

# Notice of Meeting

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## Licensing Committee

**Monday 21 June 2021 at 4.30pm**  
in the Council Chamber Council Offices  
Market Street Newbury

This meeting will be streamed live here: <https://www.westberks.gov.uk/licensingcommitteelive>

Date of despatch of Agenda: Friday 11 June 2021

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Stephen Chard on (01635) 519462  
e-mail: [stephen.chard@westberks.gov.uk](mailto:stephen.chard@westberks.gov.uk)

Further information and Minutes are also available on the Council's website at [www.westberks.gov.uk](http://www.westberks.gov.uk)



## Agenda - Licensing Committee to be held on Monday, 21 June 2021 (continued)

To: Councillors Adrian Abbs, Peter Argyle, Phil Barnett (Vice-Chairman), Jeff Beck, Graham Bridgman, Billy Drummond, Rick Jones (Chairman), Tony Linden, David Marsh, Graham Pask, Claire Rowles and Martha Vickers

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# Agenda

Part I	Page No.
1. <b>Apologies</b> To receive apologies for inability to attend the meeting (if any).	5 - 6
2. <b>Minutes</b> To approve as a correct record the Minutes of the meetings of this Committee held on 8 February 2021 and the 4 May 2021.	7 - 14
3. <b>Declarations of Interest</b> To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' <a href="#">Code of Conduct</a> .	15 - 16
4. <b>Forward Plan</b> Purpose: To consider items that will be included on future agendas.	17 - 18
5. <b>Draft Statement of Gambling Principles (LC4095)</b> Purpose: To seek comments from the Licensing Committee on the Draft Statement of Gambling Principles prior to it being consulted on.	19 - 66
6. <b>Review of Hackney Carriage Tariffs</b> Purpose: To review the current hackney carriage fare scale, agree options and outline the consultation process that will be undertaken on these options if Members are minded to amend them.	67 - 78
7. <b>Update following discussions at the Taxi and Private Hire West Berkshire Council Liaison Group (LC4096)</b> Purpose: To provide the Committee with an update and raise any issues emanating from the Liaison Group meetings.	79 - 88

Sarah Clarke  
Service Director Strategy and Governance

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Licensing Committee – 21 June 2021

## **Item 1 – Apologies**

Verbal Item

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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 MONDAY, 8 FEBRUARY 2021

**Councillors Present:** Adrian Abbs, Phil Barnett (Vice-Chairman), Jeff Beck, Graham Bridgman, James Cole (Chairman), Billy Drummond, Rick Jones, Tony Linden, David Marsh, Claire Rowles and Martha Vickers

**Also Present:** Joseph Holmes (Executive Director - Resources), Gabrielle Mancini (Economic Development Officer), Sean Murphy (Public Protection Manager), Julia O'Brien (Principal Licensing Officer), Anna Smy (Strategic Manager - Response), Councillor Hilary Cole, Christine Elsasser (Democratic Services Officer) and Moira Fraser (Democratic and Electoral Services Manager)

**Apologies for inability to attend the meeting:** Councillor Andrew Williamson

#### PART I

##### 9. Minutes

*(Councillor Martha Vickers joined the meeting at 4.34pm)*

The Minutes of the meeting held on 30 November 2020 were approved as a true and correct record and signed by the Chairman subject to the removal of the text in red writing on page six of the pack.

##### 10. Declarations of Interest

Lobbying letters were received by all Members from the taxi community in relation to Item 4 and in regards to the fireworks motion (Agenda Item 5).

*(Councillor David Marsh joined the meeting at 4.41pm)*

##### 11. Hackney Carriage and Private Hire Licence Fees Consultation Responses Report

Sean Murphy introduced the report to Committee which allowed Members to consider the responses received during the 28 day statutory consultation period concerning the proposed fees in relation to hackney carriage and private hire licensing. Mr Murphy outlined the process followed in respect of fee setting and explained that if any additional comments were received before the consultation closed they would be dealt with via the delegation process proposed.

Sean Murphy explained that the responses showed a strong weight of feeling from the trade who had been impacted very significantly (by up to 80% decrease in income) by the Covid-pandemic. Due to the impact on the trade they felt that it was inappropriate to raise their fees, they noted that some authorities had opted to subsidise their fees and some respondents felt that fees should be removed entirely. Members would have to take a view on what they felt was the most appropriate course of action. He noted though that there was a licensing regime which had to be funded and that this should be borne in mind when coming to a decision about what the Committee would recommend to the Executive and then Full Council. Officers noted that between 47 and 50 vehicles had already been lost when compared to the previous year. Officers were conscious of the

## LICENSING COMMITTEE - 8 FEBRUARY 2021 - MINUTES

valuable service provided by the trade and he urged Members to carefully consider the responses received. Officers were of the view that, based on the level of increase proposed and the number of vehicles in the fleet, that should Members be minded to freeze the fees for the forthcoming year that the loss of additional income could be met from within existing budgets. Officers were therefore recommending that the fees be frozen and that the Council enter into a dialogue with the trade about what the trade might look like going forward.

Councillor Phil Barnett said that the Covid pandemic had decimated the hospitality industry and this had had a knock on effect on support services including the taxi trade. He noted that taxi drivers, operators and owners provided a vital service to residents and especially to vulnerable residents and it would be irresponsible not to take action to prevent the loss of more taxis to the area. Councillor Barnett recommended that any increases to fees be frozen and that they could be re-examined in the future once the effects of the pandemic could be properly assessed.

Councillor Graham Bridgman stated that there were two aspects to the licensing regime in West Berkshire Council (WBC) that needed to be considered namely the fees they paid for whatever they were licensed to do and then a question of the business support they could or would have received during the pandemic. He noted that the Committee had spent a considerable time in order to arrive at a five year set of fees that were of a sound and logical basis and he would not like to lose sight of that. Having said that he was, however, in favour of not raising the fees during the 2021/22 financial year. He did however suggest that it would be useful for the s151 Officer to set out what support there was available to the trade should they wish to access it. He noted that any decisions around this support would be made at 'Gold' meetings which was where all the decisions around the Covid pandemic were made.

Councillor Adrian Abbs agreed with Councillor Bridgman and further stated that what needed to be done was two-fold. The restructure of fees should be considered and then what could be done to help the taxis trade to ensure its survival. He stated that he would like to know if the Council was able to subsidise the fees for the forthcoming year. He also asked that consideration be given to the taxis that had left the trade this year only being liable for a renewal fee even if they had not been in possession of a licence for the year to help them come back into the trade.

Councillor Claire Rowles stated that she would also like to hear about the help that could be offered to the taxi community.

Councillor Jeff Beck asked what funding had been made available at Gold meetings to assist the trade. Councillor Bridgman stated that Gold were anticipating that a discussion would take place at this meeting. The outcome would be fed back to Gold and they would then make a decision on how to take any assistance forward.

Councillor Tony Linden stated that he was supportive of the previous comments but felt that it was important to note that there was always fluidity in the trade and people did leave for a variety of reasons outside of the pandemic. The Chairman commented that he would hope that once the hospitality trade opened up again that some of the people would come back into the trade. He noted that West Berkshire was not as severely affected as some neighbouring authorities.



## LICENSING COMMITTEE - 8 FEBRUARY 2021 - MINUTES

Joseph Holmes and Gabrielle Mancini outlined the measures that had been put in place by the Government and the Council to provide support. There were currently around ten business grant schemes that the Council was administering. He noted that many of these grants related to businesses with premises. He noted that there was however an Additional Restrictions Grant (ARG) which provided more flexibility. There was additional information and forms available on the Council's website about the grant. Section d which dealt with additional hardship was likely to be the most applicable to the taxi trade.

Gabrielle Mancini added that it was worth noting that taxi companies would still have been able to operate during lockdown and therefore in order to access these grants they would need to demonstrate that the hardship had occurred before the funding could be issued because not all taxi companies had experienced the same level of hardship and the grant was meant to reach those who had been impacted the most. Officers explained that even though it was the Business Rates Team that were administering the scheme applicants that were not liable for business rates could still apply. She also noted that it was worth reflecting that the person would not have had to go out of business before applying for a grant they would just need to demonstrate the loss of income they had experienced. Officers also noted that the policies around grants were updated on an ongoing basis as new information came to light. In the event that the grant funding did run out the Council could approach the local MPs to ask them to lobby for additional funding from Central Government.

Councillor Beck suggested that it might be worth writing to the trade to notify them about the ARG grant and explaining how they could go about applying for it and where the application should be sent to.

Councillor Abbs asked for clarity on the costs associated with Licensing and whether or not there was sufficient funding in the grant to meet all of these costs. Officers stated that they did not have that information to hand but that it could be provided if necessary. Sean Murphy highlighted that the fees and the grants were however separate issues. Councillor Abbs accepted that this was the case but noted that he was suggesting proposing that the fees be met from the grant and that he therefore needed to know if this could be achieved. Officers explained that the application for the grant would not be to cover the fee but to offset some of the financial hardship experienced by the applicants. Gabrielle Mancini explained that the ARG grant was expected to cover all applications up until March 2022 and there were a large number of businesses in the District that might need to draw on this grant. Councillor Abbs stated that he would therefore like to recommend that no fees should be raised this year. Officers explained that the original recommendation from Councillor Barnett, which had now been seconded by Councillor Bridgman, needed to be voted on first.

Councillor Martha Vickers said she supported the suspension in fees bearing in mind that the hardship fund seemed limited and that it might not have reach everyone and could be complicated to apply for.

Councillor Rick Jones stated that he supported the idea of a proactive approach and letting the trade know that the ARG fund was available but that this could be done via publicity rather than writing to individuals as that could be very time consuming. He agreed that the decision around the fees and the availability of grant funding should be dealt with separately. Sean Murphy noted that the information about this grant was already on the website but that letters could be sent should the Committee be minded to

## LICENSING COMMITTEE - 8 FEBRUARY 2021 - MINUTES

instruct officers to do so. It was agreed that this should be undertaken to be as helpful as possible to the trade.

### **RESOLVED that:**

2.1 The consultation responses as set out in the agenda and any raised verbally at the meeting be taken into account prior to the Licensing Committee making a recommendation to the Executive and Full Council as part of the annual fee setting process. The recommendation to Full Council to confirm that the fees be set at the existing rates and that they be reviewed later in the year when the medium and longer term impact Covid has had on the trade can be ascertained.

2.2 Authority be delegated to the Head of Public Protection and Culture, in consultation with the Chairman and Vice Chairman of the Licensing Committee, to make any other minor amendments to the fees arising from comments made after the meeting and before the closing date for the consultation on the 11 February 2021.

2.3 In the event that any consultation responses are received that would have a significant impact on the fee setting process a special Licensing Committee meeting would be convened before a final determination on the fees is made at full Council on the 02 March 2021.

2.4 A meeting of the Taxi and Private Hire West Berkshire Council Liaison Group be set up as soon as practical to consider the impact Covid has had on the trade.

### **12. Response to the Fireworks Motion (C3972)**

Anna Smy introduced the report which set out a response to a motion presented to Full Council on 10th September 2020. The Public Protection Partnership was requested to inform the Licensing Committee which aspects of the motion, if any, could be supported by the Council. The report outlined some information for the Committee concerning the legal powers the PPP had with respect to fireworks such as storage, point of sale, intelligence led promotional campaigns and the use of appropriate licensing conditions and noise management plans to minimise the impact. The motion was contained on page 52 of the agenda and the response would be provided at the 02 March 2021 Council meeting.

Following discussions with colleagues Officers were proposing that the recommendations be amended as set out in the supplementary document.

