

LICENSING COMMITTEE

**Wednesday, 17 November
2021**

5.30 pm

Committee Room 1, City Hall

- Membership: Councillors Loraine Woolley (Chair), Bill Bilton (Vice-Chair), Biff Bean, Alan Briggs, Liz Bushell, David Clarkson, Matthew Fido, Jane Loffhagen, Adrianna McNulty, Clare Smalley, Calum Watt and Pat Vaughan
- Substitute member(s): Councillors Bob Bushell and Gary Hewson
- Officers attending: Tom Charlesworth, Francesca Bell, Democratic Services and Legal Services

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Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.	
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SECTION B

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You are asked to resolve that the press and public be excluded from the meeting during the consideration of the following item(s) because it is likely that if members of the press or public were present, there would be disclosure of 'exempt information'

6. Suspension / Revocation of a Private Hire Vehicle Licence

[Exempt Para(s) 1]

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Present: Councillor Loraine Woolley (*in the Chair*),
Councillor Jane Loffhagen, Councillor Liz Bushell,
Councillor Biff Bean, Councillor Bill Bilton, Councillor
Ralph Toofany, Councillor Alan Briggs, Councillor
Bill Mara, Councillor Ronald Hills and Councillor
Gary Hewson

Apologies for Absence: Councillor Kathleen Brothwell, Councillor
Adrianna McNulty, Councillor Pat Vaughan, Cullen and
John Cunliffe

13. Confirmation of Minutes - 5 August 2020

RESOLVED that the minutes of the meeting held on 5 August 2020 be confirmed.

14. Declarations of Interest

No declarations of interest were received.

15. Hackney Carriage and Private Hire minutes of previous meeting - 3 September 2020

RESOLVED that the minutes of the meeting of Hackney Carriage and Private Hire Sub-Committee held on 3 September 2020 be confirmed.

16. Application for a Private Hire Vehicle Licence

Tom Charlesworth, Licensing Officer:

- a) presented a report to consider an application from Christine Kimbrell (the applicant), Director of Holla Pod Taxis to licence a Zbee RS45 as a private hire vehicle
- b) explained that it was the Committee' decision whether to depart from its current policy to licence a vehicle that did not meet all of the criteria as set out in the private hire vehicle specification contained within the Hackney Carriage & Private Hire Licensing Policy
- c) stated that the onus was on the applicant to explain to the Licensing Committee why it should depart from that policy and allow these types of vehicles to be licensed as private hire vehicles in Lincoln
- d) highlighted that appropriate reasons should be given for the determination and if policy had been departed from, then reasons for such departure should be given
- e) referred to the previous Licensing Committee held in August 2020 where the Licensing Committee heard a proposal submitted by the applicant seeking permission to licence a Tuk Tuk as a private hire vehicle. The decision of that Committee was to depart from the Hackney Carriage & Private Hire Licensing Policy to enable the applicant to licence a Tuk Tuk

as a private hire vehicle, once a completed application had been received by the Licensing Team

- f) explained that further to the last committee that was held, the applicant had now submitted an application for a different vehicle, a Zbee RS45. This vehicle differed significantly from the already considered Tuk Tuk and for this reason the Licensing Team had been unable to determine the application and the matter instead must be determined by the Licensing Committee
- g) compared the main differences between the Tuk Tuk and Zbee which were as follows:
 - The Tuk Tuk was fitted with a retractable hood whereas the Zbee had a specially designed light-weight fibreglass body that incorporated the roof of the vehicle.
 - Unlike the Tuk Tuk, the Zbee did not come equipped with grab/hand rails or a spare wheel. There was a designated luggage box located at the rear of the Zbee with room for a small suitcase. Therefore unlike the Tuk Tuk the Zbee satisfied the vehicle specification contained in the policy regarding luggage requirements as detailed at paragraph 8.11 of the report.
 - The Zbee was classed as a fully electric three-wheel moped (vehicle category L2e). Therefore the vehicle produced little to no noise and was 100% carbon emissions free.
 - The maximum speed of the Zbee RS45 was between 26.7 to 27.9mph, which was 10mph less than the Tuk Tuk.
 - The most substantial difference between the Zbee and the Tuk Tuk was that the Zbee did not come equipped with doors and it was primarily because of this reason that the Licensing Committee was asked to consider this application.
- h) presented the committee with a video to give members a clearer understanding of how the coverings were attached to the body of the Zbee, which was played during the meeting
- i) referred to paragraphs 8.2 through to 8.6 of the report and explained that the requirements of the Zbee did not comply with the vehicle specifications, therefore, the council would need to depart from its policy and remove these requirements from the vehicle specification so that these types of vehicles could be licensed as private hire vehicles
- j) explained that before a vehicle was presented for licensing it should undergo a test at a DVSA Approved Testing Station. This was to ensure it met Motor Vehicles (Construction and Use) Regulations, including emission test standards. Further to this, the vehicle should then be tested in accordance with a standard MOT Test and be issued with a MOT Certificate.
- k) outlined the decision making process as identified at paragraph 17.1 of his report

l) invited members' comments and questions.

Question: It was great to hear that the Zbee was an electric vehicle. If it had lower power, would it still manage a full load up Steep Hill?

Response: The electric vehicle wasn't a new venture, it had already been in use for the past 3 years. There were 130 vehicles in Stockholm that were currently in operation and were managing in various types of weathers and terrain.

Question: As the Zbee was classed as a motorcycle, would the driver need a drivers licence to operate the vehicle?

Response: In order for a driver to operate the vehicle, their driving licence must show the category codes stating that the driver must be able to drive both a car (Category B) and a moped (Category AM).

Question: What would be the range of use for the vehicle?

Response: It depended on what the City could allow. There were 3 vehicles lined up ready to operate and they would be located at a premises in uphill Lincoln.

Question: What would be the hours of operation?

Response: the operating hours would be 7am – 10.30/11pm, however the vehicle would work on demand to keep the vehicles moving regularly.

RESOLVED that the report be noted by members.

The Chair gave the applicant the opportunity to speak and present to the committee why it should deviate from the policy to licence a Zbee.

Christine Kimbrell, Director of Holla Pod Taxis:

- a) explained that after the Tuk Tuk was granted in August 2020, lockdown was announced which allowed them to focus on purchasing an electric vehicle. She went to Sweden to test drive one before transporting one back to the UK
- b) highlighted that no cash would be necessary when booking a journey for the Zbee as it would all be operated through an application
- c) stated that she would be employing drivers over the next few months with an ideal start of April 2021
- d) advised that throughout the summer it would be ideal to have no doors on the Zbee and in winter to use the magnetic doors. The vehicle's rear side panels also offered some protection to the passengers safety and from adverse weather conditions
- e) invited the committee's comments and questions.

Question: What was the minimum age limit for the vehicle, would children be allowed a ride in it unsupervised?

Response: It would be very difficult for them to squeeze through the gap and fall out of the vehicle especially if they were sat at the back, plus they would be required to wear a seatbelt at all times.

Question: Would this vehicle replace the Tuk Tuk?

Response: Yes, an electric vehicle with zero emissions was always favoured and it was easier to drive however they weren't designed to drive long distances so it would only cover up to 3 miles maximum at one time.

Members expressed a few concerns in relation to the conditions of licence. They felt that if the Committee were to deviate from the Licensing policy and grant permission for a Zbee to be licensed as a private hire vehicle then it would be needed for some of the conditions to be modified or removed. Members also felt that new conditions could be added to alleviate some of their concerns.

Conditions

The below conditions were set out as follows:

- a) *“The vehicle shall be of a suitable size, type, and design as approved by the City of Lincoln Council **on the 20th January 2021** for the use as a Private Hire vehicle, and shall be maintained in a safe and comfortable condition.”*

No amendment was made to this condition.

This condition would be added to the licence, if issued.

- b) *“The vehicle shall have an engine capacity of not less than 1297 cc and a minimum passenger seating capacity of four seats and maximum of eight seats.”*

No amendment was made to this condition.

This condition would be omitted from the licence, if issued.

- c) *“The vehicles must be fitted with retractable rain coverings that cover both sides of the vehicle and are secured to ensure the vehicle remains watertight. The covers must be transparent to allow the drivers and passengers unrestricted views out of the vehicle.”*

Amendment: Members agreed that the retractable rain coverings would be only be required to be used in adverse weather or at the request of the customer.

This condition, with amendment, would be added to the licence, if issued.

