

Notice of Meeting

Licensing Committee

Tuesday 22 September, 2015 at 6.30pm
in the Council Chamber Council Offices
Market Street Newbury

Date of despatch of Agenda: Monday, 14 September 2015

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Catalin Bogos / Jenny Legge on (01635) 519102 / 519591

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Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



To: Councillors Peter Argyle, Howard Bairstow, Jeff Beck (Chairman), Paul Bryant, Jeanette Clifford, Billy Drummond, Adrian Edwards (Vice-Chairman), Sheila Ellison, Nick Goodes, Manohar Gopal, Tony Linden and Quentin Webb

Agenda

Part I	Page No.
1. Apologies To receive apologies for inability to attend the meeting (if any).	
2. Minutes To approve as a correct record the Minutes of the meeting of this Committee held on 22 July 2015.	5 - 16
3. Declarations of Interest To remind Members of the need to record the existence and nature of any Personal, Disclosable Pecuniary or other interests in items on the agenda, in accordance with the Members' Code of Conduct .	
4. Disability Awareness, Safe Transportation and Child Sexual Exploitation Prevention Mandatory Training <i>Purpose:</i> To inform Members of the requirement for mandatory training on disability awareness, safe transportation of wheelchair passengers and child sexual exploitation prevention and the need for a consultation on the introduction of this training with all stakeholders.	17 - 20
5. Gambling Act 2005 - Draft Revised Statement of Licensing Policy on Gambling 2015 <i>Purpose:</i> To consider the draft revision of the Statement of Licensing Policy on Gambling 2015, prior to the statutory consultation.	21 - 42
6. Date of next meeting The date of the next meeting has been changed from 15 December 2015 to 26 November 2015 . This is to enable the statutory public consultation and subsequent discussion at Licensing Committee about the council's Gambling Policy to take place; prior to its submission to Full Council on 10 December 2015.	

Andy Day

Agenda - Licensing Committee to be held on Tuesday, 22 September 2015 *(continued)*

Head of Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.



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DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 23 JUNE 2015

Councillors Present: Peter Argyle, Howard Bairstow, Jeff Beck (Chairman), Paul Bryant, Jeanette Clifford, Billy Drummond, Adrian Edwards (Vice-Chairman), Sheila Ellison, Manohar Gopal, Tony Linden and Quentin Webb

Also Present: Catalin Bogos (Performance Research Consultation Manager), Sarah Clarke (Team Leader - Solicitor), Cheryl Lambert (Technical Officer), Brian Leahy (Senior Licensing Officer), Emilia Matheou (Technical Officer), Julia O'Brien (Principal Licensing Officer) and Amanda Ward (Licensing Officer),

Apologies for inability to attend the meeting:

Councillor(s) Absent: Councillor Nick Goodes

PART I

3. Minutes

The Minutes of the meeting held on 24 March 2015 and 19 May 2015 were approved as a true and correct record and signed by the Chairman.

The Chairman highlighted that as this was the first meeting of the Licensing Committee following the local elections and several new members had joined, it was important to understand that new Members might ask for clarification, particularly with regard to the two items on the agenda that had been discussed at the previous Committee.

4. Declarations of Interest

There were no declarations of interest received.

5. Taxi Tariff 2015/16

Brian Leahy introduced (Agenda Item 4) for the Committee to consider objections raised, following the mandatory public notice of a variance in taxi fare as approved by the Committee on 24 March 2015.

Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 required that, following the publication of the notice of variance in the Newbury Weekly News asking for the objections to be notified to the Council, a decision had to be made regarding implementation no later than 30 June 2015.

Brian Leahy informed the Committee that a great number of objections were received which included three letters and a petition signed by 46 members of the trade.

In accordance with section 65 (4) the table of fares had to come into operation no later than 30th June 2015 regardless of whether the Council decided to modify or not. However Members had to consider objections received as a result of the notice.

Brian Leahy suggested that the Committee had to decide on one of the following three options:

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1. Confirm the table of fares agreed on the 24th March 2015 in both format and price.
2. Modify the table of fares both, in format, and price, or by either.
3. Revert back to the tariff already in place in both format and price.

The options with regards to the actual level of tariff were numerous and consideration should be given that: this would be the maximum level that taxi operators would be able to charge; that people's livelihoods depended on them; that enforcement activities would be required and the role of the Council to protect the interest of the public travelling by Taxis. Reference was made to a Court case when the Judge ruled that a legal tariff was not the one set by the Council but the one set by the driver as long as it was not greater than the one set by the Council.

An alternative was to not set a tariff at all and allow each taxi provider to set the level they wished in a competitive market.

The Chairman invited Members of the Committee to ask for clarification on any matters.

Councillor Bryant asked if the five tariff table approved at the previous meeting of the Committee was proposed by the Council and Brian Leahy confirmed that the proposal was received from the taxi trade.

Councillor Webb enquired if amendments to the meters could be set up by the driver and how the change from one tariff to another was being made (from one time zone to another).

Brian Leahy explained that as the meter was a sealed unit, only a number of individuals had the ability to change the settings and reseal. The Council required evidence that any changes had been made by the authorised individuals.

The meters were not calendar meters and the change from one time zone's tariff to another was done manually by the driver.

In addition, the taxi driver could set an arrangement, without using the meter. Section 54 Town Police Clauses Act 1847, prescribed the driver could take a lesser rate if agreed before the commencement of the journey.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman proposed to suspend standing orders to allow members of the trade to participate in the discussion and respond to questions Committee members might have. This was seconded and the Committee voted in favour of this proposal.

The Committee decided to allow first the members of the trade that were objecting to the table of tariffs approved in March 2015 to speak for ten minutes, and then to respond to Councillors' queries followed by those that were in favour for the same amount of time.

Mr. Paul Westbrook, representing a number of taxi drivers in Newbury, informed that in his view the new tariff was not representative of the trade and that he was aware of many objections and that there had been a number of meetings advising that the Council would force the tariff. He also mentioned that previously a similar change resulted in a loss of trade. In his opinion, the new tariff discriminated against vulnerable people and would result in a further foot fall from 2 am to 4 am.

Mr Westbrook commented that the new tariff would lead to competition and confusion in the ranks and would increase the risk of assault and attack due to changes from one week to another. He also believed that the general public did not understand the three levels of tariff and would understand the five levels even less. He highlighted that inflation was low and that the rules were not stopping anyone charging less than the

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maximum agreed tariff. In his opinion the changed tariff was equivalent to a 2 percent pay rise that only the big companies would benefit from.

Mr Westbrook expressed concern that the time allocated for him to speak would not allow for a fair hearing. He continued by estimating that there were around 200 people in the borough that would need to change the meters (some to buy new meters) and this would not be popular as they would incur additional costs that they would be unable to recoup, making it more expensive for the trade to operate. He was of the view that the five levels tariff would negatively impact the elderly people in particular and people under the influence of alcohol.

Mr Westbrook considered that had the trade understood that they had an opportunity to provide feedback, the decision would have had more opposition.

Mr Hauxwell added that it would be difficult to explain to customers when they saw £7 on the meter just after they entered into the car. Justifying the fare given by the differences between the five tariffs and three tariffs was a safety matter. He also informed the Committee that some of the meters changed automatically, based on the time.