Ms Smy explained that the motion's purpose was to require advance advertising for public fireworks displays and its aim was to protect animals as well as vulnerable people. The motion also sought to promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people and to include precautions to mitigate risks. The motion also sought to lobby to introduce legislation to limit the noise of fireworks sold to the public to 90 decibels for private displays and to encourage local suppliers of fireworks to stock quieter fireworks for public displays. The motion arose from an RSCPA report. The report set out what activity was already being undertaken by the PPP in relation to fireworks. Ms Smy noted that there were currently 18 premises currently licensed to sell fireworks in the district. There were 20 complaints about fireworks dealt with in 2019/20 and 33 in 2020/21.

## LICENSING COMMITTEE - 8 FEBRUARY 2021 - MINUTES

The report also set out a response to the motion and those elements that could not be supported. The ability to enforce any recommendations around the 90 decibel element was not deemed to be enforceable for a number of reasons as set out in the report. In addition there were existing legislative measures in place to deal with some elements of noise control. Officers were proposing the drafting of a fireworks policy which would be brought back to the June meeting for approval. An Initial draft was attached to the report.

Discussion took place regarding enforcement and Councillor Bridgman asked what part of this was enforceable and how would someone advertising a firework display have broken the law? Ms Smy stated that there was not currently any legislation in place that could be broken. She suspected that this was an attempt to lobby to get regulations put in place. Event organisers could be encouraged to advertise but they could not be compelled to do so.

Councillor Bridgman stated that although he had sympathy for what the RSPA were trying to achieve with the motion it was poorly worded and drafted and he therefore could not support it.

Councillor David Marsh added that the Committee was getting too bogged down in the technical details of the motion and that they were not being asked to enforce this; the Council were only being asked to support what the RSPA had asked for. He said that it simply sent out the message that the Council did not like loud fireworks because of the distress it caused to animals in the district and it was a good message to send out.

It was also noted that WBC residents would appreciate that stance on this because lots of correspondence had been received regarding this issue and that the distress reported was often due to the volume of private display fireworks over an increasingly prolonged period. He supported well run public fireworks display events.

In response to a query from Councillor Linden, Anna Smy explained the timings and time periods in which private fireworks displays could take place and noted that the enforcement around these regulations were largely a matter for the police.

Councillor Claire Rowles thanked Officers for all the work they had done in providing the response. She had been supportive of the motion when it had been presented to Council on a number of levels due to the impact not just on domestic animals but because of the impact on vulnerable people and the farming community as well. She accepted that the powers of the local authority were limited but she appreciated the sentiment and the message behind the motion. She supported lobbying parliament on the matters raised in the motion and the issue more widely and welcomed the proposals put forward by Officers.

Councillor Jeff Beck noted that on page 52 he would like to see a change made to encourage licensed premises to sell quieter fireworks to the general public and not just to those selling them for public events. He could see no harm in writing to Central Government to support the general aims of the RSPA motion.

Councillor Barnett stated that there had been a number of views expressed by Members and Officers had suggested an acceptable way forward. Councillor Bridgman proposed that the amended recommendations be taken forward as a practical solution that could be enforced. Councillor James Cole stated that it would be useful if the Fireworks Policy could be adopted by all three authorities covered by the PPP.

**LICENSING COMMITTEE - 8 FEBRUARY 2021 - MINUTES**

**RESOLVED that:**

- 2.1. the Licensing Committee agree the proposed response of the Public Protection Service to the motion submitted at Full Council on 10th September 2020 concerning the impact of fireworks;
- 2.2. the response be submitted to the Council meeting on the 02 March 2021;
- 2.3. the final policy be brought to the June meeting of Licensing for final consideration and approval.

**13. Date of Next Meeting and Forward Plan**

The next meeting would take place on the 21 June 2021

Sean Murphy proposed that an update on the discussions with the trade would come to the June 2021 meeting.

The Fireworks Policy would also be brought to the June 2021 meeting.

*(The meeting commenced at 4.30 pm and closed at 5.50 pm)*

**CHAIRMAN** .....

**Date of Signature** .....

# 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, 4 MAY 2021

**Councillors Present:** Adrian Abbs, Peter Argyle, Phil Barnett (Vice-Chairman), Jeff Beck, Graham Bridgman, Billy Drummond, Rick Jones (Chairman), Tony Linden, David Marsh, Graham Pask, Claire Rowles and Martha Vickers

#### PART I

**1. Election of Chairman**

**RESOLVED that** Councillor Rick Jones be elected Chairman of the Licensing Committee for the 2021/22 Municipal Year.

**2. Election of Vice-Chairman**

**RESOLVED that** Councillor Phil Barnett be elected Vice-Chairman of the Licensing Committee for the 2021/22 Municipal Year.

**CHAIRMAN** .....

**Date of Signature** .....

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Licensing Committee – 21 June 2021

## **Item 3 – Declarations of Interest**

Verbal Item

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## Licensing Committee Forward Plan November 2021 to June 2022

No.	Ref No	Item	Purpose	Lead Officer	Lead Member
WB 08 November 2021					
1.	LC4041	Draft Hackney Carriage and Private Hire Vehicle Driver and Operator Policy	To consider the draft policy arising from the Statutory Taxi and Private Hire Vehicles Standards Report prior to it going out to the trade for consultation.	Julia O' Brien	Councillor Hilary Cole
2.	LC4043	Fireworks Operational Approach	To agree the policy.	Anna Amy	Councillor Hilary Cole
3.	LC4044	Licensing Annual Report	To set out the work of the Licensing Committee in 2020/21 as well as the work of the Licensing Service as delivered through the Public Protection Partnership.	Sean Murphy	Councillor Hilary Cole
4.		Fees and Charges 2022/23	To set out the Fees and Charges which have been proposed by the Joint Public Protection Committee on 14 June 2021 which will be consulted on.	Sean Murphy	Councillor Hilary Cole
5.	C4045	Statement of Gambling Principles	To review the statement of Gambling Principles by January 2022 when the current document is due for renewal and make a recommendation to Full Council.	Sean Murphy	Councillor Hilary
6.		PPP Licensing Consultation procedure		Sean Murphy	Councillor Hilary
7.		Taxi Liaison Update	To provide an update following the October 2021 Taxi Liaison meeting	Moira Fraser	Councillor Rick Jones
WB 31 January 2022					
8.	LC4042	Hackney Carriage and Private Hire Vehicle Driver and Operator Policy	To adopt the policy arising from the Statutory Taxi and Private Hire Vehicles Standards Report.	Sean Murphy	Councillor Hilary Cole

No.	Ref No	Item	Purpose	Lead Officer	Lead Member
9.	LC4046	Fees for Taxi and Private Hire Vehicles	To consider any issues arising from the consultation and their impact on the proposed fees which will be recommended to full Council for approval.	Julia O Brien	Councillor Hilary Cole
10.	LC4047	Fees for Private Hire Operators	To consider any issues arising from the consultation and their impact on the proposed fees which will be recommended to full Council for approval.	Julia O Brien	Councillor Hilary Cole
June 2022					
11.		Update Following Discussions at the Taxi and Private Hire West Berkshire Council Liaison Group	To provide the Committee with an update and raise any issues emanating from the Liaison Group meetings.	Moira Fraser	Councillor Rick Jones

# Draft Statement of Gambling Principles

<b>Committee considering report:</b>	Licensing Committee
<b>Date of Committee:</b>	21 June 2021
<b>Portfolio Member:</b>	Councillor Hilary Cole
<b>Report Author:</b>	Moira Fraser
<b>Forward Plan Ref:</b>	LC4095

## 1 Purpose of the Report

- 1.1 To seek comments from the Licensing Committee on the Draft Statement of Gambling Principles prior to it being consulted on.

## 2 Recommendations

- 2.1 That the draft revised Statement of Gambling Principles prepared under Section 349 of the Gambling Act 2005 as appended to this report be approved for consultation.
- 2.2 That the Public Protection Manager is authorised to proceed with formal consultation for a 12 week period between the 05 July 2021 and the 27 September 2021.
- 2.3 That the parties as set out in paragraph 5.10 of the report be consulted.
- 2.4 That any comments on the revised Statement be brought to the 08 November 2021 Licensing Committee meeting for discussion prior to the report being formally presented for adoption at the 02 December 2021 Council meeting.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	The costs of producing this report and running the consultation exercise will be met from within the existing Public Protection Partnership budgets.
<b>Human Resource:</b>	None
<b>Legal:</b>	This Statement of Principles has to be published in accordance with s349 of Gambling Act 2005 and is required to set out the principles that the licensing authority proposes to apply when exercising its

**Draft Statement of Gambling Principles**

	functions under the Act. The licensing authority must publish its Statement of Principles at least every three years.			
<b>Risk Management:</b>	The Council is required to renew the statement every three years. A failure to do so and consult properly could result in any decisions and the policy being challenged in the Courts.			
<b>Property:</b>	None			
<b>Policy:</b>	The licensing authority must publish its Statement of Principles at least every three years. The previously adopted iteration is due to expire in January 2022. The Council is required to consult on any changes being proposed.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				This report relates only to the requirement for consultation on the Gambling Statement of Principles. Should consultees or elected members require documents in alternative format, this will be provided on request.
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?				
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?				
<b>Environmental Impact:</b>				None

<b>Health Impact:</b>				This report relates only to the requirement for consultation on the Gambling Statement of Principles. The Policy is designed to try and protect residents from harm.
<b>ICT Impact:</b>				None
<b>Digital Services Impact:</b>				None
<b>Council Strategy Priorities:</b>				Support businesses to start, develop and thrive in West Berkshire Develop local infrastructure, including housing, to support and grow the local economy
<b>Core Business:</b>				Protecting our children Ensuring the wellbeing of older people and vulnerable adults 10 Economic Development
<b>Data Impact:</b>				None
<b>Consultation and Engagement:</b>	<p>Under the Act, the licensing authority is required to consult the following parties:</p> <ul style="list-style-type: none"> <li>• The Chief Officer of Police;</li> <li>• 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</li> <li>• 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.</li> </ul> <p>The Council will therefore consult the parties as set out in paragraph 5.10 of this report</p>			

## 4 Executive Summary

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

## Draft Statement of Gambling Principles

- 4.2 The present Statement was published on 31 January 2019 and therefore must undergo a review and be republished on or before 31 January 2022. The Council is required to undertake a consultation exercise in respect of any revisions to the policy.
- 4.3 Once published, the revised Statement shall be valid between 31 January 2022 and 31 January 2025.
- 4.4 This report seeks comments from the Licensing Committee on the revised draft Statement prior to consultation and also confirmation of the organisations to be consulted and the timescales to be applied to the consultation.

## 5 Supporting Information

### Introduction

- 5.1 The Gambling Act 2005 (hereafter referred to as the Act) removed from the Magistrates' Court all responsibility for granting gaming and betting permissions. It introduced the Gambling Commission, which, alongside licensing authorities, assumed a shared responsibility for all matters previously regulated by Magistrates.
- 5.2 Licensing Authorities have powers to licence gambling premises within their area, as well as undertaking functions in relation to lower stake gambling machines and clubs. The Act also provides for a system of Temporary Use Notices which authorise premises that are not licensed generally for gambling purposes to be used for certain types of gambling for strictly limited periods.
- 5.3 Licensing Authorities licence gambling premises and issue a range of permits to authorise other gambling facilities in their area. In exercising their functions generally under the Act, Licensing Authorities must have regards to the guidance issued by the Commission with respect to their licensees, including the power to impose conditions and to review licences.
- 5.4 Section 349 of the Act requires Councils on or before each successive period of three years, to prepare a statement of the principles that they propose to apply in the exercise of their functions under the Act (the "Policy Statement") and to publish that policy statement. The current Statement of Principles expires in January 2022.
- 5.5 In formulating the statement, the Authority must have regard to the Gambling Act guidance issued by the Gambling Commission and the responses from those consulted on the policy. The statement, once adopted, will be the guiding principle for use by Members and officers when applying the Act.
- 5.6 The statement must be particular to the local authority and be formulated to achieve the government's three core aims of:
  - Preventing gambling from being a source of crime and disorder, being associated with crime and disorder, or being used to support crime.
  - Ensuring that gambling is conducted in a fair and open way.