- d) *““An emergency tyre repair kit must be kept on the vehicle at all times. Where a tyre has been repaired using an emergency tyre repair kit to complete a hiring, the vehicle shall not be driven at a speed or distance that exceeds the manufacturer of the repair kit’s instructions. The vehicle may not be used for any further hirings until the tyre is repaired or replaced and a replacement repair kit is purchased.”*

Amendment: The committee felt that the suggested condition in respect of the tyre repair kit should not be placed on the licence. It was agreed to add a condition which would state that if in the middle of the journey, and a tyre/tyres has failed, then the vehicle should be recovered by a third party.

This condition, as stated above, would be omitted from the licence, if issued.

A new condition, taking into account the members suggestions, would be substituted in its place and added to the licence, if issued.

- e) *If a spare tyre / wheel is not able to be carried in the Zbee, spare tyre(s) / wheel(s) will be kept by the proprietor in stock ready for use."*

No amendment was made to this condition.

This condition would be added to the licence, if issued.

- f) *"The person to whom a licence is granted shall ensure that all drivers of this vehicle who will be driving this vehicle for private hire use, have undertaken a specific induction driver training programme as approved by the Licensing Authority's Licensing Team Leader."*

Amendment: This training should include the driver checking that the passengers were wearing seatbelts and ensuring that no children under 16 years of age would be traveling in the vehicle unless accompanied by an appropriate adult.

This condition, with amendment, would be added to the licence, if issued.

- g) *"The person to whom a licence is granted shall after the issue of this licence and during its currency communicate in writing to the Licensing Team of the Licensing Authority a list of the private hire drivers they intend to drive this vehicle for private hire use."*

No amendment was made to this condition.

This condition would be added to the licence, if issued.

New amendment:

1. *The members questioned whether the lack of doors could be unsafe for children and Ms Kimbrell explained that when seated, it was quite far back and the passenger would have a seat belt. It was however decided that a further condition shall be added to the licence stating that children under 16 years of age would not be permitted to travel in the vehicle unless accompanied by an appropriate adult. This was felt necessary to ensure there was sufficient protection for children. This restriction would be made clear to customers, either by a dispatcher, upon receipt of a telephone booking made to the operator, or on the operators 'app', used for the booking.*

The Chair asked the committee whether they had any further questions or comments to make and that if there weren't, the committee would proceed and move onto the decision making.

RESOLVED that:

- 1) The Licensing Committee shall depart from the Hackney Carriage and Private Hire Licensing Policy, with full reasons given, and allow the applicant permission to licence a Zbee, as a private hire vehicle.
- 2) Licensing conditions shall be modified, removed, and added to that licence, as set out in the report, and as required by the Licensing Committee, as detailed above.
- 3) The Licensing Committee shall delegate to officers authorised under the Local Government (Miscellaneous Provisions) Act 1976 (in conjunction with Legal Services and / or Chair of Licensing Committee) the power to licence additional or replacement vehicles used by the applicant and apply the conditions as set out in the report, and as required by the Licensing Committee, as detailed above.
- 4) The Licensing Committee shall delegate to officers authorised under the Local Government (Miscellaneous Provisions) Act 1976 (in conjunction with Legal Services and / or Chair of Licensing Committee) the power to licence similar vehicles and apply the conditions as set out in the report, and as required by the Licensing Committee, as detailed above

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor
Kathleen Brothwell, Councillor Alan Briggs and Councillor
Adrianna McNulty

Apologies for Absence: None.

14. Confirmation of Minutes - 5 November 2020

RESOLVED that the minutes of the meeting held on 5 November 2020 be confirmed.

15. Declarations of Interest

No declarations of interest were received.

16. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

17. To Interview an Applicant for a re-licence of a Private Hire Driver's Licence who has 9 current Penalty Points (Item No 01/2021)

The Licensing Officer:

- a) provided a report to determine whether the licence holder was a fit and proper person to continue to hold a private hire driver's licence following 9 valid penalty points on his driving licence
- b) stated that the licensee had held a licence since February 2010
- c) explained that the licensee made an application for a re-licence on 8 February 2021 and declared that he had received 2 driving convictions and received a total of 9 penalty points in 2019
- d) alerted the Sub Committee to the current Hackney Carriage and Private Hire Licensing Policy which stated the following in relation to penalty points and taking a stepped approach to driver licence enforcement: *'If a driver receives 9 or more penalty points for minor or some hybrid traffic offences, the matter will be referred to the Hackney Carriage and Private Hire Sub-Committee for a hearing. The driver will be expected to address the issues before the Sub-Committee.'*

The Decision was made as follows:

That the Private Hire Driver's Licence be granted subject to the applicant being issued with a warning letter regarding his responsibilities as a driver and the

conditions of the licence, with a particular emphasis on the dangers of driving while using a mobile phone.

Reasons for the Decision:

The Sub-Committee was satisfied that the applicant was a fit and proper person to hold the licence. In reaching the decision the Sub-Committee considered that:

1. The applicant had demonstrated that he was aware of the seriousness of the driving offences he had committed and the importance of future compliance.
2. The applicant's two offences had occurred during a period of three months in 2019 after which he had not committed any further offences.
3. Having regard to the type of offences disclosed (relating to driving without due care and attention, and the use of a mobile phone while driving), the applicant's explanation of the circumstances surrounding those offences offered some reassurance to the Sub-Committee that the offences did not indicate a pattern of behaviour which would pose a risk to the travelling public.
4. The issue of a warning letter was a proportionate reminder of the importance of safe driving.

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Alan Briggs, Councillor Adrianna McNulty,
Councillor David Clarkson and Councillor Biff Bean

Apologies for Absence: Councillor Loraine Woolley

1. Confirmation of Minutes - 25 February 2021

RESOLVED that the minutes of the meeting held on 25 February 2021 be confirmed.

2. Declarations of Interest

No declarations of interest were received.

3. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

4. To Interview an Applicant for a Private Hire Driver's Licence who has previously had a Licence Revoked for Relevant Offences (01/2021)

The Licensing Officer:

- a) stated that the applicant for a Private Hire Drivers Licence had previously had a private hire drivers licence revoked by the Sub Committee in 2017 and that an appeal by the applicant had been rejected at the Magistrates Court
- b) added that the applicant had also had a premises licence revoked under the Licensing Act 2003 since the revocation of his private hire driver's licence
- c) explained that the reason for the hearing was to determine whether the applicant was a fit and proper person to hold a licence and for members to answer the question 'Would I be comfortable in allowing my son, daughter, spouse or partner, mother or father, grandchild or any persons for whom I care, to get into a private hire vehicle with this person'
- d) highlighted that on 13 May 2021 the applicant submitted his documents and paid the application fee to apply for a new Private Hire Drivers Licence
- e) reported that the applicant previously held a private hire drivers' licence from 2012 until 2017 when it was revoked by the Sub Committee after he received a suspended prison sentence for 3 counts of domestic violence, two of which were in the presence of a child

- f) added that the original decision was upheld by the Magistrates Court and the applicant was required to pay costs to the Council
- g) advised that the applicant had undergone a new DBS check which confirmed that he had no new convictions since the revocation of his Private Hire Drivers Licence and a DVLA check also revealed a clean licence
- h) highlighted that under the current policy on relevant convictions an offence of this nature would be classed as 'Common Assault' for which the policy stated 'A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature'

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant. The Council's solicitor questioned the applicant to confirm details relating to the applicant's submission and to ensure that the applicant did not require the presence of a translator to proceed.

The Decision was made as follows:

That the application for the grant of a private hire driver's licence be refused.

Reason for the Decision

The Sub-Committee was not satisfied that the applicant was a fit and proper person to hold a licence. In reaching the decision the Sub-Committee considered that:

1. The applicant had failed to persuade the Sub-Committee that his circumstances justified a departure from the Council's Hackney Carriage & Private Hire Licensing Policy. The relevant policy stated that a licence would not normally be granted if an applicant had more than one conviction for a violent offence in 10 years.
2. The applicant's offences had been serious, comprising three assaults on his wife in 2016 which had resulted in three convictions in 2017 and a suspended prison sentence. While a number of years had passed since those convictions and there was no evidence of further offences having been committed since that time, the Sub-Committee did not consider that sufficient time had elapsed to justify the grant of a licence. The safety of the travelling public was paramount, and the financial circumstances of the applicant would not be given priority over public safety.
3. The applicant had provided evidence that a local firm was willing to offer him a position but had provided no other documentary evidence supporting a change in his character since his convictions. The evidence of the prospect of employment and the support of a local firm was positive but provided no detail as to how the risk posed as a result of his earlier behaviour would be mitigated.
4. The applicant relayed the positive impact of his probation officer in changing the applicant's behaviour. However, the applicant was not able to provide any further evidence in support of this assertion and provided no evidence of any further activity directly intended to prevent him committing violence offences again.