Mr Hussain expressed concerns about drivers' safety stating that, in his opinion, especially because he was of an Asian background, he had already been attacked due to issues linked with the tariff and making the table of fares more complex would increase the risk.

Mr Hauxwell had informed the Committee of his concerns that the new tariffs could result not only in disputes with the driver but also impact on public order if people started to negotiate the tariffs and decided on which taxi to use in the ranks. He considered that the new table of fares would add more confusion, as people already had difficulty understanding the current three level tariffs. It would not be good for safety or for the reputation of West Berkshire as it might cost more to get into a taxi than the actual journey.

The Chairman invited Members to ask questions.

Councillor Bryant asked the four members of the taxi trade to clarify if they were actually opposing the number of tariffs rather than the level of the tariff, due to their view that the new table of fares brought a greater complexity.

The four members of the trade confirmed that they considered the three tariffs more appropriate and asked that the tariff be set to a reasonable level to bring a return on their investment, rather than starting with a larger tariff which drivers might reduce to be more competitive.

Mr Hauxwell added that competition did not seem to be a problem and that the current system was working. The fare could be discounted by agreement or charged based on the meter. Nobody was suggesting drivers wanted to fix competition. There was a view that if the new tariff was approved, the footfall would go down and would drive people out of business.

Councillor Bryant noted that if five tariffs were introduced, the drivers would be in a position to charge a lower fare.

Mr. John Hauxwell responded that this would create confusion and Mr. Kevin Hauxwell added that they wanted the tariff set at a reasonable level. Under the existing arrangements, a customer and driver could agree a lower fare anyway and that a more complex tariff would erode the customer base and would not benefit anyone.

Councillor Webb pointed out that his understanding was that on the five levels tariff, the fifth tariff referred only to Christmas Day and New Year's Day and Tariff 4 applied only

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between 02:00 am and 05:59 am. He asked about the number of people impacted by these tariffs and, given the difference in fares for short journeys with the new tariff being cheaper, how many were taking these type of journeys.

Mr. Kevin Hauxwell replied that drivers that came to the rank go for the jobs for people going a short distance – e.g. Newbury Bank to the train station – less than mile and even if the difference in fare was small that the increase was significant for many people. In addition, a similar journey on tariff 2 would seem to be £4 more expensive on the new tariff and it would be difficult to explain differences especially to the Saturday night customers.

The Chairman asked about the differences in views regarding the interpretation of the impact of the two tables of fares.

Mr. John Hauxwell highlighted that in the morning two identical journeys started at 10 minutes difference before and after 6 am would cost £3 more to get to the train station.

Councillor Tony Linden asked how many of the 200 taxi cabs in West Berkshire they represented.

Mr Hauxwell responded that he would estimate, based on the approximately 25 members who attended the meeting, that were not in favour, about 100 drivers shared his views and probably similarly for the 10 representatives that supported the new tariffs and probably the level of people objecting to the proposal was not evident at the previous meeting.

From an independent driver's perspective it looked like the people that worked in the night would win and the others would lose.

The Chairman invited the representatives of the trade in support of the tariff agreed in March 2015, to address the Committee.

Mr Sheikh addressed the Committee representing the other four members of the trade present.

(Councillor Howard Bairstow left the meeting at this point to attend to other commitments.)

Mr Sheikh suggested that based on the divergent views of members of the trade that the Committee should approve the option that Mr Brian Leahy proposed.

The Chairman invited the Members of the Committee to address questions to Mr Sheikh.

After obtaining clarification from Sarah Clarke that questions and comments should be asked for clarification limited to the information presented by the speaker, Councillor Webb asked if the option supported by Mr Sheikh and his colleagues was to set as the maximum level Tariff 4 of the table of fares approved in March 2015.

Mr. Sheikh clarified that they were supporting the proposal to allow market forces to determine the tariffs without the Committee having to approve a table of fares.

Councillor Webb enquired about another proposal that was sent by e-mail directly to the Members of the Licensing Committee. Sarah Clarke clarified that the e-mail mentioned was received outside of the five days time limit and that a decision of the Committee was required with regards to the new table of fares agreed on the 23 March 2015, especially in light of the opposition expressed from members of the trade.

Councillor Bryant asked Mr Sheikh to express a view regarding his preferred option between the five tariffs table approved in March 2015 versus the 3 tariffs table in existence before.

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Mr Sheikh stated that his personal opinion was that the revised tariff sent directly to the Members of the Committee the week before the meeting was the one he would prefer.

Mr Leahy highlighted that in considering the response to objections raised following the mandatory public notice of a variance in taxi fares as approved by the Committee on 24 March 2015, the Licensing Committee Members could decide on any levels of tariff, including the ones mentioned by Mr Sheikh but that Officers were not in a position to comment or advise on it as the proposal was not sent to them.

Councillor Bryant enquired about the appropriateness to defer the decision to a subsequent meeting based on the fact that the additional proposal was not received sufficiently in advance of the meeting and it was not shared with the Officers.

Sarah Clarke advised that because this was part of a formal consultation on the decision agreed in March 2015, the Committee had to make a decision by the 30 June.

Members of the Committee then decided to reintroduce Standing Orders.

Brian Leahy highlighted a potential issue, in that Members had been sent a document to consider, without it being sent to Officers in time for it to be included in the reports for the meeting, and as a result if the Committee considered this unseen proposal it would be open to legal challenge and further objections.

Councillor Bryant summarised his views that the Committee was in a difficult position as the approved five levels tariff was submitted for approval by some members of the trade and subsequently they suggested that it was no longer what they wanted. In addition, as the new proposal was submitted too late for it to be considered he was reluctant to support either the five tariff table of fares approved in March or the revised one subsequently submitted.

Councillor Argyle concurred with Councillor Bryant's views.

Councillor Linden wanted to ascertain from the Officers if the level of support for the five tariff table of fares was overstated and Mr Leahy confirmed that the initial proposal was suggested by the West Berkshire Hackney and Private Hire Association with support from Cabco Owners and Drivers Association and Dolphin Taxis. A number of owners and drivers had responded to the consultation conducted in December 2014 against the proposal and some had responded in favour (as detailed in the report for March 2015 meeting). Mr Leahy informed the Committee that he was not able to make any additional comments beyond what was heard during the meeting and noted that both the representation made from members of the trade against the five levels tariff and also from Mr Sheikh were no longer supporting the option approved in March 2015.

Councillor Webb indicated that he was persuaded by the three levels table of fares rather than the five levels agreed. He recognised that this was a difficult decision following considerable work he had done on assessing the new tariff and not being able to clarify the frequency of the short journeys, as the revised tariff one resulted in a small increase for the short journeys. He also agreed with the issue about the concerns from the trade regarding the £3.80 versus £7 difference of price between two identical journey starting just before or after 6am.

Councillor Webb expressed sympathy for the trade regarding the new tariff. He had some concerns and considered the reasons why the previous 3 levels tariff should be reinstated as: the views from objectors that if the five level tariff was adopted it would discriminate; lead to battering on the rank and create confusion. The trade representatives reported that some customers found it difficult to understand the three level tariff and to go to a five levels would make it more difficult to understand. By

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operating the 3 tariff system they were in a position to offer a reduction to customers if they so wished to do.

