other responsible authorities may be designated by regulations by the Secretary of State. For latest information, please check with the Licensing Authority (contact details inside front cover).

Responsible Authority	Address	Contact details for preliminary discussions or follow-up enquiries	
		Phone	Email and website
The Licensing Authority	The Licensing Authority Cherwell District Council Bodicote House, Bodicote BANBURY OX15 4AA	01295 221535	licensing@cherwell-dc.gov.uk www.cherwell.gov.uk
The Planning Authority	The Planning Authority Cherwell District Council Bodicote House, Bodicote BANBURY OX15 4AA	01295 252535	www.cherwell.gov.uk
Environmental Health	Environmental Protection Cherwell District Council Bodicote House, Bodicote BANBURY OX15 4AA	01295 252535	www.cherwell.gov.uk
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	0121 230 6500	www.gamblingcommission.gov.uk
Thames Valley Police	Acting Chief Constable Thames Valley Police Headquarters Oxford Road Kidlington OX5 2NX	01865 266109	licensingoxford@ thamesvalley.pnn.police.uk
Fire and Rescue Service	Fire and Rescue Service Oxfordshire County Council Rewley Road Fire Station OXFORD OX1 2EH	01865 242223	

Oxfordshire Safeguarding Children Board	Oxfordshire Safeguarding Children Board c/o Children, Young People & Families Directorate Oxfordshire County Council Macclesfield House New Road Oxford OX1 1NA		
Customs and Excise	Her Majesty's Commissioners of Customs and Excise		
If the application relates to a boat or vessel the Navigation Authority will become a Responsible Authority for such applications.			
The British Waterways Board (IF APPLICABLE)	FAO The Service Manager The Navigation Authority, British Waterways Ground Floor, Witan Gate House 500-600 Witan Gate Milton Keynes BUCKS MK9 1BW	01908 302500	Deleted: Navigation Authority
Environment Agency (IF APPLICABLE)	National Customer Contact Centre PO Box 544 Rotherham S60 1BY	08708 506 506	
Navigation Authority (IF APPLICABLE)	Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG	01908 302500	
Any other person prescribed for the purpose by regulations made by the Secretary of State.			

Adjacent licensing authorities

(Where premises straddle the area boundary) A Licensing Authority for the area in which the premises are partly situated is also a Responsible Authority.			
		Contact details for preliminary discussions or follow-up enquiries	
Responsible Authority	Address	Phone	Email and website

South Northamptonshire District Council	The Licensing Authority South Northamptonshire District Council Springfields Towcester Northants NN12 6AE	0845 2300226	licensing@southnorthants.gov.uk
South Oxfordshire District Council	The Licensing Authority South Oxfordshire District Council Benson Lane Crowmarsh Gifford Wallingford OX10 8HQ	01491 823421	licensing@southoxon.gov.uk
West Oxfordshire District Council	The Licensing Authority West Oxfordshire District Council Council Offices Woodgreen Witney OX28 1NB	01993 861000	licensing@westoxon.gov.uk
Vale of White Horse District Council	The Licensing Authority Vale of White Horse DC Abbey House Abbey Close Abingdon OX14 3JE	01235 520202	licensing.unit@whitehorsedc.gov.uk
Oxford City Council	The Licensing Authority Oxford City Council Ramsay House 10 St Ebbes Street Oxford OX1 1PT	01865 252565	licensing@oxford.gov.uk
Stratford-upon-Avon District Council	The Licensing Authority Stratford-on-Avon District Council Elizabeth House Church Street Stratford-upon-Avon Warwickshire CV37 6HX	01789 267575	info@stratford-dc.gov.uk
Aylesbury Vale District Council	The Licensing Authority Aylesbury Vale District Council Customer Service Centre 66 High Street Aylesbury HP20 1SD	01296 585858	custserv@aylesburyvaledc.gov.uk