## Draft Statement of Gambling Principles

- Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 5.7 The Council must undergo a period of consultation on the draft Statement of Principles to establish local issues of concern and to address those concerns as far as appropriate within the statement.
- 5.8 The public consultation period will last for 12 weeks between 05 July 2021 and the 27 September 2021.
- 5.9 A wide range of stakeholders will be contacted as part of the consultation, including:
- Thames Valley Police
  - Royal Berkshire Fire and Rescue Service
  - Environmental Health
  - Health and Safety Executive
  - Gambling Commission
  - West Berkshire Safeguarding Children Board
  - West Berkshire Safeguarding Adults Board
  - Public Health
  - Health and Wellbeing Board
  - Building Control
  - and other interested bodies
- 5.10 The comments received during the consultation will be fed back to the Licensing Committee at the 08 November 2021 meeting. Members will be asked to identify any changes that they would like to make to the policy arising from the consultation. They will then recommend a policy to full Council for approval.

## Background

- 5.11 There has been very little change when compared to the previous iteration of the report. A section on small society lotteries has been added and the policy has been amended to make it compliant with the current legislation and regulations as well as making it consistent with the very recent updates to the guidance to licensing authorities published by the Gambling Commission.
- 5.12 The opportunity has also been taken to provide some additional information in order to assist anyone reading the policies to understand the various sections. The general aim of the review was to ensure that the policies are both up-to-date and informative.

## Proposals

- 5.13 That the Licensing Committee approves the draft revised Statement at Appendix A for consultation.

## 6 Other options considered

- 6.1 To run the consultation period for six weeks.

## 7 Conclusion

7.1 There is a mandatory duty on the Council to consult on and publish a revised statement and the substantive policy objectives being proposed are considered to be in the best interests of the Community, the Council and the trade. A public consultation will be undertaken to inform the process.

## 8 Appendices

8.1 Appendix A – Draft Statement of Gambling Principles

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### Background Papers:

The Gambling Act 2005

[Guidance to licensing authorities - Gambling Commission](#)

### Subject to Call-In:

Yes:  No:

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 Committee 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"/>

**Wards affected:** All

### Officer details:

Name: Moira Fraser  
Job Title: Policy and Governance Officer  
Tel No: 01635 519045  
E-mail: moira.fraser@westberks.gov.uk

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# Statement of Gambling Principles

## January 2022 - January 2025

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### Document Control

<b>Document Ref:</b>		<b>Date Created:</b>	
<b>Version:</b>		<b>Date Modified:</b>	
<b>Revision due</b>	January 2025		
<b>Author:</b>	Licensing	<b>Sign &amp; Date:</b>	
<b>Owning Service</b>	Public Protection and Culture		

## Contents

Part A - General .....	4
1.1 Introduction .....	4
1.2 The District of West Berkshire .....	4
1.3 The Licensing Objectives .....	5
1.4 Licensable Activities .....	5
1.6 Interested Parties .....	7
1.7 Information Exchange .....	8
1.8 Enforcement .....	8
1.9 Local Risk Assessments .....	9
2.1 General Principles .....	11
2.3 Ensuring gambling is conducted in a fair and open way.....	13
2.4 Protecting children and other vulnerable people from gambling.....	13
2.5 Licence Conditions .....	14
2.6 Licensed Family Entertainment Centres.....	16
2.7 Casinos .....	16
2.8 Bingo Premises .....	17
2.9 Betting Premises .....	18
2.10 Adult Gaming Centres .....	19
2.11 Tracks.....	19
2.12 Travelling Fairs .....	21
2.13 Provisional Statements.....	22
2.14 Licence Reviews.....	23
3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits ..	24
3.2 Alcohol Licensed Premises Notifications and Gaming Machine Permits	25
3.3 Prize Gaming Permits .....	26
3.5 Temporary Use Notices.....	29
3.6 Occasional Use Notices .....	30
4.1 Delegations and process.....	32
4.2 Appeals .....	32
5.1 Contact for West Berkshire Licensing Team .....	32
5.2 Contact for Gambling Commission.....	33
Appendix C Gambling Act Glossary .....	40



## **Part A - General**

### **1.1 Introduction**

The Gambling Act 2005 (referred to in this document as 'the Act') requires the Council to prepare and publish a Statement of Gambling Principles ('Statement') that sets out the policies and principles that West Berkshire Council as Licensing Authority ('the Licensing Authority') will generally apply when discharging their responsibilities under the Act. It also gives details of our expectations of applicants and licence holders.

The purpose of this Statement is to provide guidance to committees and officers determining matters under delegated authority, and to provide consistency to decision-making. However, as each case will always be determined on its own merits, where the circumstances justify doing so, the Licensing Authority may depart from any provision of this Statement, or of the Guidance to Licensing Authorities issued by the Gambling Commission, to make an appropriate decision based upon the individual circumstances of a particular case. In any such case the Licensing Authority will give a clear explanation and reasons for its decision.

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, the Statement is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

This Statement has been prepared having regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted during the preparation of the Statement. A list of those consulted can be found at Appendix A. The full list of comments made and the consideration by the Council of those comments is available on request. The agenda and minutes of the Council meetings where the Statement of Principles was considered can be viewed on the Council website at [www.westberks.gov.uk](http://www.westberks.gov.uk).

The Statement will come into effect on the 31 January 2022 and will be reviewed as necessary, and at least every 3 years from the date of adoption.

### **1.2 The District of West Berkshire**

West Berkshire Council is a Unitary Authority and is predominantly rural, with an 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 20s.

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 largest town in the District and some rural areas of the District are world renowned for their involvement in the training and stabling of racehorses.

### **1.3 The Licensing Objectives**

In exercising functions under the Act, the Licensing Authority will have regard to the licensing objectives as set out in 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

The Licensing Authority is aware that, in accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

### **1.4 Licensable Activities**

'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process or a series of processes which relies wholly on chance.

The Act provides for three categories of licence:

- Operating licences
- Personal licences
- Premises licences.

The Gambling Commission is responsible for remote (online) and non-remote (land-based) gambling, for which it issues operating licences and personal licences.

The Licensing Authority is responsible for issuing premises licences and provisional statements for the following types of premises:

- Casinos
- Bingo premises
- Betting premises and tracks
- Adult gaming centres
- Family entertainment centres.

Additional functions of the Licensing Authority are to:

- issue permits for gambling and gaming machines in clubs
- receive notifications from alcohol licensed premises of the use of up to 2 gaming machines and issue licensed premises gaming machine permits where there are more than 2 machines
- issue permits to family entertainment centres
- issue permits for prize gaming
- receive and endorse temporary use notices
- receive occasional use notices for betting at tracks
- register small society lotteries
- undertake compliance and enforcement responsibilities
- provide details of licences issued, to the Gambling Commission
- maintain registers of permits and licences that are issued under the Act.

### **1.5 Responsible Authorities**

Responsible authorities must be notified of all premises licence applications and are entitled to make representations if they are relevant to the licensing objectives. Section 157 of the Act defines those authorities as:

- The Gambling Commission
- The chief officer of police or chief constable for the area in which the premises are wholly or partially situated
- The local fire authority
- The local planning authority
- The environmental health authority
- The child protection body designated by the Licensing Authority
- HM Revenue and Customs
- The Licensing Authority.

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

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

The Licensing Authority designates the Local Safeguarding Children Board for this purpose.

The contact details for all the Responsible Authorities under the Gambling Act 2005 are available via the Council’s website at: [www.westberks.gov.uk](http://www.westberks.gov.uk).

## **1.6 Interested Parties**

Interested parties can make representations about premises licence applications or apply for a review of an existing licence. Interested parties will be required to relate their representation to one or more of the matters referred to in section 153 of the Act (see section 1.3 above).

An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

In determining whether someone lives sufficiently close to particular premises so as to be affected, the Licensing Authority may take into account, amongst other things:

- the size and nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complaint
- the potential impact of the premises.

In determining whether a person has a business interest which could be affected, the Licensing Authority may consider, amongst other things:

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected.

The Licensing Authority will interpret the phrase “business interest” widely and not merely confine the phrase to meaning those engaged in trade and commerce. It may therefore include charities, churches, medical practices, schools and other establishments and institutions.

Similarly, a wide interpretation will be given to those categories of persons and organisations that represent residents and businesses. These may include residents and tenants' associations, trade unions and other associations, as well as individuals whose role is to represent the interests of one or more residents or businesses such as a Councillor or Member of Parliament.

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, then without further relevant evidence supporting the representation, the Licensing Authority would not consider this to be a relevant representation because it relates to "demand" or competition.

It is for the Licensing Authority to determine on a case by case basis whether or not a person making a representation is an "interested party". The authority may ask for evidence to identify who is being represented and show that they have given consent for representations to be made on their behalf. In cases which are not clear-cut, the benefit of the doubt will usually be exercised in favour of the person making the representation.

If individuals wish to approach Councillors to ask them to represent their views, then care should be taken that the Councillors are not part of the Licensing Sub-Committee dealing with the licence application. If there are any doubts, then please contact the licensing team by email to [licensing@westberks.gov.uk](mailto:licensing@westberks.gov.uk) or telephone 01635 519184.

## **1.7 Information Exchange**

This Licensing Authority will act in accordance with all the relevant legislation and guidance from the Gambling Commission with regard to data protection and the freedom of information. Additionally, this Licensing Authority has adopted and will apply the principles of better regulation as detailed in the Regulators' Code.

## **1.8 Enforcement**

The Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

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



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

- the Licensing Objectives
- relevant Codes of Practice
- Guidance issued by the Gambling Commission
- the principles set out in this Statement of Licensing Policy
- location of the premises and their impact on the surrounding area,
- enforcement history of the premises,
- nature of the licensed or permitted operation,
- management record.

The main enforcement and compliance role for the Licensing Authority in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences.

The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible. The Licensing Authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

The Licensing Authority will investigate complaints against licensed premises in relation to matters for which it has responsibility. In the first instance, complainants may be encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Bearing in mind the principle of transparency, the Licensing Authority's enforcement policy will be available upon request to the licensing team by email to [licensing@westberks.gov.uk](mailto:licensing@westberks.gov.uk) or telephone 01635 519184. The risk methodology is also available upon request.

A number of gambling operators have formed primary authority partnerships, under which they receive 'assured advice' from a single local authority in respect of one or more regulated aspects of their business – for example, preventing underage sales of age-restricted products or services. Where the Licensing Authority has concerns about a premises whose operator has formed a primary authority partnership relevant to the issue in question, it will consult with the primary authority prior to taking any formal action.

## **1.9 Local Risk Assessments**

The Licence Conditions and Codes of Practice (LCCP) attached to operating licences issued by the Gambling Commission impose a need for operators to consider local risks.

The LCCP require licensees 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 any relevant matters identified in this Statement.

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

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

The LCCP also require licensees to share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority.

Where concerns do exist, perhaps prompted by new or existing risks, a licensing authority might request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of licence conditions is required.

Risk assessments should be kept at the individual premises to which they relate. All staff should be fully aware of the risk assessment and where it is kept in order that they can work in accordance with any requirements, and it can easily be provided to the Licensing Authority should they request to see it at any reasonable time, including unannounced inspections and ad hoc visits.

The Licensing Authority does not intend to specify a format or mandatory content for these local risk assessments, as these will be decisions for the operator to take, and they will be dependent upon the location, size, and operational nature of the premises in question. However, it is expected that operators will have considered the individual circumstances of each of their premises when compiling the risk assessments.

A single generic risk assessment covering every premises in an operator's estate will not be considered by the Licensing Authority to be suitable or sufficient. It is also expected that operators will take full account of the local area when compiling their risk assessments, and to reflect this in the control measures which they will implement. For example, an area might be identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school.