Councillor Webb also stated that he did have reservations that the tariff 2, as based on his calculations, was cheaper.

Councillor Bryant declared that he would have been delighted to be able to support the five levels tariff but formally proposed to keep the status quo due to it being:

- a well understood table of fares by the people of the trade
- reasonable, as it had been in place for a time
- it was supported by a number of members of the trade.

He also mentioned that he would like the proposals from the trade to be agreed by Members and he did not like the idea that proposals were distributed to Members without Officers or Members having the chance to consider them before the meeting.

The Chairman highlighted that members of the trade were welcome to circulate information to Members of the Committee but they should copy in Officers and it needed to be within the appropriate timescales.

Councillor Argyle seconded the proposal adding his acknowledgement for the views of the drivers that they were worried for their safety and that sticking to the tariffs they knew would be safer.

RESOLVED that Members considered and approved the three levels tariff of fares that was in place before March 2015 for use by all West Berkshire Council Licensed Hackney Carriages.

6. Taxi Livery and Advertising

Brian Leahy introduced the report to provide Members with further material information following on from the Licensing Committee Meeting held on 24 March 2015. The context of this item was that a paper had been put forward by Mr Sheikh with a set of revised conditions for livery and advertising. Members agreed at the meeting on the 24 March 2015 to task Officers with carrying out some benchmarking on livery standards and to provide photographic material showing current styles of advertising.

In addition, a benchmarking activity was conducted and findings were listed on pages 30-31 of the agenda reports.

The meeting continued with a PowerPoint presentation of a number of photographs and images of livery and advertising on Taxis, being shared with the Committee.

Brian Leahy concluded the presentation highlighting that there were a range of different vehicles with different approaches to complying or not complying with the current standards. He also pointed out to Members that they should consider that those signs painted on cars would result in a cost to the trade and suggested that current vehicles should be allowed to maintain the existing standard with the change in livery coinciding with the next change of vehicle.

Brian Leahy proposed an alternative approach, whereby owners and or drivers' vehicles, were permitted to advertise their own or another business on the rear door, within given size parameters, in addition to the Council's livery, with the caveat that sexual, tobacco, alcohol promotions were not advertised.

Councillor Webb referred to page 8 of agenda pack which listed the minutes of the previous meeting where it was established that the proposal from the trade was to allow

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advertising of their own company within the agreed size of the signs and that he would tend to agree with that proposal.

Councillor Bryant commented that he was in favour of minimum regulation, in addition to European Union and Central Government requirements, and he wanted a debate to understand what the issues were regarding regulating livery and advertising on taxis. For example, with regards to restrictions on advertising material relating to tobacco, alcohol or of pornographic nature there were already laws in place and the Police would enforce them. He was of the view that as long as the message was decent the Committee should allow taxi drivers to put up whatever advertising they liked.

This view was echoed by Councillor Drummond.

Councillor Linden suggested that following consideration of the benchmarking information included in the report, the Committee might consider the South Bucks District Council approach.

Brian Leahy informed the Members that with this suggested approach, lap dancing or strip club establishments could be advertised as there was no law to restrict it. Councillor Bryant suggested that if the Government was not restricting this type of advertising then the local authority should follow suit.

Councillor Ellison was of the view that some of the images presented to the Committee had showed signage that was tasteful and allowing the trade more freedom would make the district's streets more lively.

Councillor Edwards thanked Brian Leahy for the benchmarking information and the photographs. His view was that the Council should have a certain amount of control and permission should be obtained from Licensing Officers. He acknowledged that this would impact on the workload of Officers. He highlighted the risk of having cabs covered in advertising without any regulation. He suggested that cab drivers should be allowed to put adverts on their cars and should speak to Officers to approve and ensure they conformed with the rules.

Councillor Clifford noted that the suggestions were similar to the approach of Bracknell Forest Council (BFC), described as part of the benchmarking section of the report page 31.

Councillor Bryant, followed on from Councillor Clifford's remark and wanted to ascertain the implication, if in the absence of any regulation from the local authority, the trade had to comply with the British Code of Advertising Practice, Sales Promotion and Direct Marketing. He questioned why it would be necessary to specifically mention the restrictions with regards to political, ethnic, religious, sexual or controversial texts, those for massage parlours or escort agencies etc. as in the approach of BFC.

Brian Leahy clarified that BFC's approach did not specify a particular size of advertising material and that the Code of Practice was not legislation. Sarah Clarke confirmed that the Code of Advertising Practice was not covered by legislation.

Councillor Webb expressed a view that if anything was allowed he would like to see a 'standard', as referred to in the initial proposal from Mr Sheikh.

Councillor Webb made a proposal for a uniform, standardised approach to advertising as in the original proposal from the trade.

Councillor Clifford asked the Committee if they would consider the views of the representatives of the trade.

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Councillor Webb pointed out that a lot of the members of the trade had attended the previous meeting when this subject was discussed and there had been no negative comments.

Councillor Bryant concluded that he intended to vote against the proposal for uniformity; questioning if it was the job of the Committee to make taxis identical and that if people wanted to have their entire car covered with the Union Jack, they should allow them decide for themselves.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman proposed suspension of standing orders to allow Members of the trade to participate in the discussion and respond to questions Committee Members might have. This was seconded and the Committee voted in favour of this proposal.

Mr. Jeffery Williams addressed the Committee and asked Members to consider that advertising messages that indicated that one taxi firm was cheaper than another such as 'we are cheaper than other taxies ask the driver' was not fair and caused problems in the ranks.

Members of the Committee reintroduced Standing Orders.

Mr Leahy remarked that he had asked trading standards about the appropriateness of messages mentioned and they had responded that it was lawful as long it was a statement that could be proven.

The Chairman suggested that leaving an unregulated situation would mean that the local authority would be open to all possibilities and it would be better to consider certain regulations as a minimum, with additional requirements being permitted on Officer's approval.

Councillor Bryant enquired what the grounds would be to reject an application such as suggested by Mr Williams. Brian Leahy confirmed that it would be problematic to decline such an application.

Councillor Bryant proposed the Committee should consider a similar approach to the one used by BFC, with the exception of imposing a fee. This proposal was not seconded.

Councillor Bryant proposed that there should be no regulation, other than a requirement for the two front door stickers to identify the taxis and to ensure any livery and advertising was legal. This was seconded by Councillor Drummond. At the vote this proposal was rejected by the Committee.

Councillor Bryant proposed that the approach being used by BFC (shown in the Agenda pack, page 31) be adopted with an additional requirement that the level of fees should be determined by Officers. This was seconded by Councillor Linden.

At the vote this proposal was carried.

Sarah Clarke requested clarification, as to whether the decision would be applied with immediate effect or alternatively over what timescale the trade would need to comply with the new requirements.

Brian Leahy suggested sending a newsletter to inform all licence holders about the new requirements and to ask them for a retrospective application.

It was highlighted that the conditions used in BFC stated that not more than one company should be advertised and that conditions would be applied at the discretion of the Licensing Officers (e.g. credit cards, no smoking signs would be considered reasonable).

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Councillor Argyle remarked that if a vehicle had CCTV it was a legal requirement for a sign to be visible to inform customers that CCTV was on board.