Annex 4 Gaming Machines – Categorisation

Deleted: Category of Machine

<u>Category of Machine</u>	<u>Maximum Stake</u>	<u>Maximum Prize</u>
<u>A</u>	<u>Unlimited</u>	<u>Unlimited</u>
<u>B1</u>	<u>£2</u>	<u>£4,000</u>
<u>B2</u>	<u>£100 (in multiples of £10)</u>	<u>£500</u>
<u>B3A</u>	<u>£1</u>	<u>£500</u>
<u>B3</u>	<u>£1</u>	<u>£500</u>
<u>B4</u>	<u>£1</u>	<u>£250</u>
<u>C</u>	<u>£1</u>	<u>£70</u>
<u>D – non-money prize (other than a crane grab machine)</u>	<u>30p</u>	<u>£8</u>
<u>D – non-money prize (crane grab machine)</u>	<u>£1</u>	<u>£50</u>
<u>D (money prize)</u>	<u>10p</u>	<u>£5</u>
<u>D – combined money and non-money prize (other than a coin pusher or penny falls machine)</u>	<u>10p</u>	<u>£8 (of which no more than £5 may be a money prize)</u>
<u>D – combined money and non-money prize (coin pusher or penny falls machine)</u>	<u>10p</u>	<u>£15 (of which no more than £8 may be a money prize)</u>

Annex 5 Gaming Machines – Summary of machine provisions by premises

<u>Premises type</u>	<u>Machine category</u>						
	<u>A</u>	<u>B1</u>	<u>B2</u>	<u>B3</u>	<u>B4</u>	<u>C</u>	<u>D</u>
<u>Large casino</u> (<u>machine/table ratio of 5-1 up to maximum</u>)		<u>Maximum of 150 machines</u> <u>Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)</u>					
<u>Small casino</u> (<u>machine/table ratio of 2-1 up to maximum</u>)		<u>Maximum of 80 machines</u> <u>Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)</u>					
<u>Pre-2005 Act casino</u> (<u>no machine/table ratio</u>)		<u>Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead</u>					
<u>Betting premises and tracks occupied by pool betting</u>		<u>Maximum of 4 machines categories B2 to D</u>					
<u>Bingo premises</u>				<u>Maximum of 8 machines in category B3 or B4</u>		<u>No limit on category C or D machines</u>	
<u>Adult gaming centre</u>				<u>Maximum of 4 machines in category B3 or B4</u>		<u>No limit on category C or D machines</u>	
<u>Family entertainment centre (with Premises Licence)</u>						<u>No limit on category C or D machines</u>	
<u>Family entertainment centre (with permit)</u>							<u>No limit on category D machines</u>
<u>Clubs or miners' Welfare institute (with permits)</u>				<u>Maximum of 3 machines in categories B3A or B4 to D*</u>			
<u>Qualifying alcohol licensed premises</u>						<u>1 or 2 machines of category C or D automatic upon notification</u>	
<u>Qualifying alcohol licensed premises (with gaming machine permit)</u>						<u>Number of category C-D machines as specified on permit</u>	
<u>Travelling fair</u>							<u>No limit on category D machines</u>
	<u>A</u>	<u>B1</u>	<u>B2</u>	<u>B3</u>	<u>B4</u>	<u>C</u>	<u>D</u>

* It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

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Environment & Community

D Ian Davies BSc (Hons) DMS Strategic Director Environment & Community

Chris Rothwell BSc (Hons) FInst SRM Head of Urban & Rural Services

Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Bodicote House
Bodicote • Banbury
Oxfordshire • OX15 4AA
Telephone 01295 252535
Textphone 01295 221572
DX 24224 (Banbury)
<http://www.cherwell.gov.uk>

Please ask for **Licensing**
Direct Dial **01295 753744**

Our ref
Fax **01295 221878**

Your ref
Email **licensing@cherwell-dc.gov.uk**

22 October 2009

Dear Sir/Madam

Gambling Act 2005 – Revised Statement of Licensing Principles Consultation

We are currently in the process of reviewing the Council's Statement of Licensing Principles. As part of the statutory consultation process I would welcome your views, comments and observations on the Draft Statement of Licensing Principles in respect of the Gambling Act 2005 (the Act) for Cherwell District Council.

The Act requires the Licensing Authority to determine and publish its Statement of Licensing Principles for each three year period (the dates of which are determined by the Secretary of State). The Act requires that before doing so the Licensing Authority must consult the following on the Draft Statement of Licensing Principles:

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

I wish to ensure that our consultation process is as comprehensive as possible and therefore I will also be inviting comments from a wide range of other non-statutory bodies that have an interest in licensing functions.

In the interests of the environment I have not included a paper copy of the Draft Statement of Licensing Principles. The draft document is on deposit for public inspection at all of our district offices and via the consultation portal of our website <http://consult.cherwell.gov.uk/portal>.