Completion of a local area profile is not a requirement on licensing authorities. Any local area profile prepared by the Licensing Authority will be separate from this Statement, so that it can be reviewed and updated without the need for full consultation. Details of any local area profile will be available upon request to

the licensing team by email to [licensing@westberks.gov.uk](mailto:licensing@westberks.gov.uk) or telephone 01635 519184.

## **Part B - Premises Licences**

### **2.1 General Principles**

In exercising its functions under the Act, section 153 requires the Licensing Authority to permit the use of premises for gambling in so far as it thinks it:

- 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 (subject to the previous two points), and
- in accordance with the Licensing Authority's statement of licensing policy (subject the previous 3 points).

The Licensing Authority will not investigate the suitability of an applicant for a premises licence. The issue of suitability will already have been considered by the Gambling Commission because any applicant (except occupiers of tracks who do not propose to offer gambling themselves) must hold an operating licence from the Commission before the premises licence can be issued.

In the Act, "premises" is defined as including "any place". A single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as shopping malls to obtain separate premises licences, where appropriate safeguards are in place. The Licensing Authority will take account of the Gambling Commission's guidance in respect of this matter and the mandatory conditions relating to access between premises.

The Act requires applicants to submit plans of the premises with their application to ensure that the Licensing Authority has the necessary information to make an informed judgment about whether the premises are fit for gambling. As the plan forms part of the premises licence, it will also be used by the Licensing Authority in connection with premises inspection activity. The plans must comply with requirements contained in the regulations made under the Act.

When determining an application for a premises licence or review of a premises licence, regard will be had to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits.

Therefore, if an applicant can effectively demonstrate how they might overcome any concerns, this will be taken into account. This would be expected to be addressed as part of the local risk assessment required to be submitted with all new and variation premises licence applications.

In determining an application, the licensing authority cannot have regard to the expected demand for the facilities which it is proposed to provide, nor may it take account of any moral objections.

Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. The mandatory and default conditions are often sufficient to ensure operation that is reasonably consistent with the licensing objectives. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be necessary and/or appropriate in the circumstances of a particular case. More detail on licence conditions can be found at section 2.5 of this Statement.

The Licensing Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation and will seek to avoid any duplication with other regulatory systems where possible. For example, the Licensing Authority will not take into account whether premises have the appropriate planning or building consents, nor will it take into account fire or health and safety risks without justification in a particular case. It will, however, carefully consider any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Where children and other vulnerable people are allowed access to premises where gambling takes place, the licensing authority may take such steps as are lawful and necessary to either limit access generally or introduce measures to prevent under-age gambling. The Licensing Authority will not normally seek to limit the access of children to any premises unless it receives representations to that effect, or it believes it is right to do so for the prevention of their physical, moral or psychological harm. Applicants are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

The overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits.

## **2.2 Preventing gambling from being a source of crime and disorder**

The Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling premises from being a source of crime, for example the sale and distribution of controlled drugs, money laundering, prostitution, or unlawful gambling. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has high levels of organised crime, this authority will consider carefully whether gambling premises are suitable to be located there

and whether conditions may be necessary such as the provision of door supervisors. When making decisions in this regard, the Licensing Authority will give due weight to any comments made by the Police and the evidence provided in support of them.

The Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. The Licensing Authority will seek the views of its legal advisers before determining what action to take in circumstances in which disorder may be a factor.

As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Licensing Authority will not use the Act to deal with general nuisance issues, such as parking problems, which can be dealt with using alternative powers.

### **2.3 Ensuring gambling is conducted in a fair and open way**

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

### **2.4 Protecting children and other vulnerable people from gambling**

The Licensing Authority has noted that the Gambling Commission's Guidance for Local Authorities states that this objective means preventing children from taking part in gambling, as well as restriction of advertising so that gambling products are not aimed at, or are particularly attractive to, children. The Licensing Authority will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines or segregation of areas.

The use of CCTV (in accordance with data protection regulations and any relevant codes of practice) may be insufficient on its own as a measure to prevent access to gaming facilities by children or vulnerable persons (including those who have registered in a self-exclusion scheme).

At premises such as adult gaming centres, betting shops, bingo halls and family entertainment centres where category B or C gaming machines are operated, the Licensing Authority will expect that an appropriate number of staff will be present throughout opening hours to ensure that children are not permitted to enter the premises or use age-restricted gaming facilities, as the case may be, and that self-excluded persons are not permitted to gamble.

The Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises such as pubs.

As regards the term “vulnerable persons”, it is noted that it is not defined in the Act and the Gambling Commission does not seek to offer a definition, but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” The licensing authority will consider this licensing objective on a case by case basis.

The Licensing Authority will consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will be balanced against the authority’s objective to aim to permit the use of premises for gambling.

Best practice is for staff working at licensed premises to undergo training on identifying and assisting vulnerable persons.

## **2.5 Licence Conditions**

The Act provides that premises licences may be subject to conditions in a number of ways:

- they may attach automatically, having been set out in the Act
- they may attach through regulations made by the Secretary of State
- they may be attached to premises licences by licensing authorities.

Any conditions attached to premises licences by the Licensing Authority will be proportionate and will be:

- relevant to the aim to permit the use of the premises for gambling,
- necessary to promote the licensing objectives,
- directly related to the premises and the type of licence applied for,
- fairly and reasonably related to the scale and type of premises,
- within the control of the licensee, and
- reasonable in all other respects.

When considering any conditions to be attached to licences, the licensing authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will

consider utilising should there be an evidence-based need, such as the use of supervisors, appropriate signage for adult only areas or CCTV. There are specific comments made in this regard under some of the licence types below. The Licensing Authority will also expect the licence applicant to offer their own suggestions as to the way in which the licensing objectives can be met effectively.

The Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in gambling premises to which children are allowed, in order to pursue the licensing objectives.

It is noted that there are conditions which the Licensing Authority cannot attach to premises licences which are:

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

If the Licensing Authority is concerned that premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that entrance to the premises is controlled by a door supervisor and is entitled to impose a condition on the premises licence to this effect.

The Act provides that where a person employed as a door supervisor is required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence.

The majority of persons employed to work as door supervisors at premises licensed for gambling will need to be licensed by the SIA. There are, however, exceptions to this requirement.

This requirement is relaxed when applied to door supervisors at casino and bingo premises. Where contract staff are employed as door supervisors at casino or bingo premises, such staff will need to be licensed by the SIA. However, in-house employees working as door supervisors at casino and bingo premises are exempt from this requirement.

## **2.6 Licensed Family Entertainment Centres**

Persons operating a licensed Family Entertainment Centre (FEC) must hold a relevant operating licence issued by the Gambling Commission. They will be able to make category C and D gaming machines available.

Children and young persons are permitted to enter an FEC and may use category D machines. They are not permitted to use category C machines and it is a requirement that there must be clear segregation between the two types of machine, so that under-18s do not have access to them.

The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult-only gaming machine areas.

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

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

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

## **2.7 Casinos**

There are currently no casinos operating within the West Berkshire Council area.

Casinos are only permitted in certain areas within Great Britain. New casinos under the Gambling Act 2005 are restricted to 16 specific local licensing authority areas. West Berkshire is not one of those areas.

Casinos that operated under the Gaming Act 1968 should already have a premises licence from their local licensing authority. The regions in which those casinos operate are based on a historical division that was established under



the previous licensing regime by the Gaming Board for Great Britain. West Berkshire is not one of those regions.

## **2.8 Bingo Premises**

Cash bingo is the main type of bingo played in commercial bingo premises. They can also offer prize bingo, largely as games played in the intervals between main stage games. Premises with a bingo premises licence will be able to offer bingo in all its forms.

The Licensing Authority will need to be satisfied that bingo can be played in any bingo premises for which a premises licence is sought.

The Act provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available.

An operator may allow children and young people into licensed bingo premises. However, they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

The Licensing Authority will need to be satisfied that any premises licensed for bingo will operate in a manner which a customer would reasonably be expected to recognise as premises licensed for the purposes of providing facilities for bingo.

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

- CCTV
- Proof of age schemes
- Supervision of entrances/machine areas
- Physical separation of areas (if not adult-only)
- Entry control system (if not adult-only)
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Measures/training for staff on how to deal with children on the premises (if not adult-only)

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

## 2.9 Betting Premises

Betting premises provide off-course betting which is betting that takes place other than at a track in what was previously known as a licensed betting office. Tracks are considered in section 2.11 below.

Children and young persons are not permitted to enter betting premises. The Licensing Authority will expect applicants and licence holders to take account of the structure and layout of their gambling premises in order to prevent underage gambling.

The holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D.

Betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These self-service betting terminals (SSBTs) are not gaming machines.

The Licensing Authority may restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the Licensing Authority, amongst other things, will take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.

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

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

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

## **2.10 Adult Gaming Centres**

Persons operating an adult gaming centre (AGC) are able to make category B, C and D gaming machines available. No-one under the age of 18 is permitted to enter an AGC.

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

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

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

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

## **2.11 Tracks**

The Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

Examples of other tracks include (this is not an exhaustive list):

- a point-to-point horserace meeting
- football, cricket and rugby grounds
- an athletics stadium
- a golf course
- venues hosting darts, bowls, or snooker tournaments
- premises staging boxing matches
- a section of river hosting a fishing competition
- a motor racing event

There are differences between track premises licences and other premises licences. Tracks admit third-party operators to provide betting facilities, whereas other premises licence holders – for example, betting shops, bingo

clubs and casinos – provide the gambling facilities themselves and are subject to the conditions of the operating licence as well as the premises licence.

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Licensing Authority will especially consider the impact upon the licensing objective "protection of children and vulnerable persons from being harmed or exploited by gambling" and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

Persons under 18 years old are not permitted to enter premises when betting facilities are being provided, other than at tracks. This dispensation allows families to attend premises such as greyhound tracks or racecourses on event days, and children to be permitted into areas where betting facilities are provided, such as the 'betting ring', where betting takes place.

The exemption allowing children access to betting areas on tracks does not extend to areas within a track where category C or above machines are provided, or other premises to which under 18 year olds are specifically not permitted access. For example, where betting facilities are provided through a self-contained betting office on a track which has a separate betting premises licence, the betting operator of the self-contained premises is required to exclude under-18s from their premises.

The Act creates offences relating to gambling by children and young people and operating licence conditions require operators to have policies and procedures in place to prevent betting from persons who are under 18 years old. As under-18s are permitted to enter betting areas on tracks on event days, this needs to include policies and procedures to mitigate the likelihood of underage betting occurring. The track premises licence holder is also required to display a notice in a prominent place at every public entrance stating that no person under the age of 18 is permitted to bet on the premises.

The Act prohibits the employment of anyone under 18 years old on tracks.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Entry control system
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes

- Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures that may be taken.

The Licensing Authority will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting operators may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet with a member of staff. These self-service betting terminals (SSBTs) are not gaming machines; they automate the process that can be conducted in person and therefore are not regulated as gaming machines. There is no restriction on the number of SSBTs that may be in use but operators must, by virtue of their operating licence conditions, supervise such terminals to prevent them being used by persons under 18 years of age.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

In cases such as greyhound tracks, racecourses, football stadia and cricket grounds, defining the extent of boundaries may be assisted by reference to existing plans already submitted to obtain other permissions.

It is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans due to the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pin-pointing exact locations for some types of track. The Licensing Authority will need to be satisfied that the plan provides sufficient information to enable it to assess an application.

## **2.12 Travelling Fairs**

The Act defines a “fair” as wholly or principally providing amusements on a site that has been used for a fair for no more than 27 days in a calendar year. In addition, the fair must be provided wholly or principally by persons who travel from place to place for the purpose of providing fairs.

Travelling fairs may provide an unlimited number of category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machines operate.

Travelling fairs are also able to offer equal chance prize gaming without a permit, provided that, taken together, the facilities for gambling are an ancillary amusement at the fair.

The Licensing Authority will decide whether a travelling fair which offers category D machines and/or equal chance prize gaming without a permit meets the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair.