Brian Leahy proposed to send a letter detailing the decision to all operators / proprietors to inform them that conditions applied forthwith. Over the following three months operators / proprietors with advertising above the standard would be asked to apply for permission.

Sarah Clarke suggested that three months should be allowed with no enforcement, to give the opportunity for the trade to make an application.

Brian Leahy clarified that the Council's door signage and top hat would be required and any other advertising would be open subject to approval from Licensing Officers.

Councillor Bryant further added that any advertising should not obscure or crowd the Council's signage / top hat.

RESOLVED that livery and advertising on West Berkshire taxis should follow the Bracknell Forest Council example with the following requirements:

- All advertising must comply with the British Code of Advertising Practice, Sales, Promotion and Direct Marketing and was the responsibility of the agency or individual seeking the Council's approval to ensure that they do so.
- Advertising containing political, ethnic, religious, sexual or controversial texts, those for massage parlours or escort agencies, nude or semi-nude figures, those seeking to involve the driver as an agent of the advertisers, those likely to offend public taste or those that sought to advertise more than one company would not be approved.
- The level of fees for new applications and for the annual renewals to be established by officers.
- The new approach would not be enforced for three months from the date of this Committee meeting to allow the operators to apply for permissions.

The Chairman adjourned the meeting for 5 minutes.

(Councillor Gopal left the meeting).

7. **Amendment to Hackney Carriage Proprietors (Vehicle) Conditions and Hackney Carriage Vehicle Drivers Conditions and Byelaws**

Brian Leahy introduced a report to advise Members of the need to make urgent changes to some of the standard conditions for hackney carriages. He informed the Committee that the trade had not yet been consulted and asked that Members decide whether a consultation was needed and if so, what should be consulted upon.

Brian Leahy reported that there was a small number of drivers who refused to pick up people with disabilities. Some drivers did not hold ramps in their vehicles at all times. It had been reported to Officers that one operator had six vehicles but only three ramps. These practices were not legal under the Equalities Act.

It was proposed that the following conditions be added to the Hackney Carriage

Proprietors (vehicle) conditions;

1. Any taxi which was licensed as a wheelchair accessible vehicle (WAV) must have available on the vehicle at all times whilst working, suitable approved equipment (ramps, hoist or other lifting device) for facilitating wheelchair access into the vehicle and such approved straps, belts or other safety restraining equipment as was necessary to ensure that the customer was secure and safe whilst in the vehicle. All

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- such equipment shall be in full working order and where non metal fabrics are used, not broken, frayed or torn.
2. All ramps and other non manufacturers standard equipment provided as disabled access facilities must be stamped, if of metal construction, with the registered number and licence number of the vehicle and all non metal equipment similarly marked by means approved by the Council. Both types of marking shall be of such proportions as to be easily readable and in the case of non metal equipment, shall be indelible.
 3. Any vehicles fitted with a swivel seat shall ensure that the seat was in good repair and was tested regularly to ensure free movement.
 4. Where a temporary licence was applied for in the event of a vehicle having to be taken off the road due to accident damage or breakdown, a licence may be issued for a period of one month. This may be extended in exceptional circumstances for a further two months in total at one monthly intervals.
 5. Any replacement vehicle would be required to be like for like (i.e. if a wheelchair accessible vehicle was replaced, it must be substituted with a similar accessible vehicle, if a swivel seated vehicle was replaced it must be substituted for a wheelchair accessible vehicle). A protected vehicle which was not required to provide disabled access by virtue of the licence may be substituted by a like for like type of vehicle.

Brian Leahy informed the Members that as a practical aspect, the Licensing Team would purchase a stamp and provide it to a designated garage where the taxi providers could mark their equipment. The straps could be marked with indelible ink. On inspection, this would evidence that equipment was complete, serviceable and marked for the intended vehicle.

It was proposed that supplementary conditions be added to the Hackney Carriage Vehicle Drivers Licence Conditions & Byelaws. In addition it would be specified that a driver of a hackney carriage standing at any of the stands for hackney carriages appointed by the commissioners, (the Council) or in any street, who refused or neglected, without reasonable excuse, to drive such carriage to any place within the prescribed distance, (within the West Berkshire Council district), to which he was directed to drive by the person hiring or wishing to hire such carriage, would be guilty of an offence. (The penalty currently stood at a fine not greater than £500).

Brian Leahy noted that a driver would be committing an offence if they discriminated against any group of people. There had been six complaints of drivers leaving a customer stranded and not able to get a taxi.

Brian Leahy mentioned a database of disabled accessible vehicles, with agreement from trade, to include the contact details. He also suggested the methods by which customers could complain and where to address their complaints should be publicised as steps to eradicate discrimination in West Berkshire.

The Chairman enquired when these measures would be implemented, should they be approved. Brian Leahy explained that should Members approve the measures in principle, the consultation, if Members decided to require such, could be considered at the 24 September meeting.

Councillor Edwards proposed that proposal on item 2.1 page 36 was approved in its entirety.

Councillor Bryant highlighted that at page 36 item 2.1 defined what equipment was needed.

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Brian Leahy suggested that during August 2015, vehicle inspectors, negotiate contracts with garages so that they could agree the appropriate method and what equipment was to be marked. There was already an in-house expert on wheel chair and vehicle accessibility that would be consulted.

Councillor Bryant enquired about Item 5 of the proposal and Brian Leahy clarified that if a wheelchair accessible car had an accident and needed to be replaced, the service should be able to licence a replacement like for like. If the car had a swivel seat it would have to be replaced by a disabled accessible vehicle. The long standing town vehicles were exempted.

Councillor Webb expressed his concerns that hammer and punching would be used on the equipment which could potentially compromise the safety of the vehicle and suggested that the marking could be made on a replaceable plate.

Brian Leahy acknowledged Members concerns and mentioned that the military had used this type of approach on their equipment but that the appropriate method would be sought to ensure equipment's strength and safety would not be eroded.

RESOLVED that Members considered and approved the principles of the five recommendations without consultation, and that a method should be employed that was safe and does not compromise the material/equipments' characteristics.

Arrangements should be put in place for garages to be up and running by end of August and the new conditions were mandatory as of 31 July 2015.

8. Licensing Annual Report

Brian Leahy introduced the report to update Members on Licensing Progress in 2014/15. He had previously organised an annual general meeting with all stakeholders, but many partner organisations, such as the Fire Brigade were unable to attend.

Brian Leahy informed the Committee that Officers had published this report for information, regarding recent changes in legislation and some proposals for the future in the field of licensing. He referred to items of the report that gave an overview of legislation which included changes with regards to live music and recorded music. Also those relevant to Members who were Ward Members, that related to issues which affected the schools, hospitals and village halls. He also highlighted that changes were made in relation to the showing of pre-recorded films which were incidental to another activity.

Brian Leahy referred to the review of the provision of Disability Awareness/Manual Handling training for taxi drivers. He explained that members of the trade had to attend mandatory training on how to help disabled customers as this was a condition for gaining a license. He mentioned that the Government had included such provisions in the Taxi and Private Hire Bill which had unfortunately been dropped, however by including this issue in the Bill, the Government had demonstrated its intentions towards disability awareness throughout the taxi/private hire trade. He was adamant that taking this proposal forward as part of the Council's equality agenda to eliminate discrimination and effect safety was a positive move forward.