If you require a paper copy version of the Draft Statement of Licensing Principles please contact the Licensing Team using the above telephone or email contact details.

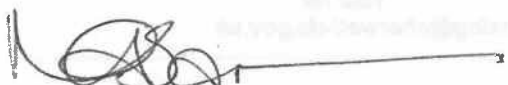


I would be grateful for any comments you may have before Sunday 29 November 2009 when the consultation period closes. I will assume that if I don't receive any comments by the closing date you are satisfied with the Draft document as it stands. Responses can be made online using the consultation portal of our website <http://consult.cherwell.gov.uk/portal>, in writing to the above address, via email to licensing@cherwell-dc.gov.uk or by fax, for the attention of the Licensing Team, to 01295 221878.

All responses received will then be considered and the Draft Statement of Licensing Principles may be amended where appropriate. The Final Statement of Licensing Principles will then be published.

Should you have any queries regarding this matter, please do not hesitate to contact me and I will be happy to discuss the document with you.

Yours faithfully



Natasha Barnes
Licensing and Vehicle Parks Manager

Natasha Barnes

Subject: FW: Gambling Act Consultation

From: Richard Reeves [mailto:RichardR@bacta.org.uk]

Sent: 26 November 2009 14:47

To: Licensing

Subject: Gambling Act Consultation

Dear Ms Barnes

Statement of Policy and Principles under the Gambling Act 2005

Thank you for the opportunity to comment on your Statement of Policy and Principles under the Gambling Act 2005.

The British Amusement Catering Trades Association (BACTA) represents Britain's amusement industry with its 650+ members covering the entire supply chain from manufacturing, through distribution and including retail premises. We are responding to your consultation on behalf of our members.

We note that your consultation follows the model format circulated by LACORS and commend this as we believe that premises licence decisions should be administered consistently between local authorities. We ask that you consider the following when making decisions under the Gambling Act:

The exercise of discretion

The exercise of local authority's discretion is an essential part of regulation under the Act and the principles that are to be applied are to be viewed against the duty of the licensing authority under Section 153 which is to "aim to permit the use of premises for gambling"

Interested parties

It is noted that Gambling Commission Guidance states that 'interested parties' includes trade associations and although BACTA is not of itself an interested person under the terms of the Gambling Act 2005 it does represent, through its members, parties who live sufficiently close to premises to be affected by activities being applied for.

Conditions

Conditions must not duplicate protection which is already imposed by regulation from the Commission. Therefore before any condition is imposed there must be:

- identification of which of the Licensing Objectives is threatened;
- actual evidence of such threat;
- reasons why the proposed condition would be effective to address such threat, and
- reasons why such threat is not already addressed by existing regulation in the form of operating licence conditions, premises licence mandatory conditions and Gambling Commission codes of practice.

Reviews of licensed premises

Licensing authorities are given the power to initiate a review a premises licence. Such reviews should only result from a breach of the licence or a threat to the licensing objectives. Therefore if licence has been granted and the premises operated in accordance with the licence there would be no grounds to review a licence if additional guidance or regulations are issued. A licence should not be subject to retrospective application of guidance.

Protection of children and other vulnerable people / Category D machines

BACTA fully supports the protection of children and the vulnerable. The Act contains specific offences under Parts 3 and 4 which include heavy fines and imprisonment should children and young people be exposed to adult only environments. Parliament considered that such penalties would be effective to deter breaches of the Act. In particular the DCMS conducted a detailed review of evidence regarding the way in which Category D machines are offered to children and concluded that there was no evidence of harm. The Minister stated to Parliament that any change in the way in which Category D machines were offered would be based on evidence and discussed before Parliament. It would therefore be inappropriate for a licensing authority to impose restrictions that were contrary to Parliamentary intention or Parliamentary process.

Definition of premises and primary purpose.

We note that the Gambling Commission has revised its guidance on the primary activity and the definition of premises. In deciding whether to grant a premises licence, the local authority should be concerned that the application meets the requirements of the regulations. The Gambling Commission will ask an operator how he/she will be providing the gambling before granting the operating licence, e.g. they will ask how the bets will be taken and settled before granting a betting licence. Therefore a licensing authority can be satisfied that a gambling operator is able to provide the main gambling type.