The Licensing Authority will also determine whether any specific fair falls within the statutory definition of a travelling fair.

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

### **2.13 Provisional Statements**

The Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that they:

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

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

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

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

The holder of a provisional statement may then apply for a premises licence and the normal statutory process will apply subject to one exception. No representations from relevant authorities or interested parties can be taken into account unless:

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

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 statement stage,
- which in the authority's opinion reflect a change in the operator's circumstances, or
- where the premises have not been constructed in accordance with the plan and information submitted with the application.

## **2.14 Licence Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities at any time. It is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to one or more of the matters listed below:

- any relevant Code of Practice issued by the Gambling Commission,
- any relevant Guidance issued by the Gambling Commission,
- reasonable consistency with the licensing objectives, or
- in accordance with the Licensing Authority's statement of principles.

The request for the review may also be rejected if the Licensing Authority considers that the request is:

- frivolous,
- vexatious,
- certainly not going to cause the Licensing Authority to take any action allowed by the Act, or
- substantially the same as previous representations or requests for review.

The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence in the following circumstances:

- in relation to particular premises, the Licensing Authority may review any matter connected with the use made of the premises if:
- it has reason to suspect that premises licence conditions are not being observed, or
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.
- in relation to a class of premises, the Licensing Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions.

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

- add, remove or amend a licence condition imposed by the Licensing Authority,
- exclude a default condition imposed by the Secretary of State (i.e., opening hours) or remove or amend such an exclusion,
- suspend the premises licence for a period not exceeding three months, or
- revoke the premises licence.

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

In particular, the Licensing Authority may take action on the grounds that a premises licence holder has not used the licence.

## **Part C - Permits, Temporary and Occasional Use Notices**

### **3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits**

A proprietor of a family entertainment centre (FEC), who wishes to make only category D gaming machines available for use in those premises, can do so in reliance upon a family entertainment centre gaming machine permit.

This category of permit provides an alternative to the family entertainment centre premises licence available under the Act (which allows the operation of higher-value gaming machines (Category C) but is subject to more rigorous application procedures).

It should be noted that the premises must be wholly or mainly used for making gaming machines available for use, to be eligible for this type of permit.

Any application for a permit will be considered with regard to the licensing objectives and to any relevant guidance issued by the Commission. Particular weight will be given to child protection matters, including adequate levels of staff supervision.

The applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include:

- appropriate measures / training for staff as regards suspected truant school children on the premises,
- measures / training covering how staff would deal with unsupervised very young children being on the premises,



- measures / training covering how staff would deal with children causing perceived problems on / around the premises.

The Licensing Authority 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(s) or company directors (if the applicant is a limited company) has no relevant convictions (this will not be necessary if the applicant is licensed by the Gambling Commission), and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

Applicants will also be required to supply a plan of the internal layout of the family entertainment centre, drawn to an appropriate scale, that shows the location of the area(s) where category D gaming machines will be made available for use.

An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and the chief officer of police has been consulted on the application.

The Licensing Authority cannot attach conditions to this type of permit. There is no limit on the number of category D gaming machines that may be made available at the premises.

A permit will remain in force for 10 years. A renewal application must be made prior to the expiry date in accordance with the procedure contained in the Act.

### **3.2 Alcohol Licensed Premises Notifications and Gaming Machine Permits**

There is provision in the Act for some premises licensed to sell alcohol for consumption on the premises to have an automatic entitlement to provide no more than two gaming machines, of categories C and/or D. The premises must satisfy the conditions contained in the Act, notify the Licensing Authority of their intention to make the gaming machines available for use and pay the fee. The conditions restrict the entitlement to premises:

- with an on-premises alcohol licence,
- that have a bar at which alcohol is served, and
- without a requirement that alcohol is only served with food.

The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives,
- gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e., that written notice has been provided to the Licensing

Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with),

- the premises are mainly used for gaming, or
- an offence under the Act has been committed on the premises

If relevant alcohol licensed premises wish to provide more than two gaming machines, they must apply to the Licensing Authority for a “licensed premises gaming machine permit” for any number of category C and/or D machines. This would replace any automatic entitlement under the Act.

The Licensing Authority must consider a permit application on the basis of the licensing objectives, any guidance issued by the Gambling Commission under Section 25 of the Act and such other matters as the authority considers relevant.

The Licensing Authority considers that “such other matters” will be decided on a case by case basis, but generally there will be regard to:

- the need to protect children and vulnerable persons from harm or being exploited by gambling, and
- measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which may satisfy the licensing authority that there will be no access may include:

- the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18.
- notices and signage.

As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

A permit may be varied or transferred. An annual fee is payable, but a permit does not require renewal. The permit will lapse if the alcohol premises licence ceases to have effect.

### **3.3 Prize Gaming Permits**

Gaming is “prize gaming” if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes are determined by the operator before play commences.

Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.

A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for prize gaming on specified premises.

In any application for a prize gaming permit the applicant should set out the types of gaming that they are intending to offer, and should also be able to demonstrate:

- they understand the limits to stakes and prizes that are set out in regulations,
- that the gaming offered is within the law, and
- that appropriate measures will be taken to ensure that children are protected from being harmed or exploited by gambling.

In making its decision on an application for this permit, the Licensing Authority does not need to (but may) have regard to the licensing objectives, but must have regard to any relevant Gambling Commission guidance.

The Licensing Authority will only grant a permit after consultation with the chief officer of police. This will enable the Licensing Authority to determine the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming, the suitability of the premises in relation to their location, and any issues about disorder.

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

- 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.

A permit will remain in force for 10 years. A renewal application must be made prior to the expiry date in accordance with the procedure contained in the Act.

### **3.4 Club Gaming and Club Machine Permits**

The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines three types of club for the purposes of gaming:

- members' clubs
- commercial clubs
- miners' welfare institutes

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 (a maximum of three gaming machines of category B, C or D), equal chance gaming and games of chance as set out in the regulations.

Members clubs, miner's welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines (a maximum of three gaming machines of category B, C or D).

A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. The Act states that 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 restricted to that of a prescribed kind (currently bridge or whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.

Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.

The Licensing Authority may only refuse an application for a permit on the grounds that:

- 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 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 Commission or the police.

If the Licensing Authority is satisfied that the first or second ground applies, it must refuse the application. In exercising its functions in relation to club permits the authority will have regard to any relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives

There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced.

The grounds on which an application under the "fast track" process 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.

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

The Authority may grant or refuse a permit, but it may not attach conditions to a permit.

A permit will normally remain in force for 10 years. A renewal application must be made prior to the expiry date in accordance with the procedure contained in the Act. However, a permit granted under the "fast track" process does not require renewal, but it will lapse if the club premises certificate ceases to have effect.

### **3.5 Temporary Use Notices**

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

A temporary use notice can only be given by a person or company holding a relevant operating licence issued by the Gambling Commission (i.e., an operating licence that authorises the type of gambling to be offered)

The types of gambling activities that may be authorised by a temporary use notice are set out in regulations made under the Act. Currently, the only permitted activity is the provision of facilities for equal chance gaming, where

the gaming is intended to produce a single overall winner. Possible examples of this could include gaming tournaments with such games as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

Temporary use notices are subject to a statutory limit that a set of premises may be used for no more than 21 days in any 12 month period. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises.

The holder of an operating licence must give notice to the Licensing Authority in whose area the premises are situated. A temporary event notice must be given to the Licensing Authority not less than three months and one day before the day on which the gambling event will begin.

The application must be copied to:

- the Gambling Commission,
- the chief officer of police for the area in which the premises are situated,
- HM Revenue and Customs, and
- if applicable, any other licensing authority in whose area the premises are also situated.

Gaming machines may not be made available under a temporary use notice.

The Licensing Authority will carry out its functions in relation to temporary use notices by applying the same principles as those applied in determining premises licence applications (see section 2.1 above).

### **3.6 Occasional Use Notices**

Occasional use notices may be used to authorise infrequent betting at tracks (see section 2.11 for definition), on no more than 8 days in any calendar year. They cannot be used to authorise any other form of gambling activity (e.g., gaming machines). Providing that the 8-day limit is not breached, there is no provision for correctly-served notices to be refused by the Licensing Authority.

The definition of track premises is not restricted to permanent premises, but can include any premises or land on which a race or sporting event is to take place. Consideration will therefore be given to the nature of the premises specified in a notice, in addition to whether the person giving the notice is an occupier of the track, or is responsible for the administration of events at the track.

The notice must be given to the Licensing Authority and the chief officer of police, in writing, before the event starts. No fee is payable.

Occasional use notices allow the giver of the notice to invite operators who hold a General Betting Operating Licence to accept bets on the premises. Such

persons must hold a relevant betting operating licence, and comply with the requirements of any conditions attached to that licence.

### **3.7 Small Society Lotteries**

Small society lotteries are required to be registered with the local authority in the area where their principal office is located. The local authority is the licensing authority.

The Act defines a small society lottery by reference to two areas:

- society status - the society in question must be 'non-commercial'
- lottery size - the total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000. If the operator plans to exceed either of these values then they may need to be licensed with the Commission to operate large lotteries instead.

Small society lotteries are required to be registered with the local authority in the area where their principal office is located.

- The Licensing Authority must refuse an application for registration if, within the past five years, either of the following applies: an operating licence held by the applicant for registration has been revoked, or
- an application for an operating licence made by the applicant for registration has been refused

In addition, the Licensing Authority may refuse an application for registration if, within the past five years, either of the following applies:

- the applicant is not a non-commercial society,
- a person who is or may be connected with the promotion of the lottery has been convicted of a relevant offence (listed in Schedule 7 of the Act) or
- information provided in or with the application for registration is false or misleading.

The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. The authority will inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion prior to the opportunity to make representations.

## **Part D - Decision Making**

## **4.1 Delegations and process**

The Licensing Authority will carry out its responsibilities under the Gambling Act 2005 efficiently and cost-effectively. To do this, functions are delegated from the Licensing Committee to either Sub-Committees or officers as appropriate. The table shown at Appendix B sets out the agreed delegation of decisions and functions. This form of delegation is without prejudice to officers referring a matter to a Sub-Committee or the full Committee if appropriate in the circumstances of any particular case.

Where there are no areas of contention, it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by a sub-committee, as will any application for the review of a licence.

Every determination of a licensing decision by a Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The written notice of the decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable.

## **4.2 Appeals**

Any appeal against a decision of the Licensing Authority must be made to the local Magistrates' Court within 21 days of receipt of the decision notice.