RESOLVED that Members considered and noted the progress report.

(The meeting commenced at 6.30 pm and closed at 8.50 pm)

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CHAIRMAN

Date of Signature

Title of Report:	Disability Awareness, Safe Transportation and Child Sexual Exploitation Prevention Mandatory Training
Report to be considered by:	Licensing
Date of Meeting:	22 September 2015
Forward Plan Ref:	n/a

Purpose of Report:	To inform Members of the requirement for mandatory training on disability awareness, safe transportation of wheelchair passengers and child sexual exploitation prevention and the need for a consultation on the introduction of this training with all stakeholders
Recommended Action:	To consider the report and approve the consultation
Reason for decision to be taken:	If adopted this training will form a condition for the issue of a licence
Other options considered:	None
Key background documentation:	Committee Report and Minutes March 2010
Published Work	Equality Act 2010

The proposals will help achieve the following Council Strategy aims:	
<input checked="" type="checkbox"/>	BEC – Better educated communities
<input checked="" type="checkbox"/>	P&S – Protect and support those who need it
<input checked="" type="checkbox"/>	HQL – Maintain a high quality of life within our communities
<input checked="" type="checkbox"/>	MEC – Become an even more effective Council
The proposals contained in this report will help to achieve the following Council Strategy priority:	
<input checked="" type="checkbox"/>	P&S1 – Good at safeguarding children and vulnerable adults
The proposals contained in this report will help to achieve the above Council Strategy aims and priority by:	
Ensuring that all taxi and private hire drivers are trained to an approved standard in disability awareness, safe transportation of wheelchair passengers and child sexual exploitation prevention.	

Portfolio Member Details	
Name & Telephone No.:	Councillor Keith Chopping - Tel 07825 733280
E-mail Address:	kchopping@westberks.gov.uk
Date Portfolio Member agreed report:	Copied to Councillor Chopping 11 September 2015

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Team Manager Licensing
Tel. No.:	01635 519494
E-mail Address:	bleahy@westberks.gov.uk

Implications

Policy: The Council currently has a policy for the training of all new taxi drivers

Financial: None

Personnel: None

Legal/Procurement: None at this time

Property: None

Risk Management: None

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at http://intranet/EqIA			<input type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input type="checkbox"/>

Executive Summary and Report

1. Introduction

- 1.1 The Council currently has a policy requiring all new taxi drivers to attend a disability awareness course operated by council officers. The training is required to be undertaken prior to a new licence being issued.
- 1.2 Members decided to introduce a condition in March 2010 requiring all existing taxi drivers, at that time, to undertake disability awareness training as a condition of licence. [Licensing Committee Agenda – 30 March 2010](#) and [Minutes](#).
- 1.3 Driver licences are issued for a three year period and this meant that all drivers would have attended training within a three year period from March 2010.
- 1.4 The training consists of a half day attendance at a venue selected by the Council where instruction in general disability awareness is given. This instruction is presented by the Council's Access Officer and covers a wide range of disability issues.
- 1.5 During the same training session, instruction is given by the Council's Transport Officer (Education) through a hands-on demonstration of the correct way to load and secure wheelchair passengers in taxis. There are currently no completion exams at the conclusion of the training.

2. Proposals

- 2.1 It is proposed to consult with the taxi and private hire trade, the general public and disability lobby groups to elicit their views on the introduction of mandatory disability awareness and safe transportation training and add child sexual exploitation awareness training for all taxi drivers. Private hire drivers would only be required to attend the disability awareness training and that for child sexual exploitation unless they either regularly drive or own a public hire vehicle which is wheelchair accessible.
- 2.2 The child sexual exploitation prevention session is a suggestion from Thames Valley Police who are undertaking a national campaign to raise awareness.
- 2.3 This complete training package would be mandatory for all drivers and would only be completed by being examined at the conclusion of the course.
- 2.4 It is anticipated that the training will be carried out for all existing and new drivers on a three year cycle.
- 2.5 Where any person applies to renew a licence or be issued with a new licence such licences would not be issued until the training has been completed other than in exceptional cases, where a delay in attending training may be considered.
- 2.6 There will be a cost for the training to cover the hire of the venue and to pay for the time of the trainers. This cost will be borne by the drivers themselves and is expected to be in the region of £50 per driver for each training session. i.e. circa £50 every three years. There would be a lesser charge for private hire drivers due to the reduced training content.

- 2.7 A final fee for the hire of a venue has not yet been agreed however it should not raise the fee greater than the figure quoted
- 2.8 The fee would be added to the fee charged for application for all new licences. There would have to be an exception for existing drivers who would be charged at the time of booking the training during the first phase.
- 2.9 It is anticipated that all existing drivers would be required to attend a training session within 1 year of a Member decision to implement as a condition of application, should such a decision be made.

3. Equalities Impact Assessment Outcomes

- 3.1 This item is not relevant to equality at this time.

4. Consultation

- 4.1 A consultation letter will be sent to all drivers and operators of hackney carriages and private hire vehicles asking them their views on the introduction of the training.
- 4.2 The question would be “Are you in favour of all driver’s being required to attend training sessions every three years in the subject matter of disability awareness, safe handling and transportation of passengers in wheel chairs and child sexual exploitation”.
- 4.3 The letter will explain that the training will carry a fee of circa £50 which will be charged alongside any application for renewal or for a new licence, other than for existing drivers who must attend during the period of their existing licence”.
- 4.4 The letter will expand on what the training entails and the duration of the training which will be not greater that one half day.
- 4.5 All consultation responses will be collated and presented for Member consideration at a future meeting.

Consultees

Local Stakeholders: To be consulted

Officers Consulted: Julia O’Brien Principal Licensing Officer

Trade Union: N/A

Agenda Item 5.

Title of Report:	Gambling Act 2005 - Draft Revised Statement of Licensing Policy on Gambling 2015
Report to be considered by:	Licensing
Date of Meeting:	22 September 2015
Forward Plan Ref:	

Purpose of Report: To consider the draft revision of the Statement of Licensing Policy on Gambling, prior to statutory consultation

Recommended Action: To approve the revised version of the policy prior to the statutory consultation

Reason for decision to be taken: Statutory requirement

Other options considered: None

Key background documentation: Local Government Association and the Gambling Commission's Licence Conditions and Codes of Practice.

Published Works: Gambling Act 2005.