5. The applicant has asserted that none of the violent offences had taken place in front of his child, contrary to other information available to the Sub-Committee. While the offences were sufficiently serious to justify a refusal of the application regardless of the presence of a child, the Sub-Committee was not minded to trust the written evidence provided to it in the absence of any further evidence from the applicant. The presence of the child was considered to be a factor in compounding the seriousness of the original offences.
6. Since the revocation of his previous private hire driver's licence, the applicant's premises licence had also been revoked. The revocation of the premises licence, which was unrelated to the convictions for violent offences, gave the Sub-Committee further concern that the applicant did not have proper regard for the importance of meeting the conditions of a licence. The applicant's transferral of blame to his employees for the revocation of the premises licence did not inspire the Sub-Committee's confidence that the applicant had learned from earlier mistakes.
7. The applicant had told members of his voluntary activities supporting a local community group which included work with children. The Sub-Committee viewed these activities positively but had only the applicant's account of these activities to rely upon.
8. The Sub-Committee was of the opinion that the applicant should consider providing as much relevant documentary evidence as possible to the Sub-Committee if applying for a licence in future years, including testimonials from those who could speak to any reform of his character following the original offences. The applicant had attended a number of meetings of the Council's Licensing Sub-Committees and should be familiar with both the process and members' desire to understand an applicant's personal circumstances insofar as they related to whether he was a fit and proper person to hold a licence.

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Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor Alan Briggs,
Councillor Adrianna McNulty and Councillor
David Clarkson

Apologies for Absence: None.

5. Confirmation of Minutes 29 July 2021

RESOLVED that the minutes of the meeting held on 29 July 2021 be confirmed.

6. Declarations of Interest

No declarations of interest were received.

7. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

8. To Interview an Applicant for a Private Hire Driver's Licence who has Previously had a Licence Revoked, Item Number: 03/2021

The Licensing Officer:

- a) stated that the applicant for a Private Hire Drivers Licence had previously had a private hire drivers licence revoked by the Sub Committee in 2018 and that an appeal by the applicant had been rejected at the Magistrates Court
- b) explained that the reason for the hearing was to determine whether the applicant was a fit and proper person to hold a licence and for members to answer the question 'Would I be comfortable in allowing my son, daughter, spouse or partner, mother or father, grandchild or any persons for whom I care, to get into a private hire vehicle with this person'
- c) highlighted that on 8 June 2021 the applicant submitted his documents and paid the application fee to apply for a new Private Hire Drivers Licence
- d) reported that the applicant previously held a private hire drivers' licence from 2008 until 2018 when it was revoked by the Sub Committee after he received a total of 12 penalty points on his driving licence in a six-month period
- e) referred to Appendices A, B, and C to the officer's report in which the report and appendices from the decision made to revoke the applicant's licence on 22 March 2018 could be viewed, together with the Decision Notice at Appendix D

- f) reported that the original decision was upheld in October 2018 by the Magistrates Court
- g) added that The District Judge refused to state a case for the High Court in November 2018 as detailed at Appendix E to the officer's report
- h) advised that the applicant had undergone a new DBS check which confirmed that he had no convictions and a DVLA check also revealed a clean licence

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

Members expressed particular concern as the applicant had appeared before the Sub Committee on two previous occasions and had been given the opportunity to attend speed awareness courses to address such issues which hadn't proved effective in the past. It was also noted that the District Judge had refused to state a case for the High Court in November 2018. Members requested assurances from the applicant regarding his honesty due to his past record.

The applicant assured members that his convictions dated back 7 years; since then, he had learnt his lessons, held a clean licence and was a safe driver.

The Decision was made as follows:

1. A special condition be imposed requiring a bi-monthly DVLA check to be carried out at the licence holder's expense for a duration of two years starting from the date of his new licence.
2. A strongly worded letter be issued which would emphasise the importance of declaring any further convictions or potential court proceedings, including an expectation that if any further offences were to occur then this may result in his Private Hire Drivers licence being revoked.

The reasons for this decision were:

Hackney Carriage and Private Hire Licensing Sub-Committee was not totally satisfied that the applicant was a fit and proper person to hold a licence however the committee felt that he could be given conditions to make him a fit and proper person to hold a licence. In reaching their decision, the Sub-Committee considered that:

1. The applicant needed to win the trust of Hackney Carriage and Private Hire Licensing Sub-Committee by avoiding any further convictions or court proceedings. They were prepared to give him one final chance to prove he was a fit and proper person to hold a private hire driver's licence with the imposition of the above conditions on his licence.
2. Hackney Carriage and Private Hire Licensing Sub-Committee were not entirely convinced of the applicant's previous honesty due to his conduct and appearances in front of them on previous occasions.
3. It was noted that during lockdown the applicant worked in a caring profession, providing services to the elderly and vulnerable therefore there

must have to be an element of trust involved in him to be employed in this capacity.

4. The applicant does currently have a clean driving licence and confirmed that he is not subject to any court proceedings or prosecutions.

The onus now was on the applicant to prove his trustworthiness

9. **To Interview an Applicant for a Re-Licence of a Private Hire Driver's Licence who has 11 Current Penalty Points, Item Number: 04/2021**

The Licensing Officer:

- a) provided a report to determine whether the licence holder was a fit and proper person to continue to hold a private hire driver's licence following 11 valid penalty points having been received on his driving licence
- b) stated that the licensee had held a licence since June 2017, when he appeared before Members of the Sub Committee as he was unable to provide a certificate of good conduct
- c) explained that the licensee made an application for a re-licence on 22 April 2021 and declared that he hadn't received any criminal findings of guilt and wasn't prosecuted as far as he was aware
- d) advised that a DBS check as detailed at Appendix A of the officer's report showed relevant information disclosed at the discretion of the Chief Police Officer stating that the applicant had allegedly been involved in a road traffic collision with a cyclist whilst working as a private hire driver and that the matter was due to be heard at the Magistrates Court
- e) reported that the applicant was subsequently contacted and informed he was required to appear before Members and to inform the Authority of the outcome of the hearing
- f) stated that the applicant provided officers with paperwork on 19 July 2021 which stated that he had been found guilty of driving without due care and attention, a copy of the endorsement could be viewed at Appendix B and a copy of the fine and collection order at Appendix C of the officer's report
- g) added that a further DBS check revealed 11 penalty points on his driving licence
- h) alerted the Sub Committee to the current Hackney Carriage and Private Hire Licensing Policy which stated the following in relation to penalty points and taking a stepped approach to driver licence enforcement: *'If a driver receives 9 or more penalty points for minor or some hybrid traffic offences, the matter will be referred to the Hackney Carriage and Private Hire Sub-Committee for a hearing. The driver will be expected to address the issues before the Sub-Committee.'*

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

Members expressed particular concern as to the applicant's trustworthiness and honesty with officers and members of the Sub Committee regarding his convictions and required assurances from him that he was a fit and proper person to continue to hold a Private Hire Driver's Licence

The Solicitor for the City of Lincoln Council viewed an e mail trail between the applicant and the Court which was forwarded to her during the hearing by the applicant in his defence The Court advised the applicant he would be granted a Statutory Declaration to allow him the chance to say why the case against him should be reopened, for the Court to then determine whether this would happen. He had been convicted of criminal findings of guilt, subsequently fined and his drivers' licence endorsed with 8 additional penalty points although he disputed having received any paperwork from the Court. His appearance before members this afternoon was the result of the offence against him of driving a vehicle without due care and attention

Members of Hackney Carriage and Private Hire Licensing Sub Committee requested and obtained permission from the applicant to contact his Private Hire Driver's employer to confirm details he said had given to them of two witnesses to the alleged road traffic collision who had stated it was not his fault.

It was agreed the company would be contacted the following morning for this assurance to be obtained.

The Decision was made as follows:

That the application for the grant of a private hire driver's licence be granted subject to the following conditions:

1. A special condition be imposed requiring a quarterly DVLA check to be carried out at the licence holder's expense for a duration of two years starting from the date of his new licence.
2. A strongly worded letter be issued which would emphasise the importance of declaring any further convictions or court proceedings as a legal requirement, to keep the Licensing Authority updated on all outcomes including that of the Statutory Declaration and subsequent appeal of his conviction and that the licensing authority reserves the right to call him back to committee once we have the outcome of these matters. There was an expectation that if any further offences were to occur then this may result in his Private Hire Drivers Licence being revoked.