Premises is defined by the Act as 'any place'. Historically the concept of a premises within a premises has operated without evidence of any difficulty, examples of a premises within a premises include piers, motorway service stations, etc. DCMS lawyers confirmed during the passage of the Bill that this concept of a premises within a premises would continue under the 2005 Act, subject, of course, to any conditions applicable to individual licences. It should be noted that Parliament provided that certain premises would permit direct access from areas licensed for family admission to those which are restricted to adults only. Of course the adult only areas are subject to conditions regarding protection of the three licensing objectives and there are severe penalties set out in Parts 3 and 4 of the Act for breach. The gaming machine industry has operated designated adult areas within family entertainment areas for over 10 years and on the basis of evidence Parliament has accepted that this model of direct access should be adopted specifically in relation to licensing FECs and regional casinos. Should there be evidence in the future that the licensing objectives are not upheld, the Secretary of State has the power to react through due Parliamentary process. While licensing authorities should take particular care in considering applications for multiple licenses under one premises, their concern should be to ensure that there are clear barriers and that the license conditions are properly observed. It is clearly Parliamentary intention to permit adjacent adult and family areas referred to above, however, the direct internal access to such areas must be sufficiently clear to prevent "drift". It should be recalled that the demand test does not apply under the Act and therefore licensing authorities should not refuse an application based upon their view of the numbers of machines which will be permitted in a particular geographical area. The focus for attention should be to ensure that each licensed premises complies with licence conditions and codes of practice.

BACTA would be pleased to discuss any of the matters contained in this response, please contact me or Sue Rossiter on 020 7726 9822.

Yours sincerely

Leslie MacLeod-Miller
Chief Executive

Licensing Committee

Hackney Carriage Vehicle Associations

15 December 2009

Report of Head of Urban and Rural Services

PURPOSE OF REPORT

1. To brief the Committee on the position with associations representing the taxi trade.
2. To secure approval for minimum requirements the Council requires taxi trade association to meet for the Council to consider them to be representative of the trade.

This report is public

Recommendations

The Committee is recommended to:

- (1) Note the position with trade associations across the District.
- (2) Approve the minimum requirements required from trade associations: being properly constituted, hold AGM's to elect Association Officers, to minute meetings, and to provide annual list of members.
- (3) Authorise officers to consult formally only with trade associations that meet these requirements.

Executive Summary

Introduction

- 1.1 To improve communications with the taxi trade, the Licensing Team are keen to see the trade develop effective structures that provide both benefits to its members and more effective mechanism for licensing matters to be communicated, discussed and consulted upon.
- 1.2 For a number of years the Cherwell Valley Hackney Association (CVHA) has put forward representatives to meet and consult with the Council however, on discussing with CVHA how they are constituted and who and how their elected representatives are appointed, it became apparent in early 2008 that the basic requirements of a representative body were lacking.
- 1.3 A draft Constitution and part of a Members list have been submitted but

unfortunately, despite the offer of assistance by the Licensing Team, and lengthy correspondence, this position still remains unsatisfactory and of concern to the Licensing Team as to how representative this Association is.

- 1.4 Early in 2009, a second association was formed, the North Oxfordshire Hackney Association (NOHA). A Statement of Aims was submitted together with names of elected officers. This documentation requires further development and the Licensing Team are waiting confirmation of dates of AGM.
- 1.5 In November 2009, information was provided to the Licensing Team that a third association was being set up by licence holders based in Bicester. Further detail of this is awaited.

Conclusion

- 1.6 There is a need to formalise arrangements with trade associations to ensure that consultation undertaken with such bodies can be truly representative. This is not currently the case and this report identifies the minimum requirements to achieve this.

Supporting Information and Governance Arrangements

- 2.1 Since delimitation, the number of licensed Hackney Carriage drivers and vehicles has increased from 84 to 120.
- 2.2 It is far more effective for the Council to be able to correspond and consult with representative group/s from the trade as this speeds up the process of information dissemination, as well as being a more efficient way of managing licensable activities.
- 2.3 In order to consult formally with representative bodies, it is important that proper governance arrangements are in place for bodies representing the interests of specific groups.
- 2.4 The minimum requirements the Council is looking for from trade associations representing its members are that the association should be properly constituted; that there are regular elections of the committee at the Annual General Meeting; that meetings are minuted and that there is a list of association members.