# **Part E - Further Information**

## **5.1 Contact for West Berkshire Licensing Team**

Licensing Team  
West Berkshire District Council  
Council Offices  
Market Street  
Newbury  
RG14 5LD

Tel: 01635 519184

E-mail: [licensing@westberks.gov.uk](mailto:licensing@westberks.gov.uk)

[www.westberks.gov.uk](http://www.westberks.gov.uk)



## **5.2 Contact for Gambling Commission**

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6666

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## **Appendix A List of Consultees**

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- Bingo Association
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Committee of Registered Club Associations
- Gamblers Anonymous
- Gambling Commission
- GAMCARE
- HM Revenue and Customs
- Holders of existing gambling licences / permits
- National Association of Bookmakers
- Parish and Town Councils
- Planning
- Public Consultation Portal
- Public Health Team
- Royal Berkshire Fire and Rescue
- Thames Valley Police
- West Berkshire Council Environmental Health
- West Berkshire Council Planning
- West Berkshire Safeguarding Children Board

## Appendix B

### Gambling Act 2005 – Scheme of Delegations

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Section 163	Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application for Premises Licence where no relevant representations received	Licensing Sub-Committee  Officers
Section 162	Attachment of condition to Premises Licence or exclusion of default condition	Licensing Sub-Committee
Section 162	Decision as to whether representation is vexatious, frivolous, or would certainly not influence the authority's determination of application	Officers in consultation with Chairman or Vice-Chairman at the Licensing Committee
Section 187	Determination of application to vary Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application to vary Premises Licence in respect of which no representation received	Licensing Sub-Committee  Officers
Section 188	Determination of application for transfer of Premises Licence in respect of which representations have been made (not withdrawn) Determination of application for transfer of Premises Licence where no representations received	Licensing Sub-Committee  Officers
Section 193	Revocation of Premises Licence for failure to pay annual fee	Officers
Section 194	Determination that a Premises Licence has lapsed	Officers

## Appendix B

### Gambling Act 2005 – Scheme of Delegations

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Section 195	Reinstatement of lapsed Premises Licence in respect of which representations have been made (and not withdrawn) Reinstatement of lapsed Premises Licence where no representation is received	Licensing Sub-Committee  Officers
Section 198	Rejection of application for review of Premises Licence on various grounds	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 200	Initiation of review of Premises Licence	Officers
Section 201	Determination that representation about review of Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 202	Determination of action following review of Premises Licence	Licensing Sub-Committee
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn) Determination of application for provisional statement in respect of which no representations received	Licensing Sub-Committee  Officers
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Officers
Section 221	Objection to Temporary Use Notice	Officers
Section 222	Issue of counter notice in response to Temporary Use Notice	Licensing Sub-Committee

## Appendix B

### Gambling Act 2005 – Scheme of Delegations

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Section 284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Schedule 10 Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Head of Administration (or in his absence the Central Services Manager) (Refusal to be exercised only in consultation with Chairman or Vice-Chairman of the Licensing Committee)
Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Schedule 11 Paragraph 44 Paragraph 48	Registration of society for small society lottery Refusal of application for registration of society for small society lottery	Officers Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Paragraph 50	Revocation of registration of society for small society lottery	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee	Officers

## Appendix B

### Gambling Act 2005 – Scheme of Delegations

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Schedule 12 Paragraphs 5 and 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn)	Licensing Committee Sub-
Paragraph 15	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit where no representations received	Officers
Paragraph 21	Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn)	Licensing Committee Sub-
Paragraph 22	Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations received	Officers
Paragraph 21	Cancellation of Club Gaming Permit and Club Registration Permit	Licensing Committee Sub-
Paragraph 22	Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee	Officers
Schedule 13 Paragraphs 4, 15 and 19	Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit	Officers (Refusal and limitation on number of machines only in consultation with Chairman or Vice-Chairman of the Licensing Committee)
Paragraph 16	Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)	Licensing Committee Sub-

## Appendix B

### Gambling Act 2005 – Scheme of Delegations

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Paragraph 17	Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee	Officers  Officers
Schedule 14 Paragraphs 9 and 18	Determination of application for Prize Gaming Permit and application for renewal of Permit	Officers (Refusal only in consultation with Chairman or Vice-Chairman of Licensing Committee)
Paragraph 15	Determination that Prize Gaming Permit has lapsed	Officers

## Appendix C Gambling Act Glossary

<b>Adult Gaming Centres</b>	Adult Gaming Centres must have a premises licence from the licensing authority to make category B, C and D gaming machines available to their customers.
<b>Betting Premises</b>	The Act contains a single class of licence for betting premises, which includes track and non-track.
<b>Bingo</b>	Two types of bingo can be offered: Cash bingo - where the stakes paid made up the cash prizes that are won; or Prize bingo - where various forms of prizes are won and are not directly related to the stakes paid.
<b>Casinos</b>	The Act defines casino games as games of chance which are not equal chance gaming.
<b>Customer Lottery</b>	A lottery run by occupiers of a business for the benefit of the customers who buy tickets sold on the premises (e.g. supermarket holding a hamper raffle).
<b>Exempt Lottery</b>	Incidental non-commercial lotteries Private lotteries Customer lotteries Small Society lotteries
<b>Gambling Act 2005</b>	The Act governs the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It received royal assent on 7 April 2005.
<b>Gambling Commission</b>	The Gambling Commission licenses larger gambling operators and provides advice and guidance to operators, stakeholders and licensing authorities. They also have a role in enforcement and ensuring promotion of the licensing objectives.
<b>Gaming Machines</b>	Category of machine and where they can be situated are contained at the end of this glossary.
<b>Incidental Non-Commercial Lottery</b>	Lottery that is run as an additional amusement at non-commercial events with tickets sold only during the event, such as a raffle at a dance or church fair.
<b>Licensed Family Entertainment Centres</b>	The Act creates two classes of family entertainment centres (FEC). Licensed FECs provide category C and D machines and require a premises licence.



<b>Lotteries</b>	A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
<b>Non-track betting</b>	Betting that takes place other than at a racetrack.
<b>Occasional Use Notices</b>	Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
<b>Private Lottery</b>	Lottery that requires membership of a society, place of work or single residential unit (e.g. raffle at a student hall of residence).
<b>Small Society Lottery</b>	Non-commercial societies if it is established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or for any other non-commercial purpose other than private gain.
<b>Temporary Use Notices</b>	These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises which might be suitable for temporary use notices would include hotels, conference centres and sporting venues.
<b>Track betting</b>	Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks both in the form of pool betting (often known as the “totalisator” or “tote”) and also general betting, often known as “fixed-odds” betting.
<b>Travelling Fairs</b>	A travelling fair is one that “wholly or principally” provides amusements and they must be on a site that had been used for fairs for no more than 27 days per calendar year. No permit is required for gaming machines, but they must comply with age restrictions.
<b>Unlicensed Family Entertainment Centres</b>	Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits.

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## Review of Hackney Carriage Tariffs

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<b>Committee considering report:</b>	Licensing Committee
<b>Date of Committee:</b>	21 June 2021
<b>Portfolio Member:</b>	Councillor Hilary Cole
<b>Report Author:</b>	Moira Fraser
<b>Forward Plan Ref:</b>	n/a

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### 1 Purpose of the Report

- 1.1 To review the current hackney carriage fare scale, agree options and outline the consultation process that will be undertaken on these options if Members are minded to amend them.

### 2 Recommendation

That the Committee

- 2.1 **NOTES** the existing tariffs.
- 2.2 **CONSIDERS** the options as set out in paragraph 4.12 and Appendix B and agrees which, if any, of the proposals should be consulted on.
- 2.3 **CONSIDERS** whether the timings associated with Tariff 1, which are currently set at 06:00 to 22:00 Monday to Saturday other than bank holidays, public holidays, Christmas and Boxing Days, should be amended to 06:00 to 23:00 Monday to Saturday other than bank holidays, public holidays, Christmas and Boxing Days.
- 2.4 **CONSIDERS** how many tariffs are needed and whether or not it would be appropriate to remove tariff 3.

If Members are minded to consult on any changes

- 2.5 **AGREES** that a copy of the notice should be placed in the Newbury Weekly News, the Reading Chronicle, on the Council's website and on display at the Market Street Council Offices.
- 2.6 **AGREES** that a copy of the notice should be emailed to the trade.
- 2.7 **AGREES** that the consultation should run from the 1 July 2021 to 15 July 2021.
- 2.8 **AGREES** that if no objections to the changes are received the revised maximum fares would come into effect from 1 August 2021.

2.9 **AGREES** that if objections are received and not withdrawn a Special Licensing Committee meeting will be convened to consider the objections and agree a way forward.

### 3 Implications and Impact Assessment

Implication	Commentary			
<b>Financial:</b>	There are no specific financial implications for the Council arising from this report. The consultation, including the cost of notices in newspapers, will be undertaken using existing resources.			
<b>Human Resource:</b>	Any actions will be met from within existing resources			
<b>Legal:</b>	The procedure for setting fares and public notice requirements are stipulated within section 65 of the Local Government (Miscellaneous Provisions) Act 1976.			
<b>Risk Management:</b>	None			
<b>Property:</b>	None			
<b>Policy:</b>	None			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		Not required because the setting of fares in relation to this statutory function is not considered to cause any discrimination. The fees are set in accordance with Government guidance.

<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		This report is seeking permission to consult on proposals.
<b>Environmental Impact:</b>		X		None
<b>Health Impact:</b>		X		None
<b>ICT Impact:</b>		X		None
<b>Digital Services Impact:</b>		X		The notice will be placed on the website by the Public Protection Partnership
<b>Council Strategy Priorities:</b>	X			The provision of a viable taxi trade in the district will support a number of the priorities in the Council Strategy, in particular they are associated with supporting businesses to start, develop and thrive in West Berkshire.
<b>Core Business:</b>		X		Providing support to the taxi trade forms part of the business as usual for the Public Protection Partnership.
<b>Data Impact:</b>				None
<b>Consultation and Engagement:</b>	The procedure for setting fares and public notice requirements are stipulated within section 65 of the Local Government (Miscellaneous Provisions) Act 1976.			

## 4 Supporting Information

### Introduction

- 4.1 The process of setting a fare increase is complex and a balance needs to be struck between the legitimate aims of the taxi trade to maintain profitability in the face of increasing costs, while protecting the public from excessive fares.
- 4.2 Any decisions also need to take cognisance of the current situation the taxi trade finds itself in arising from the Covid pandemic. Anecdotal information received from the trade

## Review of Hackney Carriage Tariffs

is that their income has been reduced by around 75% over the last financial year. The trade are also mindful that any proposal to increase fares significantly could also potentially drive customers away.

- 4.3 The trade have requested that the fares charged by neighbouring authorities be borne in mind when making any suggested amendments to the fares in West Berkshire.
- 4.4 Licensing authorities have a statutory power to set the maximum fares that licensed hackney carriages (taxis) can charge for a journey. Under section 65 of the Local Government (Miscellaneous Provisions) Act 1976, licensing authorities have the power to "...fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section."
- 4.5 The trade are not obligated to charge the maximum fare. This means that hackney carriage drivers are well within their rights to negotiate the fare down provided that the final agreed fare is no more than the maximum set.
- 4.6 Any proposed changes to the current tariffs would need to be subjected to a statutory consultation process.

## Background

- 4.7 The current tariff scale as set out in Appendix A was agreed in 2013. Since then a number of discussions have taken place with the trade about potential adjustments to these fares.
- 4.8 The current scheme comprises three tariffs
  - Tariff 1 - Which is applied between 06:00 and 22:00 Monday to Saturday (excludes bank holidays and public holidays, Boxing Day and Christmas Day)
  - Tariff 2 – Which is applied between 22:00 and 06:00 Monday to Saturday, on Sundays, bank holidays and public holidays, between 06:00 and midnight on Boxing Day, between 19:00 and midnight on Christmas Eve and New Year's Eve and for any journey with five or more passengers between 06:00 and 22:00 Monday to Saturday.
  - Tariff 3 - Which is applied to journeys commencing on Christmas Day until 06:00 on Boxing Day and journeys commencing between midnight and 06:00 on New Year's Day.
- 4.9 A Task and Finish Group was set up by the Licensing Committee in 2019 to consider operator licence fees as well as fares. Cabco were invited to draft a proposal in relation to the fares. The proposal that they put forward was a 9% fare increase for tariffs 1 and 2 but that no increase should be applied to tariff 3. This proposal was discussed at the 18 November 2019 Licensing Committee meeting.
- 4.10 In considering these proposals the Licensing Committee noted that because the fares had grown organically the three tariffs were confusing. A counter proposal was put forward for a more logical system which was based on tenths of a mile. The fare would comprise a flag charge (which included two units) and then the units cost would be

## Review of Hackney Carriage Tariffs

broken down into tenths of a mile. Tariffs 2 and 3 would be set as a factor of tariff 1. It was agreed that the trade would go away and look at these proposals. It was subsequently noted that in order for the meters to accommodate the tariffs the waiting times would have to be factored in too.