The reasons for this decision were:

Hackney Carriage and Private Hire Licensing Sub-Committee was not totally satisfied that the applicant was a fit and proper person to hold a licence. However, the Sub-Committee considered that by imposing the above conditions on the applicant's licence - they would consider him fit and proper:

1. The applicant felt that he had conducted himself correctly at the time of the accident in reporting it to his employer including providing his employer with the contact details of the two witnesses involved.

2. Hackney Carriage and Private Hire Licensing Sub-Committee expressed concern that the applicant had failed to report the accident to the Licensing Authority.
3. It was noted that the Court had accepted there had been some confusion over the issue of the initial summons.
4. The applicant explained to the Sub-Committee that he was in the process of contesting and appealing against his original conviction. He said that he had been found guilty in his absence because of an administrative error and that everyone had a right to a fair hearing, and it was his right to prove to the Court that he had not received notification of Court proceedings. He was therefore currently awaiting a date to make a statutory declaration before the court of the above.
5. Members did believe that following the accident, the applicant had done everything correctly in relation to the accident.

Foot note: Following enquiries made to the applicant's private hire driver's employer regarding contact details of witnesses the applicant stated he had given to his employer after the accident, it was confirmed by the employer that the applicant had not provided any witness details or reported the accident to them.

In these circumstances it was agreed by the Chair that the applicant was required to appear again before Hackney Carriage and Private Hire Licensing Sub-Committee to explain himself further on this matter in order to satisfy members that he was a fit and proper person to hold a private hire driver's licence before his licence could be reissued to him.

A hearing was set for 29 September 2021. 5.30pm, Committee Rooms1/2

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Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Alan Briggs, Councillor Adrianna McNulty and
Councillor David Clarkson

Apologies for Absence: Councillor Loraine Woolley

10. Confirmation of Minutes from the last meeting held on 2 September 2021

RESOLVED that the minutes of the meeting held on 2 September 2021 be confirmed.

11. Declarations of Interest

No declarations of interest were received.

12. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

13. To Interview an Applicant for a re-Licence of a Private Hire Driver's Licence who has 11 Current Penalty Points - Item No 04/2021

The Licensing Officer:

- a) stated that following the Sub Committee hearing on 2 September 2021, further information was requested in relation to comments made by the applicant before the Sub Committee could determine whether the applicant was a fit a proper person to continue to hold a licence

The Sub-Committee questioned the applicant regarding further information received and received responses from the applicant.

The Decision was made as follows:

That the Licence holders Private Hire Drivers Licence be revoked due to new evidence put before the Sub-Committee.

The Hackney Carriage and Private Hire Licensing Sub-Committee thought the licence holder to be dishonest and not a fit and proper person to hold a Private Hire Driver Licence for the following reasons:

1. The licence holder seemed to change his mind when asked difficult questions or about inconsistencies with his version of events.
2. The Sub-Committee were confused as to how the guilty plea could have been entered to the court without the licence holder's knowledge.

3. The licence holder admitted to the Sub-Committee that his taxi was moving when the accident occurred but stated that he was stationary at the previous Sub-Committee and denied causing the accident. Whilst this may seem like a minor detail, the inconsistencies in the licence holder's version of events at both committees was troubling to the Sub-Committee particularly as both committees were heard within a short space of time. During the hearing the licence holder did admit causing the accident and apologised for this despite initially denying causing the accident.
4. At the previous Sub Committee, the licence holder denied that he left the car park by a route marked no exit however at this hearing he confirmed that he had done this but that he hadn't seen the no exit sign.
5. During the previous hearing the Sub-Committee expressed concern that the license holder had failed to report the incident to the licensing authority. During this hearing the licence holder stated that he had provided the Licensing Officer with some information, to which the Licensing Officer confirmed that this had not been the case.
6. At the last hearing the Sub Committee decided to allow him to keep his licence (with conditions) because they believed that he had "conducted himself correctly at the time of the accident in reporting it to his employer including providing his employer with the contact details of the two witnesses". An email from his employer now suggested that this was not the case.
7. At the last hearing the Sub Committee decided to allow him to keep his licence (with conditions) because they believed that "following the accident he had done everything correctly in relation to the accident", however, the email from his employer now contradicted this as they were now faced with contradicting statements given by the licence holder regarding how his employer was notified of the accident.
8. The sub-committee found that the licence holder was being dishonest to them as his accounts of the accident and his actions following the accident kept changing, there were discrepancies between what the licence holder was telling the committee and the oral evidence of the licensing officer and in the email from his current employer and they were struggling to establish which version of events put forward by the licence holder was the truth. The Sub-Committee found that on the balance of probabilities he was being dishonest.

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor Alan Briggs,
Councillor Adrianna McNulty and Councillor
David Clarkson

Apologies for Absence: None.

14. Declarations of Interest

No declarations of interest were received.

15. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

16. To Interview an Applicant for a Re-Licence of a Private Hire Driver's Licence who has 12 Current Penalty Points - Item Number 05/2021

The Licensing Officer:

- a) stated that the applicant had held a Private Hire Drivers Licence since April 2018 where he completed the Driver Improvement Programme and knowledge tests. The applicant had also held a licence from June 2011 until June 2013
- b) explained that in August 2021 the applicant contacted a member of the Licensing Team to discuss his re-licence application. The applicant stated that he had received 3 penalty points which took his total number of valid penalty points to 12. The applicant stated that he had pleaded exceptional hardship in court in order to keep his driving licence
- c) highlighted that within the current Hackney Carriage and Private Hire Licensing Policy it stated the following in relation to 'totting up':

'Any current driver disqualified from holding a DVLA licence under the 'totting-up' procedure should expect to have his/her hackney carriage or PHV driver licence revoked. At least 2 to 3 years should then elapse (after the restoration of the DVLA licence) before he/she is considered for a licence.'

In the case of an existing hackney carriage or PHV driver where the 'totting-up' disqualification of a DVLA licence is considered by the court, even if the court does not disqualify, the Council is likely to revoke the hackney carriage or PHV licence. At least 2 to 3 years should elapse before the individual is considered for a licence.'

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

The Decision was made as follows:

The Sub-Committee were not prepared to depart from the Policy and to risk the safety of the public by granting the applicant a renewal of his Private Hire Driver's Licence so the applicants licence was revoked.

Reasons for the Decision:

1. The applicant had failed to persuade the Sub-Committee that his circumstances justified a departure from the Council's Hackney Carriage & Private Hire Licensing Policy.
2. The applicant admitted that he had accumulated 12 SP30 speeding points on his driving licence and that 9 of the points were accumulated between May 2019 and June 2020. He admitted that at least one of the offences was whilst driving a taxi with no passengers in the vehicle at the time.
3. The applicant admitted that he had been allowed to keep his licence after pleading hardship at court and that the hardship he referred to was that he was the only member of his family available to take relatives to hospital for treatments.
4. The applicant admitted that he had lost concentration momentarily at the time of the offences and that he had been marginally over the speed limit of 30mph by around 4 mph when the speed cameras captured the offences.
5. The applicant admitted that he had undertaken a speed awareness course in advance of the offences in hand having taken place.
6. The Sub-Committee believed the applicant had not exercised extreme diligence in watching his speed after accumulating 9 points on his driving licence, of which he ought to have been aware that further offences would put him in real jeopardy of losing his driving licence.
7. The Sub-Committee were sympathetic to the applicants personal and financial situation, but were of the view that the offences had been serious and closely clustered together, particularly the last three offences.
8. The Sub-Committee's priority was the safety of the travelling public and the financial circumstances and other personal circumstances of the applicant could not be given priority over public safety.

17. To Interview an Existing Driver who has 9 Current Penalty Points - Item Number 06/2021

The Licensing Officer:

- a) stated that the applicant had held a Private Hire Drivers Licence since November 2007

- b) explained that on the 24th August 2021 the licence holder made an application for a re-licence as a private hire driver. On the application form he declared he had received 3 penalty points for an SP30 offence in 2019
- c) explained that on the 7th September 2021 the licence holder applied for a private hire vehicle re-licence and declared on the application form that he was being prosecuted for a CU80 offence (driving whilst using a mobile phone) for which he expected to receive 6 points and a fine
- d) highlighted that within the current Hackney Carriage and Private Hire Licensing Policy it stated the following in relation to driving whilst using a mobile phone:

‘ A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.’

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

The Decision was made as follows:

The Sub-Committee agreed to allow the licensee to continue to hold a Private Hire Driver’s Licence and believed him to be a fit and proper person.