Cherwell Valley Hackney Association

- 2.5 For some years the CVHA has put forward representatives whom the Council has met and discussed issues such as delimitation; Vehicle Specification etc.
- 2.6 Following establishment of the new Licensing Team and taxi licensing coming into the Teams responsibilities, formal meetings were established with CVHA but it became apparent that, as an association, they were not properly constituted and this was of concern to the Licensing Team in terms

of how truly they represented the widest 'trade' interests.

- 2.7 This led to discussions with CVHA and support given in developing a Constitution and the need for duly elected representatives, minutes of meetings and AGM were discussed.
- 2.8 Over several months, from early 2008 until the current time, the Licensing Team have sought confirmation of these matters and, whilst a draft constitution document has been forwarded, this has not been finalised nor confirmation provided that an AGM has been held; election of officers taken place; nor that the constitution has been adopted.
- 2.9 CVHA have been repeatedly notified that this position is not satisfactory and that unless confirmation is provided, the Licensing Team will no longer be in a position to treat as bona-fide the CVHA representatives and formal dialogue will be suspended until such time that the matter is resolved to the satisfaction of the Council.
- 2.10 A representative of the Association has stated that he does not see why the Council should be provided with minutes of the AGM, but that a membership list is being put together and the Constitution is being developed.

North Oxfordshire Hackney Association

- 2.11 The Licensing Team received information in March 2009 of the formation of NOHA. This was supported by a statement setting out the aims of NOHA together with a signatory list of members and committee members.
- 2.12 Formal constitution needs to be developed and the Licensing Team have requested this information.

Bicester taxi association

- 2.13 In November 2009, the Licensing Team received information that taxi drivers in Bicester were setting up a Bicester Association. Further information is awaited.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The following options are open to the Sub-Committee

Option One To formally consult only with bona fide taxi organisations that meet the requirements set out in the recommendations

Option Two To direct officers to consult with organisations that are not properly constituted but that state they are representative of the trade.

Consultations

There are no consultations

Implications

Financial:	There are no financial consequences of this report Comments checked by Joanne Kaye, Service Accountant for Environment & Community 01295 221545
Legal:	If the Council consults trade associations that are not properly constituted, the results of that consultation may not be representative of the trade. This could leave the Council open to legal challenge. Comments checked by Nigel Bell, Solicitor 01295 221687
Risk Management:	Provided that licensing of HCV and PHV's continues to take place and license holders have access to information/advise from the Licensing team, risks are effectively being managed. Consultation with organisations that are not properly constituted has the risks as set out in legal above. Comments checked by Rosemary Watts, Risk Management & Insurance Officer 01295 221566

Wards Affected

All Wards

Document Information

Appendix No	Title
None	
Background Papers	
HCV and PHV Policy Council Constitution Scheme of Delegation.	
Report Author	Chris Rothwell, Head of Urban & Rural Services Contact Officer – Natasha Barnes, Licensing & Vehicle Parks Manager
Contact Information	01295 221712 chris.rothwell@Cherwell-dc.gov.uk 01295 753738 natasha.barnes@cherwell-dc.gov.uk

Licensing Committee

Taxi License Applications and Appeals Process

15 December 2009

Report of Head of Urban and Rural Services

PURPOSE OF REPORT

1. To secure approval for an amendment to the Council's Constitution and to the Scheme of Delegation relating to licensing activities within the Council.
2. To secure approval for revised Licensing Committee processes specifically in relation to dealing with Licence appeals by Hackney Carriage Vehicle (HCV) and Private Hire Vehicle (PHV) licence holders.
3. To secure approval for changes to the HCV and PHV license application process, specifically the Knowledge Test and disability awareness training.
4. To secure approval for inclusion of additional Conditions on HCV and PHV drivers licences.

This report is public

Recommendations

The Committee is recommended to :

1. Approve amendment to the Scheme of Delegation to clarify delegation to Head of Urban and Rural Services of enforcement powers and associated actions relating to both the Licensing Act 2003 and Gambling Act 2005.
2. Approve the amendments to the Taxi Licensing Appeals process as set out in this report by removing from Licensing Committee responsibility the function of receiving and hearing appeals.
3. Recommend to Council that the Council's Constitution is amended to reflect the recommendations in 1 and 2 above.
4. Approve the changes proposed for the Knowledge Test and Disability Awareness training for HCV and PHV licence applicants/holders as set out in this report.
5. Approve the inclusion of additional Conditions on HCV and PHV driver licences as set out in this report.