The proposals will help achieve the following Council Strategy aims: <input checked="" type="checkbox"/> P&S – Protect and support those who need it
The proposals contained in this report will help to achieve the following Council Strategy priority: <input checked="" type="checkbox"/> P&S1 – Good at safeguarding children and vulnerable adults
The proposals contained in this report will help to achieve the above Council Strategy aims and priorities by: Informing the public and gambling industry of the council's policy

Portfolio Member Details	
Name & Telephone No.:	Councillor Keith Chopping - Tel 07825 733280
E-mail Address:	kchopping@westberks.gov.uk
Date Portfolio Member agreed report:	11 September 2015

Contact Officer Details	
Name:	Julia O'Brien
Job Title:	Principal Licensing Officer
Tel. No.:	01635 519849
E-mail Address:	jobrien@westberks.gov.uk

Implications

Policy:	The Gambling Act 2005 requires that the Council produce and publish a statement of principles every three years.
Financial:	None
Personnel:	None
Legal/Procurement:	It is a legal requirement to publish a policy
Property:	None
Risk Management:	None

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to an area with known inequalities?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at http://intranet/EqIA			<input checked="" type="checkbox"/>
Not relevant to equality			<input type="checkbox"/>

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 This report sets out the Statement of Licensing Policy on Gambling for consideration prior to consultation. The draft document has been amended from the existing policy which must be revised, if necessary, and published by the 31st January 2016. The revised document includes advice to Local Authorities from the Local Government Association and the Gambling Commission's Licence Conditions and Codes of Practice. The amendments are highlighted in the attached Appendix of the existing Licensing Policy.

2. Proposals

- 2.1 Members are requested to confirm the content of the draft Statement prior to the statutory consultation exercise.

3. Equalities Impact Assessment Outcomes

- 3.1 The policy will be consulted upon widely with gambling operators, the general public, those organisations that protect the young and those who may be vulnerable before being presented to the Council for approval prior to being published.

4. Conclusion

- 4.1 The Council has a mandatory duty to publish a statement of principles (policy) no later than the 31st January 2016.

Executive Report

1. Introduction

- 1.1 Under the Gambling Act 2005, the Council is required to review and consult upon its Statement of Licensing Policy on Gambling every three years from the date of adoption. The present Statement was published on 31 January 2013 and therefore must undergo a review and be published again on or before 31 January 2016.
- 1.2 The Statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349 of the Act. This includes the Chief Officer of Police, persons who represent the interests of persons carrying on gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 1.3 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a Statement of Policy on Gambling that they propose to apply in exercising their functions under the Act. The Statement will last for a maximum of three years and can be reviewed and revised by the authority at any time.
- 1.4 The existing statement has so far been found to be suitable for its purpose. This policy was subject to an extensive consultation exercise in 2009. Amendments to the policy have now been made following guidance issued by the Gambling Commission's Licensing Conditions and Codes of Practice (LCCP) and the Local Government Association in early 2015. These amendments are shown as tracked changes in the existing document as Appendix One.
- 1.5 The main changes included are the Council's approach to compliance and enforcement, for example what the inspection regime looks like and how the Local Authority will manage illegal gambling activity and the Council's expectations of operators. This could be in general terms, an expectation on all operators, or expectations of a sub-sector of the industry. Expectations might include the operator sharing information with the Local Authority; it might be participation in social responsibility schemes.
- 1.6 As operators are required to develop their own premises specific risk assessment by 6 April 2016 it is important that the Council provides a clear indication of what factors, as a non-exclusive list, it expects to be taken into account.
- 1.7 The underlying principle of the 2015 social responsibility review and the LCCP changes are that responsibility for delivering the licensing objectives rests with gambling operators.

2. Risk Assessments by Operators (section 7 of the Statement)

- 2.1 The Statement is an opportunity for the Council to set out its expectations of the local risk assessments that operators must undertake in respect of all gambling premises.
- 2.2 Operators now have an obligation to produce a local risk assessment, which will assist the Council when it is considering applications etc. (i.e. similar to an operating

schedule under the Licensing Act 2003 provides information about the local premises). The specific detail in relation to this new requirement follows:

- 2.3 From the 6 April 2016 all non-remote licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments licensees must take into account relevant matters identified in the Council's Statement of Licensing Principles (Social Responsibility Code 10.1.1).
- 2.4 From the 6 April 2016 local risk assessments must be reviewed when there are significant changes in local circumstances (including those identified in a Local Authority's Statement of Policy on Gambling) or at the premises, or when applying for a new licence or variation of a licence (Social Responsibility Code 10.1.2).
- 2.5 Operators are not automatically required to share their risk assessments with local authorities except when they are applying for a new premises licence or to vary an existing one. The Council may use the Statement to clarify whether or not and how regularly they expect to receive a copy of each premises' risk assessment.
- 2.6 The Council will wish to ensure that the risk assessment covers the following broad headings:
 - Reference to any specific local risks (linked to the local area profile)
 - How the operator proposes to mitigate these risks
 - How the operator will monitor specific risks.
- 2.7 The key point is that the statement is an opportunity to clarify the Council's expectations of businesses in relation to new applications, reducing the input and resources required at the time an application is submitted.
- 2.8 In line with the above changes a new section 7 has been inserted to cover the new mandatory requirements which apply to risk assessments.

3. Local Area Profiles (LAP)

- 3.1 The updated guidance and GLA Special Bulletin April 2005 recommends that, like operators, licensing authorities complete and map their own assessment of local risks and concerns by developing local area profiles to help shape their statements (although there is no requirement to do this).
- 3.2 In simple terms, the objective of the profiles is to set out what our area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the Local Authority and operators.
- 3.3 LAP's will help the Council to develop its expectations of existing operators and new applicants in the Local Authority area. The Statement of Policy on Gambling is the key tool for setting this out clearly; so that operators are clear what is expected of them.
- 3.4 The Commission's draft guidance to Local Authorities says - completion of a profile is not a mandatory requirement and if an authority chooses not to develop a specific

local area profile, they may wish to set out in their policy statement what they would expect local operators to include in their premises risk assessments.

- 3.5 Based on local knowledge and taking into account information held by the Council and after speaking to its partners, the Local Authority found no evidence of any gambling issues that would currently inform to develop a local area profile.
- 3.6 In line with the above, new paragraphs have been inserted under section 5 of the Policy which outlines the council's position in respect of the formation of a local area profile.

4. Primary Authority Agreements

- 4.1 The recent change in legislation has now seen a number of councils sign primary authority agreements with some of the largest gambling operators covering the issue of age verification, which is an area recently added to the scheme.
- 4.2 As with any other area, licensing authorities should therefore have regard to the plan agreed between the company and primary authority in developing their own programmes of activity and inspection.

Appendices

Appendix A - West Berkshire Council's Statement of Principles

Consultees

Local Stakeholders: Residents of West Berkshire, gambling operators

Officers Consulted: Emilia Matheou Licensing Officer, Brian Leahy Team Manager Licensing

Trade Union: None



Licensing Policy on Gambling

Published

31st January 2013

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West Berkshire Council Statement of Policy on Gambling

Section 1 - Definitions

The **Council** means West Berkshire District Council;

The **Licensing Authority** means the Council acting as defined by Section 2 of the Gambling Act 2005. For all official correspondence, the address of the Licensing Authority is, The Licensing Manager, Environmental Health & Licensing, Culture & Environmental Protection, Council Offices, Market Street, Newbury, Berkshire, RG14 5LD.

The **Act** means the Gambling Act 2005.

The **Licensing Committee** means the full committee or a Sub-Committee of not less than three members.

The term **etc.** is used to denote the whole range of consents relating to the Act, including premises licences, authorisations for the temporary use of premises, occasional use notices and five different sorts of permits for unlicensed family entertainment centres, prize gaming, gaming machines on alcohol-licensed premises and club gaming and club gaming machines, variations, transfers, and renewals.