4.11 Two subsequent meetings have been held with the trade where the tariffs were discussed. The representatives at the trade meeting stated that

- Only two tariffs were needed and that tariff 3 should no longer be applied. This proposal has been disputed by some members of the trade.
- They were supportive of basing the fares on a flag charge (which included two units) and then unit costs which were broken down into tenths of a mile (i.e. each unit equated to 176 yards).
- Tariff 2 (flag amounts excluded) should be a direct multiplication of Tariff 1. (The ratio would be determined through the consultation process)
- They were generally supportive of a small increase to the fares but would not welcome any substantial uplift to the scales.

## Proposals

4.12 Appendix B sets out three options which are proposed for consultation arising from the discussions with the trade. Members are asked to agree which, if any, of the proposals they would like to consult on.

### Tariff 1

Applies for any hiring when the journey commences between 06:00 and 22:00 Monday to Saturday, other than Bank Holidays, Public Holidays, Boxing Day or Christmas Day.

### Tariff 2

Applies at all other times

### Both Tariffs:

Initial distance not exceeding 352 yards (1/5 mile)

Initial waiting time 72 seconds or a combination of time and distance

Subsequent distances – each 176 yards or part thereof (1/10 mile)

Subsequent waiting times – every period of 36 seconds or part thereof.

## Options – Tariff 1

	Option 1	Option 2	Option 3
initial distance (flag) / initial 72 seconds	£2.80	£3.00	£3.00

## Review of Hackney Carriage Tariffs

	Option 1	Option 2	Option 3
per unit / further 36 seconds thereafter	£0.215	£0.22	£0.24
per hour waiting time	£21.50	£22.00	£24.00

### Options – Tariff 2

	Option 1	Option 2	Option 3
initial distance (flag) / initial 72 seconds	£3.80	£4.50	£4.25
per unit / further 36 seconds thereafter	£0.33	£0.33	£0.36
per hour waiting time	£32.68	£33.00	£36.00 per

4.13 Members are asked to consider if the timings associated with the various tariffs as set out in paragraph 4.8 are still appropriate and if these need to be revised at all.

4.14 In order to set maximum fares, the 1976 Act prescribes a statutory consultation process and a means of dealing with objections in relation to a licensing authority's proposal to adopt or vary fares.

4.15 If Members are minded to make any adjustment to the fares the Council must publish a notice setting out the proposed changes in at least one local newspaper. The notice must specify that readers will have at least fourteen days from the date of the first publication of the notice to object to the change. The notice should also set out how the objections should be made.

4.16 A copy of the notice must be displayed at the Council's Office and in addition a copy will also be placed on the Public Protection Partnership's website. The Council could also email a copy of the notice to individual members of the trade.

4.17 If no objection to the variation is received within the fourteen day period or if all objections are withdrawn, the revised fares will come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the last objection whichever date is the later.



## Review of Hackney Carriage Tariffs

- 4.18 Members are asked to consider if they believe that a date of the 01 August 2021 is achievable if no objections are received as the trade will need to ensure that they have sufficient time to recalibrate their meters.
- 4.19 If objections are received and not withdrawn, the Licensing Committee will have to meet again (not later than two months after the first specified date,) to consider the objections and agree a way forward.

## 5 Other options considered

- 5.1 Not to consider any variations to the tariffs.
- 5.2 Any additional options proposed by the Members at the meeting.

## 6 Conclusion

- 6.1 The issue of setting fares for hackney carriage drivers is an important one primarily for two reasons. The fares set by licensing authorities largely determine the ability of drivers to earn a decent living but also functions to ensure that passengers receive a fair deal when taking a journey in a licensed hackney carriage. Given the importance of setting hackney carriage fares, it is important that local authorities have a proper way of calculating fares in their local areas. The proposed revised methodology provides a more logical approach to fare setting.

## 7 Appendices

- 7.1 Appendix A – Existing Tariffs
- 7.2 Appendix B – Options for Revised Tariffs

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### Background Papers:

None

### Subject to Call-In:

Yes:  No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only
-

**Wards affected:** All

**Officer details:**

Name: Moira Fraser  
Job Title: Policy and Governance Principal Officer  
Tel No: 01635 519045  
E-mail: moira.fraser@westberks.gov.uk

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### Hackney Carriages – Table of Fares effective from 18 April 2013

Customers should be aware that these charges are the **MAXIMUM** to be charged and any lesser fare agreed prior to commencement of the journey. Where the taxi is used for pre-booked journeys the fare shall be calculated from the point in the district at which the hirer commences his/her journey) (Local Government (Miscellaneous Provisions) Act 1976 sec. 67)

<p><b>Tariff 1</b>          Applies for any hiring when the journey commences between 06:00 and 22:00 Monday to Saturday, other than Bank Holidays, Public Holidays, Boxing Day or Christmas Day.          Initial distance not exceeding 377.1429 yards or part thereof          Initial waiting time 81 seconds or a combination of time and distance <b>£2.80</b>          For each subsequent 123.2493 yards completed or part thereof <b>15p</b>          Waiting time: for every period of 27 seconds or part thereof <b>15p</b></p>	<p><b>Waiting Time Per Hour</b>  <b>T1 = £20.00</b>  <b>T2 = £30.00</b>  <b>T3 = £40.00</b></p> <p><b>TAXI PLATE NUMBER</b></p>
<p><b>Tariff 2</b>          Applies for any hiring when the journey commences between 22:00 and 06:00 Monday to Saturday.          Applies for any hiring when the journey commences on Sundays, Bank Holidays or Public Holidays.          Applies for any hiring when the journey commences between 06:00 and midnight on Boxing Day.          Applies for any hiring when the journey commences between 19:00 and midnight on Christmas Eve or New Years Eve.          For any journey with 5 or more passengers which commences between 06:00 and 22:00 Monday to Saturday.          Initial distance not exceeding 377.1429 yards or part thereof          Initial waiting time 72 seconds or a combination of time and distance <b>£3.80</b>          For each subsequent 106.8431 yards completed or part thereof <b>20p</b>          Waiting time: for every period of 24 seconds or part thereof <b>20p</b></p>	
<p><b>Tariff 3</b>          Applies for any hiring when the journey commences on Christmas Day until 0600hrs on Boxing Day.          Applies for any hiring when the journey commences between midnight and 06:00 on New Years Day.</p> <p>Initial distance not exceeding 377.1429 yards or part thereof          Initial waiting time 81 seconds or a combination of time and distance <b>£4.80</b>          For each subsequent 123.2493 yards completed or part thereof <b>30p</b>          Waiting time: for every period of 27 seconds or part thereof <b>30p</b></p>	<p>Any comments should be made to:  <b>West Berkshire Council</b>  <b>Council Offices</b>  <b>Market Street</b>  <b>Newbury, Berkshire</b>  <b>RG14 5LD</b>          Quoting the above          Taxi Plate Number</p>

If a Hackney Carriage is booked by telephone, facsimile, e mail or other electronic means a booking fee may be charged by prior arrangement only.  
 London Congestion Charge (or similar in any other place), or any Tolls, will be applied for any journey where such charges or tolls are incurred.  
**Fouling will be charged.**

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#### Tariff 1

Applies for any hiring when the journey commences between 06:00 and 22:00 Monday to Saturday, other than Bank Holidays, Public Holidays, Boxing Day or Christmas Day.

#### Tariff 2

Applies at all other times

#### Both Tariffs:

Initial distance not exceeding 352 yards (1/5 mile)

Initial waiting time 72 seconds or a combination of time and distance

Subsequent distances – each 176 yards or part thereof (1/10 mile)

Subsequent waiting times – every period of 36 seconds or part thereof.

#### Proposal 1:

T1 £2.80 initial distance (flag) / initial 72 seconds  
£0.215 per unit / further 36 seconds thereafter  
£21.50 per hour waiting time

T2 £3.80 initial distance (flag) / initial 72 seconds  
£0.33 per unit / further 36 seconds thereafter  
£32.68 per hour waiting time

#### Proposal 2:

T1 £3.00 initial distance (flag) / initial 72 seconds  
£0.22 per unit / further 36 seconds thereafter  
£22.00 per hour waiting time

T2 £4.50 initial distance (flag) / initial 72 seconds  
£0.33 per unit / further 36 seconds thereafter  
£33.00 per hour waiting time

#### Proposal 3:

T1 £3.00 initial distance (flag) / initial 72 seconds  
£0.24 per unit / further 36 seconds thereafter  
£24.00 per hour waiting time

T2 £4.25 initial distance (flag) / initial 72 seconds  
£0.36 per unit / further 36 seconds thereafter  
£36.00 per hour waiting time

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## Update Following Discussions at the Taxi and Private Hire West Berkshire Council Liaison Group

<b>Committee considering report:</b>	Licensing Committee
<b>Date of Committee:</b>	21 June 2021
<b>Portfolio Member:</b>	Councillor Hilary Cole
<b>Report Author:</b>	Moira Fraser
<b>Forward Plan Ref:</b>	LC4096

### 1 Purpose of the Report

- 1.1 To provide the Committee with an update and raise any issues emanating from the Liaison Group meetings.

### 2 Recommendation

- 2.1 That the Committee notes the report.

### 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	There are no specific financial implications arising from this report. Any follow up actions will be met from within existing resources
<b>Human Resource:</b>	Attendance at these taxi trade meetings and any follow up actions will be met from within existing resources
<b>Legal:</b>	There are no legal implications associated with these meetings. The trade meetings are not a legal requirement but are seen as good practice and allow a meaningful dialogue with the trade in an attempt to reach agreement on a wide number manner of topics affecting them.

<b>Risk Management:</b>	There are no risk management issues associated with this report. A good working relationship with the trade can assist with minimising reputational harm to the Council.			
<b>Property:</b>	None			
<b>Policy:</b>	The trade meetings are an opportunity to discuss policy issues but it is not a decision making forum. Any policy changes would be taken to the Licensing Committee, Joint Public Protection Partnership Committee or Council in accordance with the Scheme of Delegation.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		The forum is a platform to discuss any policy changes. Equalities Impact Assessments would be undertaken where changes to policies and or procedures were proposed.
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		The trade meetings are not a decision making forum.
<b>Environmental Impact:</b>		X		The trade meetings are not a decision making forum.



<b>Health Impact:</b>		X		The trade meetings are an opportunity to discuss issues of mutual interest and an opportunity for the trade to raise matters directly with the decision makers. It is therefore hoped that they would have a positive outcome for the wellbeing of members of the trade.
<b>ICT Impact:</b>		X		There is no ICT impact albeit that some of the meetings will be conducted via Zoom.
<b>Digital Services Impact:</b>		X		None
<b>Council Strategy Priorities:</b>	X			The provision of a viable taxi trade in the district will support a number of the priorities in the Council Strategy. These meetings in particular are associated with supporting businesses to start, develop and thrive in West Berkshire.
<b>Core Business:</b>		X		Providing support to the taxi trade forms part of the business as usual for the Public Protection Partnership.
<b>Data Impact:</b>				The report does not have a significant impact on the rights of data subjects.
<b>Consultation and Engagement:</b>	All Members of the West Berkshire Taxi Trade are invited to attend these meetings. While only a few have opted to attend the notes from the meetings are circulated to all members of the trade. The meeting is also attended by Members of the Licensing Committee.			

## 4 Supporting Information

### Background

- 4.1 Since the February 2021 Licensing Committee meeting two meetings of the Taxi Trade Liaison Group have been held. The first meeting took place on the 24 March 2021 and the second on the 02 June 2021.
- 4.2 The Taxi and Private Hire West Berkshire Council Liaison Group (TTLG) has been set up to provide a forum to meet with and consider comments from representatives of the

taxi trade and seek advice from licensing officers on a range of issues that affect existing and proposed licences, policies, tariffs and fees and other matters of common interest.