Executive Summary

The Council's Constitution sets out the functions of the various Council committees including of the Licensing Committee.

Following introduction of the revised Council Constitution and Scheme of Delegation, the experience over recent months; new information on licensing legislation; and the proactive inspection and enforcement activity, have led to the need for amendments to the Constitution and proposals for a streamlined HCV/PHV licence appeals process.

Experience on managing licence applications following the establishment of the new Licensing Team have identified the need for clarity on the number and frequency of Knowledge test re-sits by licence applicants and for the need to secure cost savings from delivering Disability Awareness training to licence holders.

Work with Thames Valley Police has identified that additional Licence Conditions for HCV and PHV vehicles will be beneficial in helping to tackle serious sexual crime.

Scheme of Delegation and Council Constitution

- 1.1 The Council's revised Constitution has now been in place for a number of months and we have benefit of working with the updated Scheme of Delegation during this time. As a consequence of this experience, it has become apparent that matters related to enforcement and administration of the Licensing Act 2003, the Gambling Act 2005 and other licensable activities should be further clarified and to delegate functions to the Head of Urban and Rural Services to enable him to discharge effectively the enforcement and associated activities relating to this work.
- 1.2 Appendix 1 sets out the proposed revisions to the Council's Constitution.
- 1.3 The delimitation of HCV licences in 2008 and the establishment of a restructured Licensing Team now undertaking more proactive monitoring of licensed premises/holders, has seen a significant increase in enforcement activity and the consequent proceedings that are attached to managing and discharging this regulatory work.
- 1.4 Opening up the taxi market, which was achieved with delimiting HCV licensing, has had the desired effect of increasing the number of applications for HCV and PHV licences. There is a rigorous process that has to be successfully completed for an applicant to be issued a HCV/PHV licence. This is to ensure that licences are issued only to individuals considered to be 'fit and proper persons' (the best practice test that is applied in judging suitability of applicants) and that, as the Licensing Authority, we are ensuring the public are provided with the safeguards they would expect when using any licensed service.
- 1.5 The requirements to become a licensed taxi driver are set out in the Council's HCV and PHV Policy. This includes, amongst other things, satisfactory Criminal Records Bureau Disclosures and DVLA checks for all applicants (and 3 yearly Licence renewals).

- 1.6 Where Disclosures identify that an individual has a record of activity that has come to the attention of and been recorded by the police, an application for a licence has necessarily to be subject to more rigorous assessment by the Licensing Team, occasionally leading to a recommendation not to issue/renew a licence.
- 1.7 All such recommendations are referred to the Head of Urban and Rural Services with a detailed report from the officer handling the application/renewal. The Head of Service then has delegated powers to determine such applications/renewals.
- 1.8 Licence refusals, suspensions and revocation decisions are not taken lightly and part of the officer process is to consult fully with the Council's Legal Services Team and, where appropriate, Thames Valley Police. The process will always involve full investigation at officer level and detailed file notes being prepared. It can often include interviews with the individual concerned and, occasionally, PACE interviews.
- 1.9 In cases where the Head of Urban and Rural Services determines that, in view of the evidence presented, an application/ renewal should not be granted, the individual currently has a right of appeal to the Licensing Committee.
- 1.10 The Council's Constitution sets out the functions of the of the Licensing Committee, including:
- "To provide a forum for applicants who may wish to appeal against decisions of the Head of Urban and Rural Services in respect of licensing of hackney carriages, private hire vehicles, hackney carriage/private hire vehicle drivers and private hire vehicle operators, without prejudice to the right of applicants to appeal to the Magistrates' Court"
- 1.11 The Head of Legal and Democratic Services has advised that there is no legislative requirement for the Council to undertake this appeals function. The Local Government Miscellaneous Provisions Act 1976 provides a route of appeal to the Magistrates Court.
- 1.12 The Council has held sub-committees for appeals only because the Council's Constitution provides for it. The experience of all license refusals handled by the Licensing Team this year is that they have all progressed to the Magistrates Court. To streamline what has become a lengthy, costly and duplicitous process of administering appeals, it is proposed that the function of hearing appeals is deleted from the Licensing Committee's responsibilities. All appeals by HCV/PHV licence applicants/holders of decisions made by the Head of Urban and Rural Services would then be directly to the Magistrates Court.
- 1.13 This would reduce the current three stage appeal process to two stages with consequent efficiencies in administration by the Council and a speedier resolution for appellants.
- 1.14 In all cases where appeals are made by applicants to the Magistrates Court there are court costs that the appellant has to pay. Subject to the outcome of the Court Hearing, costs may fall to the Council. But this is the case currently if appellants go through all three stages and then successfully appeal at Magistrates Court.