GC means the Gambling Commission.

Child means an individual who is less than 16 years old. A **young person** means an individual who is not a child but who is less than 18 years old.

GC guidance means the latest guidance issued under Section 25 of the Gambling Act 2005 by the Gambling Commission.

Section 2 - Introduction

- 1 This Licensing Policy Statement addresses the requirements of section 1 of the Act. It sets out the Council's Licensing Policy and takes account of the GC guidance. This Licensing Policy Statement will apply to the area of West Berkshire District Council.
- 2 West Berkshire District Council is a Unitary Authority and is predominantly rural with the Council area making up over half of the geographical County of Berkshire, covering an area of 272 square miles. The population is relatively young when compared across the UK, although this is made up of a significant proportion of people aged between 30 – 50 rather than significant numbers of people in their 20's. The District is perceived to be in an area of some affluence having 5 main areas of conurbation spread evenly across the Council's area of jurisdiction. Newbury Racecourse is situated in the centre of the largest town in the District and the rural areas are world renowned for their involvement in the training and stabling of race horses.
- 3 The Policy relates to all those licensing activities identified as falling within the provisions of the Act, namely:-
 - a) bingo premises;
 - b) betting premises, including tracks;
 - c) adult gaming centres;
 - d) family entertainment centres;
 - e) authorisations for the temporary use of premises;
 - f) occasional use premises;
 - g) prize gaming;
 - h) gaming machines on alcohol-licensed premises;
 - i) club gaming;
 - j) club gaming machines.
 - k) Casinos
- 4 The scope of the Policy covers new premises licences and other forms of permits.
- 5 The Licensing Authority recognises that in determining individual cases, decisions must be consistent with both the provisions of the Act, the Section 25 Guidance and this Policy. In particular, this Policy does not override the right of any interested party to make representations on an application where that provision has been made in the Act. In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits.

- 6 The Licensing Authority recognises the obligations placed upon it by the Human Rights Act 1998 and in considering applications under the Gambling Act will have regard to:
- a) Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest;
 - b) Article 6 – right to a fair hearing;
 - c) Article 8 – respect for private and family life. In particular removal of restriction of a licence may affect a person’s private life; and
 - d) Article 10 – right to freedom of expression.

Section 3 - Licensing Objectives

- 7 The Licensing Authority recognises that its duty under the Act is to carry out its functions with a view to promoting the three Licensing Objectives, and all decisions will be made solely based on these. They are :-
- a) ***preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;***
 - b) ***ensuring that gambling is conducted in a fair and open way; and***
 - c) ***protecting children and other vulnerable persons from being harmed or exploited by gambling.***
- 8 The Licensing Authority recognises that in exercising its function under part 8 of the Act (Premises Licensing and Provisional Statements) it will aim to permit the use of premises for gambling in so far as it thinks it is:
- a) *in accordance with any relevant code of practice under section 24;*
 - b) *in accordance with any relevant guidance issued by the GC under section 25;*
 - c) *reasonably consistent with the licensing objectives set out above; and*
 - d) *in accordance with this licensing policy statement.*

Section 4 – Demand for gaming premises

- 9 The Licensing Authority recognises that in deciding whether or not to grant a licence etc, unmet demand is not a criterion in considering an application for a premises licence under the Act. Each application will be considered upon its merits without regard to demand.
- 10 The Licensing Authority will consider applications for premises licences for casinos.

Section 5 - Consultation and review

- 11 Before publishing this Policy Statement, or any subsequent revision, the Licensing Authority will consult with the following:-
- a) the Chief Officer of Police responsible for the West Berkshire area;
 - b) one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
 - c) one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.
- 12 The Council will review, and after consultation, re-publish its Licensing Policy at least once every three years. Whilst acknowledging this responsibility, the Council reserves the right to revise the Policy at more frequent intervals, should this be deemed appropriate or necessary.

13 **Local Area Profiles (LAP)**

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

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

Section 6 - The Licensing Process

- 14 The Council recognises its licensing responsibilities under the Gambling Act 2005 and in particular will provide:
- a) appropriate levels of resources including personnel, systems (including computer systems), and support;
 - b) appropriate training for Elected Members, appropriate facilities at licensing hearings for applicants, the public and witnesses;

- c) hearings at times convenient to applicants and witnesses, as far as reasonably practicable;
 - d) general guidance and assistance to licence applicants as far as reasonably practicable, however for specific advice the applicant may need to seek independent legal advice;
 - e) an appropriate system to receive related complaints and service requests;
 - f) Elected Members and Officers who have regard to appropriate Codes of Conduct and Declaration of Interests in dealing with licensing applications.
- 15 The powers of the Licensing Authority under the Act will be carried out via the Council's Licensing Committee, by a Sub-Committee or by one or more Officers acting under delegated authority. In the interests of speed, efficiency and cost-effectiveness for all parties involved in the licensing process, the Council has adopted the scheme of delegation shown at Annex A to process applications received under the Act. This form of delegation is without prejudice to referring an application to a Sub-Committee or the Licensing Committee if it is considered appropriate in particular cases.
- 16 The Licensing Authority will expect applicants to address, in their applications, the measures they propose to take to meet the Licensing Objectives and to submit any information with their application that may be prescribed by the Secretary of State and/or the Licensing Authority.
- 17 When making licensing decisions and imposing licensing conditions, the Licensing Authority will concentrate on matters within the control of the licence holder. Generally the Licensing Authority will be concerned only with the premises in question and its vicinity. The Licensing Authority will focus on the direct impact which the licensed premises, and its licensed activities, could have on persons living sufficiently close to the premises to be likely to be affected by the authorised activities and on persons having business interests that might be affected by the authorised activities.
- 18 In determining applications for licences, permits, etc the Licensing Authority will:
- a) consider only pertinent factors as set out in law and in approved guidance;
 - b) act without favour when considering matters linked directly or indirectly to the Council, for instance when dealing with an application for one of its own properties;

- c) act in accordance with the principles of natural justice;
- d) impose conditions on a licence as prescribed in the Act by means of Regulations as either, Mandatory Conditions or Default Conditions, to be made by the Secretary of State or as may be appropriate in the particular circumstances of individual premises. Conditions will not duplicate other statutory requirements.

Section 7 - Risk Assessments

- 19. The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) prescribe the need for operators to consider local risks. Local risk assessments apply to all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.
- 20. Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.
- 21. Licensees are required to undertake a local risk assessment when applying for a new premises licence. Risk assessments must also be updated:
 - a) When applying for a variation of a premises licence.
 - b) To take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement.
 - c) When there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 22. The licensing authority has an expectation that all local risk assessments will take into account the local social profile of the area.

Section 7-8- The protection of children and other vulnerable persons from being harmed or exploited by gambling

- 23. Responsible Authorities are set out in Annexe B. These authorities are required to be notified by applicants of their intention to apply for a licence etc, and are able to make representations against applications. Specifically in relation to protecting children and other vulnerable persons from harm, the Licensing Authority has discretion to

determine the most appropriate body competent to advise the Authority about protection from harm.