Reasons for the Decision:

1. The licensee had convinced the Sub-Committee that the circumstances behind the accumulation of the 9 points on his driving licence did not justify the Sub-Committee imposing any further sanctions.
2. The Sub-Committee believed the licensee to be a fit and proper person as he had declared the accumulated 9 points on his driving licence between June 2019 and August 2021.
3. The licensee explained that the first offence occurred when he was driving his family back from a day-trip to Skegness in the summer of 2019 and was not on duty as a taxi driver. The second offence was for using a mobile phone while the engine of the vehicle was running while he awaited his next job and had no passengers on board.
4. The Sub-Committee carefully considered the licensee’s explanations for the offences and commended the licensee for keeping such a clean driving licence since 2007, aside from the offences in hand.
5. Members carefully considered any possible dangers to the safety of the travelling public and concluded that the aforementioned offences under all the circumstances did not cause them concern.

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Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor Alan Briggs,
Councillor Adrianna McNulty and Councillor
David Clarkson

Apologies for Absence: None.

18. Confirmation of Minutes from 29/09/21 and 7/10/21

RESOLVED that the minutes of the meetings held on 29 September 2021 and 7 October 2021 be confirmed.

19. Declarations of Interest

No declarations of interest were received.

20. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

21. To Interview an Existing Driver who has failed to Disclose Offences - Item No: 07/2021

The Licensing Officer:

- a) stated that the applicant had held a Private Hire Drivers Licence on two occasions, initially from 2011 until 2014 and secondly from July 2015 until present
- b) explained that on 12 May 2021 the licence holder made an application to re-licence as a private hire driver and declared on his application form that he had received 5 penalty points and a fine for driving without due care and attention in October 2018
- c) highlighted that the offence was not reported to the authority and that within the current Hackney Carriage and Private Hire Licensing Policy it stated the following in relation to driving without due care and attention:

'An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of Hackney Carriage and PHV Drivers'

- d) explained that Condition 10 was attached to all Private Hire Drivers Licences and it stated the following:

' ALL CONVICTIONS, criminal findings of guilt (including fixed penalty tickets), cautions and warnings, whether for motoring or other offences and

County Court Judgements/Orders (where the judgement or order relates to a debt or charge to another Hackney Carriage/Private Hire driver, owner or operator) after the issue of this licence and during its currency must immediately after the date of conviction, criminal findings of guilt (including fixed penalty tickets), cautions and warnings, be communicated in writing to the Licensing Authority. Failure to do so may result in proceedings being taken against you, suspension or revocation of the licence.

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

The Decision was made as follows:

The Sub-Committee agreed to allow the licensee to continue to hold a Private Hire Driver's Licence and a letter be sent to the licence holder to make it clear that he must declare any offences.

Reasons for the Decision:

1. The Sub-Committee thought the actions of the victim were strange and were too methodical.
2. The Licensee seemed genuine and was supported by his manager who went to the police station to report the incident with him.
3. The Sub-Committee thought that the incident may have been an insurance scam due to events described by the licence holder

22. To Interview and Existing Driver who has 11 Current Penalty Points - Item No: 08/2021

The Licensing Officer:

- a) stated that the applicant had held a Private Hire Drivers Licence since October 2019
- b) explained that on 11 October 2021 the licence holder made an application to re-licence as a private hire driver and declared on his application that in June 2021 he had received 11 penalty points for 3 separate SP30 offences which happened in May 2020
- c) highlighted that within the current Hackney Carriage and Private Hire Licensing Policy it stated the following in relation to penalty points and taking a stepped approach to driver licence enforcement:

'If a driver receives 9 or more penalty points for a minor or some hybrid traffic offences, the matter will be referred to the Hackney Carriage and Private Hire Sub-Committee for a hearing. The driver will be expected to address the issues before the Sub-Committee'

- d) explained that Condition 10 was attached to all Private Hire Drivers Licences and it stated the following:

' ALL CONVICTIONS, criminal findings of guilt (including fixed penalty tickets), cautions and warnings, whether for motoring or other offences and County Court Judgements/Orders (where the judgement or order relates to a debt or charge to another Hackney Carriage/Private Hire driver, owner or operator) after the issue of this licence and during its currency must immediately after the date of conviction, criminal findings of guilt (including fixed penalty tickets), cautions and warnings, be communicated in writing to the Licensing Authority. Failure to do so may result in proceedings being taken against you, suspension or revocation of the licence.

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

The Decision was made as follows:

The Sub-Committee agreed to allow the licensee to continue to hold a Private Hire Driver's Licence and a letter be sent to the licence holder to make it clear that he must declare any offences.

Reasons for the Decision:

1. The licence holders' legal representative believed that the three driving offences should have been treated as one offence but the licence holder didn't have legal representation at the time he went to court.
2. The Sub-Committee doubted the applicant's explanation of the reasons for his speeding offences but the members did believe that he may have been afraid of being robbed when he was followed by the police in an unmarked car.
3. The Sub-Committee considered that the licence holder may have been unfortunate to have been convicted of three separate speeding offences instead of one when the offences all took place during a single incident.
4. The licence holder was at risk of having his driving licence revoked if he was to obtain a further offence.
5. The Sub-Committee believed the licence holder to be a fit and proper person to hold a Private Hire Driver's Licence due to him not having any previous offences in the UK or Slovakia.

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SUBJECT:	GAMBLING ACT 2005 TRIENNIAL REVIEW OF STATEMENT OF LICENSING POLICY
DIRECTORATE:	COMMUNITIES & ENVIRONMENT
REPORT AUTHOR:	IAN CULLEN, LICENSING TEAM LEADER

1. Purpose of Report

1.1 To update the committee on the result of the consultation of the Statement of Licensing Policy (the Policy) under the Gambling Act 2005 ('the Act')

2. Executive Summary

2.1 An updated Statement of Licensing Policy under the Gambling Act 2005 has been out for consultation.

2.2 Following feedback from various stakeholders, approval is sought to forward the amended Policy to Full Council for adoption.

3. Background

3.1 The Act requires that the Licensing Authority publish its Statement of Licensing Policy at least every three years. The date for publishing is on or before 31 January 2022.

3.2 Core to the Gambling Act are the licensing objectives. These 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 manner;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.3 The draft Policy was forwarded to a total of 47 persons/organisations and to every member of the Licensing Committee. The Policy was also placed on the Councils website. A copy of the revised Policy can be seen at Appendix A.

3.4 The list of persons consulted when reviewing the gambling policy was deliberately wide. This enables the licensing authority to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the policy.

3.5 The consultation period commenced on 26 August 2021 and ended on the 8 October 2021. A total of 2 responses were received.

3.6 The Gambling Commission Guidance to licensing authorities' states:

In determining its statement of policy, the licensing authority must give appropriate weight to the views of those it has consulted. In deciding what weight to give, the factors to be taken into account include:

- who is making the representations, the nature of their interest and their expertise
- relevance of the factors to the licensing objectives
- how many other people have expressed the same or similar views
- how far the representations relate to matters that the licensing authority should be including in its policy statement.

4. Consultation results

- 4.1 The first response was on behalf of Gambleaware. They were thankful of inclusion in the consultation and rather than comment directly about the policy they offered guidance, recommending two documents published by the Local Government Association. (Appendix B)
- 4.2 The comments from Gambleaware were appreciated and acknowledged, however it was felt that the documents did not need incorporating into the policy but would serve as a valuable tool alongside the policy when performing functions under the Act.
- 4.3 The second response received was a letter from Gosschalks Solicitors on behalf of the Betting and Gaming Council (BGC). Their response gives an overview of the work of the BGC and also makes some specific comments on the draft policy. (Appendix C)
- 4.4 Contact was made with the author of the letter and the points raised were discussed as presented below.
- 4.5 The suggestion for the removal of the penultimate sentence of paragraph 1.18 was taken on board, however because the sentence refers to potential future amendments to the legislation it was felt unnecessary to exclude it from the document. Furthermore, were there to be an amendment to the legislation then this policy document would likely be re-examined.
- 4.6 A further point raised in the response from Gosschalks refers to paragraphs 1.28 to 1.36 of Part B of the Policy document. Clarity was sought on the imposition of conditions on premises licences. It was felt that paragraphs 1.1 to 1.9 of Part B addressed the points raised in the letter and give sufficient guidance on how the Authority would approach each application.
- 4.7 The final point refers to paragraphs 2 to 7 of Part B of the Policy. The points raised here are acknowledged and appreciated. This Authority recognises that the risk assessments produced by applicants and operators are a dynamic document and should therefore be updated and changed depending on circumstance. It is felt that the measures and examples given in the corresponding paragraphs are meant as guidance and therefore an aid when producing these documents. Any imposition of conditions would only be if the discretion of the Licensing

Authority was engaged, and it was felt the risk assessments weren't sufficient to address any perceived risk to the licensing objectives.