Knowledge Test

- 1.15 Part of the Licence application process is a local 'Knowledge Test'. Applicants have to pass this (along with satisfactory completion of the other checks) before a licence can be issued.
- 1.16 Trade associations have in the past been critical of the Knowledge Test, indicating that it is too easy; this has led to a completely revamped test being rolled out earlier in the year.
- 1.17 However, there is no current limit to the number of times applicants can take the test. License fees cover the cost of two tests after which there is a £25 fee for each test. To further strengthen and add rigour to the application process it is now proposed that an application is restricted to 5 attempts at passing the Knowledge Test. If a pass is not achieved after 5 attempts it is proposed the application be rejected. This helps to manage the time applications are held 'live' and the situations encountered of multiple attempts. One example on file is an applicant undertaking 17 attempts.
- 1.18 This amendment to the HCV/PHV application process does not bar prospective licence holders from re submitting a Licence application but helps to manage the process.

Disability Awareness Training

- 1.19 Disability Awareness training forms part of the post licence issue process to ensure the highest standards within the taxi trade.
- 1.20 There was a time when the training was mandatory prior to a Licence being issued, but this required timetabling of training on a monthly basis which became too costly as the Council has to use external trainers. Training was then timetabled on 4 occasions in the year and a Licence condition added that newly granted Licence holders were required to attend training within the first 6 months of their Licence being granted.
- 1.21 In the interests of efficiency, and in view of a slowing up of the number of new Licence applications, it is now proposed that frequency of training be dropped to 3 times per year and the time new licence holders have in which to attend this training be extended to 9 months.

Additional Licence Conditions to help reduce serious sexual crime

- 1.22 Thames Valley Police have approached the Council to explore additional HCV/PHV Licence Conditions as part of its strategy to reduce serious sexual crime in the forces region.
- 1.23 A licensed vehicle may not be used in the same way as a private vehicle. Once licensed it remains licensed at all times of use and the Conditions attached to the Licence remain in force.
- 1.24 Thames Valley Police have requested the Council consider adding a Condition that prohibits use of a licensed vehicle for any form of sexual activity, consensual or otherwise. They have evidence that indicates that sexual favours have been exchanged as payment of taxi fares and consider that an absolute position that prohibits sexual activity in a licensed vehicle will have significant impact in helping to reduce the incidents of rape and

assault.

- 1.25 Officers are therefore proposing that the following condition be applied to all HCV/PCV drivers licences:

“Licensed drivers must not engage in any sexual activity in a licensed vehicle, whether consensual or otherwise, with a fare.”

Key Issues for Consideration/Reasons for Decision and Options

The following options are open to the Sub-Committee

Option One To amend the licensing approach/process as set out in the report

Option Two To maintain the existing approach/process.

Consultations

There are no consultations

Implications

Financial: Streamlining the appeals process as recommended will provide service efficiencies and a quicker resolution for appellants.

Comments checked by Joanne Kaye, Service Accountant for Environment & Community 01295 221545

Legal: The recommendations in this report require amendment of the Council’s Constitution and agreement of the Council. The recommendations comply with relevant legislation. There is no legal requirement to offer a committee appeal to licence applicants/holders. The addition of a condition on licences prohibiting use of licensed vehicles for sexual activity will help reduce crime and disorder.

Comments checked by Nigel Bell, Solicitor 01295 221687

Risk Management: There is a risk to Public Safety should the Council licence an individual who is deemed not to be a “fit and proper” person.

In addition there is a risk to the reputation of the Council, should such an individual be licensed.

There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.