24. The Licensing Authority considers the Local Safeguarding Children Board to be the competent body to advise the Authority on matters relating to the above sub section.
25. The Local Safeguarding Children Board is the statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of young or vulnerable people.
26. It is therefore highly appropriate that any activities taking place in the locality that have the potential to impact upon the well being of young or vulnerable people are brought to the Board's attention so that any necessary response or action can be considered.
27. This is a wide remit but it is extremely helpful for the organisations represented on the Board which includes all the statutory agencies working with children and families to be aware at the earliest opportunity of applications for gambling licences/permits etc, as the location and hours open can have implications for young persons in that area.

Section 89 - Interested parties

28. Section 158 of the Act defines interested parties as persons who:
 - 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).
29. In determining whether an interested party "lives sufficiently close to the premises" the Licensing Authority will consider factors such as:
 - a) the size of the premises;
 - b) the nature of the premises;
 - c) the distance of the premises from the location of the person making the representation;
 - d) the potential impact of the premises, such as number of customers, routes likely to be taken by those visiting the establishment; and
 - e) the nature of the complainant; that is whether the interests of the complainant may be relevant to the distance from the premises, for example, a private resident, a residential school for children with truanting problems or a hostel for vulnerable adults.

30. In determining whether “business interests might be affected” the Licensing Authority will consider factors such as:
- f) the size of the premises;
 - g) the ‘catchment’ area of the premises;
 - h) whether the person making the representation has business interests in the catchment area that might be affected.
31. In determining who may “represent persons” who live in the area or have business interests, the Licensing Authority will consider the following categories:
- i) trade associations;
 - j) trade unions;
 - k) resident’s and tenant’s associations;
 - l) MP’s, Ward Councillors, Town or Parish Councils and Town and Parish Councillors’.
 - m) Any other person, on a case by case basis, who, in the opinion of the Licensing Authority satisfies the Authority, in writing, that they truly represent interested parties.

Section 9 - Licence Conditions

32. The Licensing Authority will impose conditions that are either mandatory or default as prescribed in the Act or in Regulations prescribed by the Secretary of State, and may impose conditions which the Committee regard as necessary to meet the Licensing Objectives or are specific to the premises being considered.
33. Any conditions attached to any particular licence will:
- a) always be tailored to the style and characteristics of the premises in question;
 - b) only be applied when needed for the prevailing circumstances and;
 - c) will only be applied when necessary to help achieve the Licensing Objectives.
34. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public, for example, Health and Safety at Work and Fire Safety Legislation.
35. Whenever reasonably practicable, the Licensing Authority will ensure that other legislation, most notably Fire Safety Legislation, does not omit controls on the understanding they will be addressed by licensing conditions.

Section 10 - Enforcement

36. Where enforcement action is necessary, the Council will act in accordance with its published Enforcement Policy, which in turn is based on the principles of the Regulatory Compliance Code.
37. The Licensing Authority will enforce, alone or in partnership, all breaches of the licence conditions under the Act where appropriate.
38. The Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact who should be a senior individual and whom the Authority may contact first should any compliance queries or issues arise. Notwithstanding this the Authority reserves the right to act directly against individuals where the extent of the problem or offence is deemed appropriate.

Section 11 - Information Exchange

39. The Licensing Authority will have regard to the requirements of the Freedom of Information Act concerning information it holds upon applicants, licences and permits etc. This information will be freely available as it will be a requirement for the Licensing Authority to maintain a public register of the premises licences it has issued. Such information will include details of applicants, licence holders, and licence conditions.
40. Copies of applications and supporting documentation will be made available to Responsible Authorities under the Act
41. In the case of representations made against an application for a licence or permit these will be made available to the applicant so that they can address any issues raised in a hearing held to determine their application. The name and address of the person making the representation will normally be made available to the applicant but will be withheld upon request. In such cases, an objector must appreciate that the representation may receive lesser consideration.

ANNEX A: Delegation of Licensing Functions

Matter to be dealt with	Full Council	Sub Committee of Licensing Committee	Delegated to Officers
Three year licensing policy	Cannot be delegated further		
Policy not to permit casinos	Cannot be delegated further		
Fee setting	Generally prescribed by Secretary of State but may be devolved to Licensing Authorities in certain cases		
Application for Premises Licence		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Application to vary Premises Licence		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Application to transfer Premises Licence		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Application for a provisional statement		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Review of a premises licence		By Licensing Committee only	
Application for club gaming / club machine permits		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Cancellation of club gaming / club machine permits			All cases
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	

Annex B

Responsible Authority	Point of Contact
The Licensing Authority	<p>The Licensing Team Manager, West Berkshire Council, Culture & Environmental Protection, Council Offices, Market Street, Newbury, Berkshire, RG14 5LD</p> <p>Licensing@westberks.gov.uk</p>
The Gambling Commission	Victoria Square House, Victoria Square, Birmingham B2 4BP
The Chief Officer of Police	<p>Licensing, Thames Valley Police, Headquarters (South), Kidlington, Oxfordshire OX5 2NX</p> <p>licensing@thamesvalley.pnn.police.uk</p>
The Fire Authority	<p>The Fire Safety Officer, Royal Berkshire Fire & Rescue Service, Hawthorn Road, Newbury, Berkshire, RG14 1LD</p> <p>NewburyFireSafety@rbfr.co.uk</p>
The Local Planning Authority Town and Country Planning Act 1990 (c.8)	Development Control Manager, West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD
The Environmental Health Authority	Principal Environmental Health Officer West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD
Local Safeguarding Children Board	<p>Debbie Richings, Children's Planning Officer</p> <p>West Berkshire District Council, 3rd Floor, West Street House, West Street, Newbury, Berkshire, RG14 1BZ</p>
HM Revenue and Customs	HM Revenue & Customs, Risk Section, Sapphire Plaza, Watlington Street, Reading, Berkshire RG1 4TA
The Secretary of State	Tourism Division, 3 rd Floor, 2-4 Cockspur Street, London. SW1Y 5DH

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Equality Impact Assessment

Name of item being assessed:	Statement of Gambling Policy
Version and release date of item (if applicable):	V 1.0
Owner of item being assessed:	Steve Broughton
Name of assessor:	Brian Leahy
Date of assessment:	11 September 2015

1. What are the main aims of the item? (What does the item try to achieve?)

To publish a revised statement of gambling policy

2. What are the results of your research?

Note which groups may be affected by the item. Consider how they may be affected and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this
Age	A statement of gambling policy outlines the Council's intention to uphold the law in respect of underage gambling and the general effects gambling may have on communities or groups.	Consultation with gambling operators, the general public and organisations such as schools
Religion or belief	As above	As above

Further comments relating to the item:

The current statement of gambling policy is being reviewed and in accordance with the law a full consultation exercise will be carried out prior to the final document being approved by the Council.

3. What actions will be taken to address any negative effects?

Action	Owner	By When	Outcome
Consider all objections or other comments prior to drafting of final document.	Brian Leahy	31 January 2016	Publication of the final document

4. What was the final outcome and why was this agreed?

To be determined in further EQIa prior to presenting final document for adoption

5. What arrangements have you put in place to monitor the impact of this decision?

Enforcement and inspection of premises licensed for gambling

6. What date is the Equality Impact Assessment due for Review?

Prior to 31 January 2016 and thereafter every three years.

Name: Brian Leahy

Date: 11 September 2016