- 4.3 The meeting is attended by five Members of the Licensing Committee, representatives of the hackney carriage and private hire trade and relevant Officers and is chaired by the Licensing Committee Chairman. The outgoing Chairman of the Licensing Committee (Councillor James Cole) was thanked for the invaluable contribution he had made to these meetings whilst he chaired the Licensing Committee.
- 4.4 The 24 March 2021 was attended by Councillors Phil Barnett, Graham Bridgman, James Cole, David Marsh and Claire Rowles and the trade were represented by Graham Cox, Peter Chemaly and Walter O' Brien. The 02 June 2021 meeting was attended by Councillors Phil Barnett, Graham Bridgman, Rick Jones and the trade was represented by Graham Cox, Jennie Harrison and Dawn Palmer. Officers were also in attendance to support both meetings.
- 4.5 These two meetings primarily focussed on discussions with the trade about the impact that the Covid pandemic had had on them and what support could be offered to the trade to assist them during this time, fees, tariffs and elements of the Hackney Carriage and Private Policy.
- 4.6 A revised set of terms of reference for the liaison meeting were also agreed at the March 2021 meeting and these can be found at Appendix A to this report.

### **Impact of Covid**

- 4.7 Officers reiterated the view expressed by the Licensing Committee at both meetings that the taxi trade were a very valuable asset to the community especially for the District's more vulnerable residents but that they also serviced the night time economy and assisted other members of the community for example with transporting pupils to schools and business people to and from the airports
- 4.8 It was noted that there had been a significant number of losses out of the fleet arising from the Covid pandemic albeit that the picture in West Berkshire appeared to have stabilised. Officers confirmed (at the March meeting) that 134 of the 153 hackney carriage licences, 135 of the 163 private hire vehicles, 114 of the 130 private hire drivers and 209 of the 247 dual drivers were still registered.
- 4.9 As of the 10 June 2021 there were 136 of the 153 hackney carriage licences, 115 of the 163 private hire vehicles, 129 of the 130 private hire drivers, 54 private hire operators and 192 of the 247 dual drivers were still registered.
- 4.10 Vehicle licences were issued for a three year period and it was therefore difficult to ascertain if all of the registered drivers were still active. The trade would be impacted by the wider hospitality industry as well as the travel sector and how quickly they were able to recover once lockdown restrictions were eased.
- 4.11 Anecdotal information from the trade at these meetings was that their income had been reduced by around 75% over the last financial year. Many of the drivers had had to take on other temporary roles to generate any income or sign up for Universal Credit. The private hire sector were reliant on airport runs for the business sector and corporate

events and this work had dried up. The nature of their business meant that that they were unable to pick up some of the local work such as transporting school pupils, or runs to shops, doctor surgeries, hospitals and vaccination centres. The trade did not believe that this sector was going to bounce back very quickly. The trade were also concerned that the pandemic would have led to the closure of some of the district's public houses which would also have a knock on effect for the hackney carriage drivers and operators.

- 4.12 Information about what grants could be accessed by the trade were identified and discussed at the meeting and this information, the criteria and information requirements were circulated to the wider trade after the March meeting. It was reported at the Executive meeting on the 10 June that the Council had paid out £24,000 to taxi companies and was in the process of reviewing a further 23 applications for the Additional Restrictions Grant from local taxis companies where evidence from applicants was awaited.
- 4.13 Officers noted that a large number of applications had come in for events being held across the District and hoped that this would assist with the recovery for this sector. Two Licensing Liaison Officers had been appointed to assist the trade and act as a conduit between the Council and the trade to further improve communications. The Council was listening to the concerns raised by the trade and efforts were being made to assist them in the recovery process.

### **Fees**

- 4.14 The trade raised a number of concerns about the fees, how they were calculated and highlighted some discrepancies in the fees charged across the three authorities. It was noted that the Council's fee setting process would mean that the proposed fees for 2022/23 would be presented to the Joint Public Protection Committee on the 13 September 2021 and the 08 November 2021 Licensing Committee meeting. They would then be subject to a statutory consultation period and if any objections were raised would be discussed again at the 31 January 2022. A recommendation would then be made to the Executive and Full Council.
- 4.15 It was agreed that it would be useful to start consulting the trade as early in the process as possible and therefore a discussion on fees was included on the 02 June 2021 agenda. A further discussion would also take place at the 25 October 2021 Taxi Trade Liaison Group meeting.
- 4.16 It was noted at the June meeting that the fees were based on a full cost recovery model. What this meant was that an hourly rate based on a range of costs was calculated. Officers then calculated how long it took to process each of the elements and activities set out in the fees. Each fee then comprised the hourly rate multiplied by the time taken to do the work.
- 4.17 The Council was in the process of implementing a new IT system. The system would allow for applications and payments to be made online. Applicants would also be able to track the progress of their applications using this system. The system would also be able to assist with the renewal process and would generate documents automatically. It was envisaged that this automation would reduce the time taken to process applications which should then result in a commensurate reduction in the fees.

- 4.18 The other issue that had irked drivers was the additional costs that they had to pay in addition to their licence fees. Officers were being trained in order to deliver some of the training, which was previously outsourced and therefore had to be charged for, themselves. It was therefore likely that some of the additional payments would fall away and that the training costs would be included in the licence fees. The exception to this was DBC checked albeit that these were being moved to a national online system too which should help to reduce costs.
- 4.19 The Chairman commented at the June meeting that he hoped that these initiatives showed shown that the Council was listening to the trades' fee concerns and were responding to them.

### **Tariffs**

- 4.20 It was noted that the Licensing Committee, and Councillor Bridgman in particular, had already done a lot of work to streamline and improve the tariff setting process. The proposal made by the Licensing Committee was based on three sets of tariffs, a ratio between the tariffs, a flag cost and unit cost based on a tenth of a mile.
- 4.21 Members asked the trade to consider if the existing three tariffs were needed. The trade representatives at the March 2021 meeting stated that they believed that only two tariffs were needed. One for normal hours and one for unsociable hours. . This view was not universally supported by the wider trade membership though. The trade agreed to look at the tariffs again and come back with a proposal to the June meeting having taken into consideration the tariffs in neighbouring authorities as part of that process. The trade would also take the current economic climate into consideration when making their proposals
- 4.22 The outcome of the discussions on the tariffs have been captured in a separate paper attached to this agenda.

### **Hackney Carriage and Private Hire Policy Review**

- 4.23 The Licensing Committee had first considered the 'Statutory Taxi and Private Hire Vehicle Standards Report' at the 30 November 2020 meeting. The report informed Members of the then recently published 'Statutory Taxi & Private Hire Vehicle Standards' issued by the Department for Transport (DfT) and set out proposals for ensuring that the requirements were met in West Berkshire.
- 4.24 The report would require a new policy to be adopted including changes to the current terms and conditions. Some of these issues were discussed at the 24 March TTLG meeting. It was agreed that an additional meeting should be set up on the 02 June 2021 to discuss the draft policy. Unfortunately the policy, which was being drafted by an external contractor, was not able to be finalised for this meeting and would be disc used at the October 2021 meeting.
- 4.25 In addition to the standards it was noted that West Berkshire Council had declared a Climate Emergency at its Council meeting on the 02 July 2019 and that this would be reflected in the policy too. The Environment Delivery Team had surveyed the taxi trade in April 2021 in order to establish their views regarding the move to low emission vehicles and the issues and concerns that they may have around this and the

government's push to decarbonise The survey received 72 responses and the Council wished to thank all those that had engaged as it has provided some really useful information.

- 4.26 Drivers shared their concerns around going electric and what incentives would encourage them and also where they would like to see charge points installed. A desire was also raised that the Council does not overlook hydrogen fuel.
- 4.27 A summary of some of the survey results is included below with a more detailed report planned to be presented to the Council's Transport Advisory Group in the summer. This will provide suggestions for next steps which are likely to include an invitation for further engagement with the trade to look at the best ways forward based on the information provided.
- 4.28 Over 83% of drivers owned their vehicles, with the remaining drivers leasing. Nearly all drivers have diesel vehicles (nearly 95%), there were no electric vehicles and just one non-plug in hybrid respondent. Around 60% of respondents were intending to change vehicles within the next 3 years. Over 80% of journeys were less than 50 miles, with over 80% of drivers doing less than 200 miles a day. Over 50% would consider an electric vehicle for personal use, for work 30% thought they may purchase/lease one within the next 6 years, of those 20% within the next 3 years.

## **5 Other options considered**

- 5.1 None

## **6 Conclusion**

- 6.1 The TTLG meetings appear to be a valued opportunity for dialogue between elected Members and the trade. It is therefore proposed that at least two meetings will continue to be arranged every year. The next meeting would take place on the 25 October 2021 and this meeting would be an opportunity to discuss the proposed fees prior to the 08 November 2021 Licensing Committee meeting. The review of the Hackney Carriage and Private Hire Policy would also be included on the agenda.
- 6.2 The 17 January 2022 meeting would afford an opportunity to comment on the fees as part of the consultation process before the final proposals were presented to the 31 January 2022 Licensing Committee meeting.

## **7 Appendices**

- 7.1 Appendix A – Terms of Reference

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### **Background Papers:**

None

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**Subject to Call-In:**

Yes:  No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

**Wards affected:** All

**Officer details:**

Name: Moira Fraser  
Job Title: Policy and Governance Principal Officer  
Tel No: 01635 519045  
E-mail: moira.fraser@westberks.gov.uk

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# Taxi and Private Hire West Berkshire Council Liaison Group

## Terms of Reference

Purpose:	To establish the agreed Terms of Reference for the Taxi and Private Hire West Berkshire Council Liaison Group. (TTLG)
Release Date:	<b>March 2021</b>
Author:	Moira Fraser (Principal Officer, Policy and Governance)

<b>1</b>	<b>Purpose</b>
<p>To provide a forum to meet with and consider comments from representatives of the taxi trade and seek advice from licensing officers on a range of issues that affect existing and proposed licences, policies, tariffs and fees and other matters of common interest.</p> <p>To report back to the Licensing Committee with any recommendations for alterations to the existing or proposed licences, policies, tariffs and fees.</p>	
<b>2</b>	<b>Terms of reference</b>
<p>The terms of reference are:</p> <ol style="list-style-type: none"><li>1. To consider the Council's current licence arrangements for Hackney Carriage Vehicles (HCV) and Private Hire Vehicles (PHV).</li><li>2. To consider the current legal framework within which the Council operates.</li><li>3. To consider the views of trade members.</li><li>4. To consider the views of Licensing officers.</li><li>5. To consider examples of best practice.</li><li>6. To consider and recommend to the Licensing Committee how the current licences and policies could be amended to better accommodate trade members, whilst maintaining WBCs legal obligations, statutory duties and goal of delivering value for money for its residents.</li><li>7. To consider the implications of new technology, innovative practices and any changes in legislation that will have an impact on the taxi trade and the Council's associated policies.</li></ol>	



<b>3</b>	<b>Membership</b>
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The TTLG is to be a joint Member/Officer/ Trade Representative Group formed from the following:

1. The Chairman of the Licencing Committee (or their nominated representative)
2. The Vice Chairman of the Licensing Committee (or their nominated representative)
3. Three Members of the Licensing Committee
4. The Public Protection Manager (or their nominated representative)
5. The Licensing Team Manager (or their nominated representative)
6. Representatives from the Hackney Carriage Trade
7. Representatives from Private Hire Trade.

The Quorum for the meeting will be two representatives from the Council and two representatives from the trade.

The forum will be chaired by the Chairman of the Licensing Committee or in their absence the Vice Chairman of the Committee. If the Chairman or Vice-Chairman are not present an election amongst the other members pf the Licensing Committee will be held at the start of the meeting to elect a Chairman to preside over the meeting.

<b>4.</b>	<b>Meetings</b>
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At least two meetings will be held annually including a meeting in November as part of the annual fee setting process. Ad hoc meetings to be arranged at the request of the Licensing Committee, the Chairman of the Licensing Committee, Officers or representatives of the trade.

Where an ad hoc meeting is requested the Chairman in consultation with the Public Protection Manager will consider the request and if it is deemed necessary will agree a date and time for that meeting.

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