4.8 No other responses were received during the consultation period.

5. Strategic Priorities

5.1 Let's drive inclusive economic growth

By keeping the statement of policy up to date it will ensure that there is clear guidance for local businesses.

5.2 Let's reduce all kinds of inequality

Protecting vulnerable people is a key objective of the Act. This Statement of Licensing Policy should ensure that the licensing objectives are promoted and the most vulnerable are protected.

5.3 Let's deliver quality housing

N/A

5.4 Let's enhance our remarkable place

N/A

5.5 Let's address the challenge of climate change

N/A

6. Organisational Impacts

6.1 Finance (including whole life costs where applicable)

Cost of consultation and printing of Policy can be contained within the current licensing budget.

6.2 Legal Implications including Procurement Rules Gambling Act 2005 section 349.

A licensing authority shall before each successive period of three years –

- a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and
- b) publish the statement.

If the Council fails to introduce its reviewed Policy by 31 January 2022, it cannot function as the Licensing Authority under the Gambling Act 2005.

Additionally, the Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action proportionate to what it wishes to achieve?

6.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

The statement of policy shall ensure that the licensing function is conducted in a fair and transparent way.

The licensing policy provides transparency for everyone, including local residents and applicants for premises licences, who will be able to refer to the statement when making representations or when preparing their applications. There is therefore not a need to complete an Equality Impact Assessment as there are no specific impacts on anyone who has a protected characteristic.

7. Risk Implications

7.1 (i) Options Explored

7.2 (ii) Key risks associated with the preferred approach

8. Recommendation

8.1 The Committee is asked to:

- approve the draft policy; and
- recommend it to Full Council for adoption

Is this a key decision? No

Do the exempt information categories apply? No

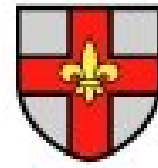
Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? 3

List of Background Papers: Appendix A – Draft Policy document
Appendix B – Response Gambleaware
Appendix C – Response Gosschalks

Lead Officer: Ian Cullen, Licensing Team Leader
Telephone (01522) 873714

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CITY OF
Lincoln
COUNCIL

Gambling Act 2005

Statement of Principles (Policy)

2022 - 2025

www.lincoln.gov.uk

CITY OF LINCOLN STATEMENT OF PRINCIPLES GAMBLING ACT 2005

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This Statement of Licensing Policy was approved by the City of Lincoln Council on tbc

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, published April 2021

PART A

1. The Licensing Objectives

- 1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3 This Licensing Authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with the authority’s statement of policy
- 1.4 The Gambling Commission issues two types of code of practice. Social responsibility (SR) codes and ordinary codes (OC). A social responsibility code must be adhered to by all licence holders in the same manner as a licence condition. An ordinary code is not mandatory but operators are expected to take account of them. Both sets of codes can be found in the [Commission’s Licence Conditions and Codes of Practices](#) (LCCP).

2. Introduction

- 2.1 The City of Lincoln Council is the Licensing Authority for the City of Lincoln for the purpose of the Gambling Act 2005 and any subsequent legislation and guidance.
- 2.2 The City of Lincoln Council is situated in the County of Lincolnshire, which contains 7 District Councils in total. The Council area has a population of 99,039 making it the fourth largest in the County in terms of population. In terms of area it is the smallest covering 3569 hectares. The Council’s area is mainly urban.
- 2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the policy, which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

- 2.4 The City of Lincoln Council has worked in partnership with the other District Councils in the County in preparing this statement of policy. It is based in part on
- guidance from the Commission's "[Guidance to Licensing Authorities](#)" (the Guidance)
- 2.5 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005.
- 2.6 The City of Lincoln Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below (appendix B).
- 2.7 Our consultation took place between 27 August 2021 and 8 October 2021
- 2.8 The City of Lincoln Council recognises its duties to consider the impact of all its functions and decisions on crime and disorder under the requirements of Section 17 of the Crime and Disorder Act 1998 in adopting this statement of policy. The City of Lincoln Council acknowledges the benefits to the community of properly regulating gambling in the district.
- 2.9 The statement of policy was approved at a meeting of the Full Council on tbc and was published via our website on tbc. Copies were placed in the public libraries of the area as well as being available at City Hall. The statement, once approved, will be effective from 31st January 2022
- 2.10 It should be noted that this statement of policy will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
- 2.11 The Licensing Authority recommends that applicants and interested persons study the [Lincoln City Profile](#). (this is a link to the 'live' document, updated by City of Lincoln Council.)

3. Declaration

- 3.1 In producing the final statement, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

4. Responsible Authorities

- 4.1 The Licensing Authority is required by regulations to state the policy 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 policy is:
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area;
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group; and
 - that this body is experienced in dealing with the protection of children.
- 4.2 In accordance with the suggestion in the Gambling Commission's Guidance for licensing authorities, this authority designates the Lincolnshire Safeguarding Children Partnership for this purpose.
- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the City of Lincoln Council's website at: www.lincoln.gov.uk

5. Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
- "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the applications is made, the person-
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
 - b) has business interests that might be affected by the authorised activities, or
 - c) represents persons who satisfy paragraph (a) or (b)" e.g. ward councillors or member of parliament.
- 5.2 The Licensing Authority is required by regulations to state the policy it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The policy is:
- 5.3 Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's [Guidance for licensing authorities](#) at 8.12 and 8.15. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.4 The Gambling Commission has recommended that the Licensing Authority state whom it considers represent interested parties. These include, but are not confined to, democratically elected representatives such as local councillors and Members of Parliament (no specific evidence of being asked to represent an interested person will be required as long as the councillor or Member represents the ward

likely to be affected) and bodies such as trade associations and trade unions, and residents' and tenants' associations. This Authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by, or has business interests that might be affected by the authorised activities being applied for. A letter from one of these persons requesting representation shall be sufficient.

- 5.5 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 Committee dealing with the licence application. If there are any doubts then please contact the licensing department on 01522 873714 or licensing@lincoln.gov.uk .

6. Exchange of Information

- 6.1 In accordance with Section 350 and Schedule 6 of the Gambling Act 2005, in exercise of its duty the Licensing Authority may exchange information with the following persons and statutory bodies:
- A constable or police force;
 - An enforcement officer;
 - A licensing authority;
 - Her Majesty's Revenues and Customs;
 - The First-tier Tribunal;
 - The Secretary of State;
 - Scottish Ministers; and
 - Any other person or body designated by the Secretary of State in accordance with the Act.

The Council may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we will only share any personal details for this purpose if required to do so by law.

- 6.2 The Licensing Authority will act in accordance with the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 2018 will not be contravened.
- 6.3 The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Licensing Authorities as well as any relevant regulations issued by the Secretary of State under powers provided in the Gambling Act 2005.
- 6.4 The Licensing Authority will inform the Gambling Commission without delay if:
- Information that causes the Licensing Authority to question the suitability of a person or business holding or applying to hold an operating licence is received.
 - There are persistent or serious disorder problems that an operator could or should do more to prevent, so that the Commission may consider the continuing suitability

of the operator to hold an Operating Licence.

- If it comes to the Licensing Authority's attention that alcohol-licensed premises, clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes that that make it possible that £2,000 in seven days is being exceeded.
- Any other reasonable and relevant information that the Licensing Authority is of the opinion the Gambling Commission should be made aware of.

6.5 The council is a signatory to a joint protocol on information sharing under the provisions of Section 115 of the Crime and Disorder Act 1998 with the [Safer Lincolnshire Partnership](#). The council will use this protocol as appropriate.

6.6 Should any further protocols be established as regards information exchange with other bodies then they will be made available on the City of Lincoln Council's website at www.lincoln.gov.uk

7. Enforcement and Inspection

7.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the policy to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 This Licensing Authority's policy is that:
It will be guided by the Gambling Commission's Guidance for 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.

7.3 As per the Gambling Commission's Guidance for Licensing Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.4 This Licensing Authority will implement a risk-based inspection programme on a multi-agency basis, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36

- The principles set out in this statement of policy

7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions, which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

7.6 This Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities

7.7 Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance policies/protocols/written agreements will be available upon request to the licensing department.

7.8 The Authority recognises that certain gambling premises operators have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Authority a single named point of contact, who should be a senior individual, and who the Authority will contact first should any compliance queries or issues arise.