Comments checked by Rosemary Watts, Risk Management & Insurance Officer 01295 221566

Wards Affected

All Wards

Document Information

Appendix No	Title
Appendix 1	Scheme of Delegation amendments
Appendix 2	Committee Terms of Reference amendments
Background Papers	
HCV and PHV Policy Council Constitution Scheme of Delegation.	
Report Author	Chris Rothwell, Head of Urban & Rural Services Contact Officer – Natasha Barnes, Licensing & Vehicle Parks Manager
Contact Information	01295 221712 chris.rothwell@Cherwell-dc.gov.uk 01295 753738 natasha.barnes@cherwell-dc.gov.uk

Head of Urban and Rural Services

- The use of parks, open spaces and recreational areas for special functions.
- The planting and maintenance of trees on Council-owned land or Council controlled land.
- The provision of advice relating to trees and recommending to the Head of Development Control and Major Developments the making of Tree Preservation Orders including in an emergency.
- Dealing with applications for works to trees in Conservation Areas.
- Approving the standards for adoption of open space land in planning agreements.
- Authorising the temporary use of off street parking areas for uses other than parking.
- Authorising the siting of market stall spaces and the letting of such spaces subject to the necessary planning and highway consents.
- Managing the maintenance of monuments and public clocks in the Council's ownership.
- The issuing of parking permits and season tickets for off street parking and for residents parking schemes and Exemption Certificates for pedestrianised areas.
- The provision of street furniture on land other than recreational land.
- The making of temporary traffic orders under section 21 of the Town Police Clauses Act 1847 relating to special events on the highway and the power to waive charges for the making of such orders in exceptional circumstances.
- The enforcement of parking and other stationary traffic offences.
- The licensing of hackney carriages and drivers and private hire vehicles, operators, and drivers subject to applicant's right of appeal or
- Granting, variation, review or refusal of all licences, certificates or permissions under the Gambling Act 2005 subject to it being considered by a Licensing Subcommittee where a valid representation or objection is made and not withdrawn.
- Enforcement of and any other necessary action under the Gambling Act 2005

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Determining whether a complaint or representation under the Gambling Act 2005 is irrelevant, frivolous or vexatious.

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Responsibilities relating to street trading, under section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

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Responsibilities relating to the third parties placing objects over or on the public highway, under section 115 of the Highways Act 1980.

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Granting, variation, review or refusal of all licences, certificates or permissions under the Licensing Act 2003 subject to it being considered by a Licensing Subcommittee where a valid representation or objection is made and not withdrawn.

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Determining whether a complaint or representation under the Licensing Act 2003 is irrelevant, frivolous or vexatious.

Enforcement and any other necessary action under the Licensing Act 2003

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Approval of applications for the making of Public Path Orders (which are not the result of the consideration of a planning application) and to approve the confirmation of Orders where no objections are lodged, or, if lodged, are withdrawn within the statutory period.

Licensing Committee Sub-Committee

- The hearing of, and decisions on, applications and notifications under the Licensing Act 2003 where this cannot be decided by the Head of Urban and Rural Services because valid representations/objections have been received and not withdrawn.

- The hearing of, and decisions on, applications for review of a premises licence/Club Premises Certificate under the Licensing Act 2003.

- The hearing of, and decisions on, applications for and notifications under the Gambling Act 2005 where this cannot be decided by the Head of Urban and Rural Services because valid representations/objections have been received and not withdrawn.

- The cancellation of club gaming/club machine permits under the Gambling Act 2005

- The cancellation of a licensed premises gaming machine permits where a permit holder requests a hearing under the Gambling Act 2005

- Consideration of a temporary use notices under the Gambling Act 2005 where an objection has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary and that the Head of Urban and Rural Services is satisfied that a counter notice is not required.

- Decision to give a counter notice to a temporary use notice under the Gambling Act 2005.

- To provide a forum for applicants who may wish to appeal against decisions of the Head of Urban and Rural Services in respect of Street Trading and provisions of facilities on the Highway.

- To provide a forum for applicants who may wish to appeal against decision of the Head of Safer Communities and Community Development in respect of animal welfare Licensing.

Note: The Licensing Subcommittee will be made up of any 3 Members to be drawn from the membership of the parent Committee. Members must have received appropriate training and must have taken a non-committal approach to any lobbying in respect of the appeal to be heard, otherwise they may not participate in the hearing.

Deleted: To provide a forum for applicants who may wish to appeal against decisions of the Head of Urban and Rural Services in respect of licensing of hackney carriages, private hire vehicles, hackney carriage/private hire vehicle drivers and private hire vehicle operators, without prejudice to the right of applicants to appeal to the Magistrates' Court.¶

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