7.9 In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act, in particular:

- Article 1, Protocol 1 – Peaceful enjoyment of possessions
- Article 6 – right to a fair hearing
- Article 8 – respect for private and family life
- Article 10 – right to freedom of expression

8. Licensing Authority functions

8.1 Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines

- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

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

DRAFT

PART B PREMISES LICENCES

1. General Policy

- 1.1 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives; and
 - in accordance with the Authority's statement of licensing policy.
- 1.3 It is appreciated that as per the Gambling Commission's Guidance for Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below – page 15) and also that unmet demand is not a criterion for a Licensing Authority.
- 1.4 Premises Licences authorise the provision of gambling facilities on the following:
- Casino premises
 - Bingo Premises
 - Betting Premises (including race tracks used by betting intermediaries)
 - Adult Gaming Centres (AGCs)
 - Family Entertainment Centres (FECs)
- 1.5 **Local Risk Assessments** – It is a requirement of the Commission's Licence Conditions and Codes of Practices (LCCP), specifically an SR code requirement that licensees assess local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.
- 1.6 Licensees must review (and update as necessary) their local risk assessments:
- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
 - when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - when applying for a variation of a premises licence; and
 - in any case, undertake a local risk assessment when applying for a new premises licence.

1.7 The Licensing Authority expects the local risk assessment to consider as a minimum:

- whether the premises are in an area subject to high levels of crime and/or disorder;
- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
- the location of services for children such as schools, playgrounds, toy shops, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups
- how vulnerable people, including people with gambling dependencies are protected.
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- any indication in the area of young people attempting to access adult gambling facilities of the type offered in the area.
- High unemployment area
- The area has a high number of rough sleepers/homeless people.

The risk assessment should take into account the risks presented by the local landscape. The Council publishes a range of information about the district in the [Lincoln City Profile](#) which will be of use to applicants in the preparation of local risk assessments.

1.8 This policy does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.

1.9 The Authority acknowledges the Commission's guidance that "moral or ethical objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

1.10 **Definition of "premises"** - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

1.11 This Licensing Authority takes particular note of the Gambling Commission's Guidance for Licensing Authorities which states that:
Licensing Authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a

- building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
 - Customers should be able to participate in the activity named on the premises licence.
- 1.12 The Guidance also gives a list of factors which the Licensing Authority should be aware of, which may include:
- Is a separate registration for business rates in place for the premises?
 - Is the premises' neighbouring premises owned by the same person or someone else?
 - Can each of the premises be accessed from the street or a public passageway?
 - Can a premises only be accessed from any other gambling premises?
- 1.13 **Premises "ready for gambling"** - It should be noted that following the case of *The Queen (on the application of) Betting Shop Services Limited v Southend-on-Sea Borough Council*, an applicant can obtain a full premises licence for premises in which it is proposed to offer gambling but the facilities have still to be constructed or altered. Licensing Authorities are required to determine such applications on their merits.
- 1.14 This Authority shall consider such applications in a two-stage process;
- First, whether the premises should be permitted to be used for gambling in accordance with section 153 of the Act.
 - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 1.15 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have the right to occupy them, then an application for a provisional statement can be made instead.
- 1.16 Applicants should note that this Authority is entitled to decide that it is appropriate to grant such a licence subject to conditions, but it is not obliged to grant such a licence.
- 1.17 More detailed examples of circumstances in which such a licence may be granted can be found at paragraphs 7.60-7.65 of the Gambling Commissions Guidance.

- 1.18 **Location** - This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.
- 1.19 **Duplication with other regulatory regimes** - This Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. This Licensing Authority will not consider any planning or building regulations issues in relation to the premises, in its consideration of the licence application. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.20 Furthermore, the Authority notes the following excerpt from the Commission's Guidance:
- When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. S.210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.
- 1.21 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to licensing authorities and some comments are made below.
- 1.22 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. 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. This 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. Issues of nuisance cannot be addressed via the Gambling Act provisions.

1.23 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

1.24 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted the Gambling Commission's Guidance for Licensing 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, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

1.25 To prevent children and young people accessing adult gambling activities, safeguarding measures should be in place. The Licensing Authority will therefore consider whether or not specific measures are needed to protect children at particular premises. Such measures may include:

- Proof of age scheme e.g. the Think 21 scheme and only recognised proof of age accepted (for example photo driving licence, passport and PASS cards)
- All points of entry monitored by staff/CCTV
- Signage prominently displayed at all points of entry regarding the prohibition of under 18's
- Signage displayed on machines highlighting age restrictions
- Supervision of gaming machines in non-adult gambling specific premises.
- All staff being trained to be vigilant and respond if a child gains illegal access to premises.
- Third party test purchasing
- Maintain refusal registers

1.26 This Licensing Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

1.27 As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to define 'vulnerable persons' but it does, 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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs. Information and sources of help regarding problem gambling can be found on the [Gamcare](#) and [Gambleaware](#) websites. The Licensing

Authority will consider this licensing objective on a case-by-case basis. Further specific information on the Authority's recommendations and expectations, in relation to the protection of children and other vulnerable persons can be found at Appendix D and E of this policy document.

- 1.28 **Conditions** - Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 1.29 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.
- 1.30 This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 1.31 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 1.32 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 1.33 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

- 1.34 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.
- 1.35 **Door Supervisors** - If there are concerns that premises may attract disorder or be subject to unauthorised access by children and young persons, then the Licensing Authority may require that Door Supervisors control entrances to the premises. The Licensing Authority recognises that each premises application shall be treated on its own merit. In addition, the Licensing Authority shall take into account the previous trading history of the type of premises proposed and that any decision shall be necessary and proportionate.
- 1.36 Where door supervisors are imposed as a condition on a Premises Licence (except casino or bingo premises), Section 178 of the 2005 Act requires that any person employed in that capacity will hold a relevant licence issued by the Security Industry Authority (SIA).

2. **Adult Gaming Centres (AGCs)**

- 2.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 2.2 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:
- Proof of age schemes
 - CCTV
 - Supervision of entrances / machine areas (e.g. use of door supervisors)
 - Physical separation of areas
 - Location of entry
 - Notices / signage (including the statutory requirement for GamCare stickers)
 - 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.

2.3 The Licensing Authority will expect applicants to adopt an approved proof of age scheme (such as Think 21), for staff to be suitably trained and aware of the gambling laws, social responsibility and statutory requirements relating to age restrictions.

3. (Licensed) Family Entertainment Centres (FECs)

3.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Children and young persons are permitted to enter an FEC and may play on Category D machines. They are not permitted to play on Category C machines, and it is a requirement that there is clear segregation between the two types of machine, to prevent access by children and young persons to Category C machines.

3.2 Therefore, all Category C machines must be located in an area of the premises separate from the remainder of the premises by a physical barrier, which is effective to prevent access other than through a designated entrance.

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

- CCTV
- Supervision of entrances / machine areas (e.g. use of door supervisors)
- Physical separation of areas
- Location of entrance
- Notices / signage (including the statutory requirement for GamCare stickers)
- 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.

3.4 This Licensing Authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences.

3.5 The Licensing Authority acknowledges that only premises that are wholly or mainly used for making gaming machines available may hold a Family

Entertainment Centre (uFEC) gaming machine permit (see page 24 for more on uFECs) or a Family Entertainment Centre (FEC) premises licence. Both a licensed FEC and uFEC are classified as 'premises'. The Licensing Authority considers that, generally, premises such as an entire shopping centre, motorway service station, bowling alley or similar would not be suitable for licensing or to hold a permit. Further the Authority believes that the machines should be in a designated, enclosed area, they should not be in walkways or corridors forming part of a larger building

4. Casinos

- 4.1 **No Casinos resolution** - This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. The Full Council will make any such decision.

5. Bingo premises

- 5.1 This Licensing Authority notes that the Gambling Commission's Guidance states at paragraph 18.5:

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

- 5.2 The authority also notes the Guidance regarding the provision of gaming machines in premises subject to a bingo premises licence.

- 5.3 The Guidance also states:

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

- 5.4 Where category C or above machines are available in premises to which children are admitted this authority shall seek to ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- Only adults are admitted to the area where the machines are located;
 - Access to the area where the machines are located is supervised;
 - The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 5.5 Where Bingo is provided in alcohol-licensed premises and reaches a certain threshold, it will no longer be authorised as equal chance gaming and a Bingo Operating Licence will need to be obtained from the Gambling Commission. The aim of this provision is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.
- 5.6 The threshold is reached if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once in a year, referred to as 'high turnover bingo'.
- 5.7 If it comes to the attention of the licensing authority that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes, that makes it possible that the £2,000 in seven days is being exceeded, the licensing authority shall inform the Commission accordingly.

6. Betting premises

- 6.1 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises. Children and young persons are not permitted entry to a premises which has a Betting Premises Licence. They may, however, be permitted entry to tracks and special rules will apply. The Licensing Authority recommends that an applicant for betting premises considers carefully the location of gaming and betting machines to ensure that they are not in sight of the entrance of the premises.
- 6.2 Betting machines - This Licensing Authority notes that Section 181 of the Act contains a power for licensing authorities to restrict the number of Self-Service Betting Terminals (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, 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.
- 6.3 While the Authority has discretion as to the number, nature and circumstances of the use of betting machines, currently there is no evidence that such machines give rise to regulatory concerns. Therefore, this Authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this Authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.

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

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas (e.g. use of door supervisors)
- Physical separation of areas
- Location of entry
- Notices / signage (including the statutory requirement for GamCare stickers)
- 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

7. Tracks

7.1 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas (e.g. use of door supervisors)
- Physical separation of areas
- Location of entry
- Notices / signage (including the statutory requirement for GamCare stickers)

- 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.

- 7.4 **Gaming machines** – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 7.5 **Betting machines** - Licensed operators may install Self-Service Betting Terminals (SSBTs) on tracks. 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 those under 18 years of age.
- 7.6 **Applications and plans** – The Gambling Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity. (See the Guidance to Licensing Authorities, para 20.43)
- 7.7 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. (See Guidance to Licensing Authorities, para 20.44)
- 7.8 This Authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information so that this Authority can satisfy itself that the plan indicates the main areas where betting might take place.

8. Travelling Fairs

- 8.1 It will fall to this Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying

the land. This Licensing Authority will work with its neighbouring authorities to ensure that land that crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

- 9.1 Developers may wish to apply to this authority for a Provisional Statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:
- Expects to be constructed;
 - Expects to be altered; or
 - Expects to acquire a right to occupy.
- 9.3 The process for considering an application for a Provisional Statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as when applying for a Premises Licence. Responsible Authorities and Interested Parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 9.5 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a) which could not have been raised by way of representations at the provisional licence stage
 - b) which, in the Authority's opinion, reflect change in the operator's circumstances.
 - c) Where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and Licensing Authorities should discuss any concerns they have with the applicant before making a decision.

10. Reviews:

10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the 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 the matters listed below:

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

10.2 The request for the review will also be subject to the consideration by the Authority as to whether the request is frivolous, vexatious or whether it will certainly not cause this Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review

10.3 The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks appropriate.

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

10.5 The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

10.6 The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If 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 (e.g. opening hours) or remove or amend such a condition;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the 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 representation.

10.7 In particular, the Licensing Authority may also initiate a review of a premises

licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

- The licence holder
- The applicant for review (if any)
- The Gambling Commission
- Any person who made a representation
- The Chief Officer of Police or Chief Constable
- Her Majesty's Commissioners for Revenue and Customs.

10.9 **Appeals** – There is a right of appeal both for applicants and those who have made relevant representations or applied for a review. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to Lincoln Magistrates Court.

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PART C
Permits / Temporary & Occasional Use Notices / Lotteries

Permits

Permits regulate gambling and the use of gaming machines in premises, which do not hold a premises licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.

The licensing authority is responsible for issuing the following permits:

- uFEC gaming machine permits
- Alcohol licensed gaming machine permits
- Prize gaming permits
- Club gaming permits and club machine permits

The licensing authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the licensing authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.

There is a minimum age of 18 for all players for all category A, B and C gaming machines, including category B3A gaming machines offering lottery style games. However, there is no minimum age for players of category D machines. The holder of any permit or premises licence has to comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

1. (Unlicensed) Family Entertainment Centre (uFEC) gaming machine permits (Statement of Principles on Permits – 2005 Act, Schedule 10 paragraph 7)

1.1 Where a premises does not hold a premises licence but wishes to provide category D gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (2005 Act, Section 238).

1.2 The Gambling Act 2005 states that a Licensing Authority may prepare a statement of policy that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for Licensing Authorities also states: "In its Licensing Authority Statement of Policy, a Licensing Authority may include a statement of principles that it proposes to apply in exercising its function in considering applications for permits...., Licensing Authorities may want to give weight to matters relating to protection of children from being

harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group. ." (24.8)

- 1.3 The licensing authority will require applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and the applicant to do this by producing a Basic Disclosure and Barring Service (DBS) Certificate dated within one calendar month of the date of the application being submitted to the Licensing Authority;
 - that employees are trained to have a full understanding of the maximum stakes and prizes.
- 1.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
- 1.5 This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include:
- appropriate measures / training for staff as regards suspected truant school children on the premises,
 - measures / training covering how staff would deal with unsupervised young children being on the premises,
 - measures / training covering how staff would deal with children causing perceived problems on / around the premises.
- 1.6 The Licensing Authority acknowledges that only premises that are wholly or mainly used for making gaming machines available may hold a Family Entertainment Centre (uFEC) gaming machine permit or a Family Entertainment Centre (FEC) premises licence. Both a licensed FEC and uFEC are classified as 'premises'. The Licensing Authority considers that, generally, premises such as an entire shopping centre, motorway service station, bowling alley or similar would not be suitable for licensing or to hold a permit. Further the Authority believes that the machines should be in a designated, enclosed area, they should not be in walkways or corridors forming part of a larger building.
- 1.7 The Authority expects that a plan of the uFEC shall be supplied as part of the application.
- 1.8 N.B. Applicants and permit holders are reminded that there is no provision within the Gambling Act 2005 and associated regulations which enables the transfer of a permit from one person to another, therefore a new operator will need to apply for their own permit.

2. (Alcohol) Licensed premises gaming machine permits and notifications

- 2.1 **Notifications of 2 or less machines** There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, from a bar, without a requirement that alcohol is served only with food to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority and pay the relevant fee. 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 Gambling 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 Gambling Act has been committed on the premises.
- 2.2 **Permits for 3 or more machines** If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 2.3 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.4 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.
- 2.5 When determining an application for an alcohol-licensed premises gaming machine permit, the licensing authority will consider each application on its own merits.
- 2.6 The licensing authority may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:

- It would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect
 - Gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit
 - The premises are mainly used or to be used for making gaming machines available, or
 - An offence under the 2005 Act has been committed on the premises
- 2.7 Before the licensing authority cancels or varies a permit it will give the permit holder 21 days' notice of its intention and allow him/her the opportunity to make a representation. If the permit holder requests a hearing the licensing authority will arrange a Licensing Sub-Committee hearing to consider the permit holder's representation and any other evidence available before making its determination.
- 2.8 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 machine.

3. Prize Gaming Permits

- 3.1 The Gambling Act 2005 states that a Licensing Authority may "prepare a statement of policy that they propose to apply in exercising their functions under this Schedule" which "may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit".
- 3.2 This Licensing Authority's Statement of Policy is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
 - and that the gaming offered is within the law.
 - clear policies that outline steps to be taken to protect children from harm.
- 3.3 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 Gambling Commission guidance.
- 3.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and

- participation in the gaming must not entitle the player to take part in any other gambling.

4. Club Gaming and Club Machine Permits

- 4.1 Members Clubs and Miners' welfare institutes may apply for a Club Gaming Permit (but not Commercial Clubs) or if a club does not wish to have the full facilities permitted under a Club Gaming Permit or is a commercial club, then they can apply for a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D – but only 1 B3A can be sited as part of this entitlement), equal chance gaming and games of chance as set out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D – but only 1 B3A can be sited as part of this entitlement) if a Members Club or Miners' welfare institute but not category B3A in Commercial Clubs.
- 4.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 4.3 The Commission Guidance also notes that "Licensing Authorities may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - d) a permit held by the applicant has been cancelled in the previous ten years; or
 - e) an objection has been lodged by the Commission or the police.
- 4.4 There is also a 'fast-track' procedure available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an Authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - c) (that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

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

5. Temporary Use Notices (TUN)

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

6. Occasional Use Notices (OUN)

- 6.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

7. Lotteries:

7.1 The promotion or facilitating of lotteries falls within 2 categories:

- Licensed Lotteries (these require an Operating Licence from the Gambling Commission); and
- Exempt Lotteries

7.2 One such exemption is 'Small Society Lotteries', these are non-commercial and have been established and conducted for one of the following purposes:

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sports, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain

7.3 Those societies wishing to operate small society lotteries must first register with the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes the Society's principal office is situated in another area it will inform the Society as soon as possible.

7.4 The licensing authority will keep a public register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the register is completed, the Licensing Authority will notify the applicant of registration.

7.5 The licensing authority will ask applicants to set out the purposes for which the society is established and will ask the society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The licensing authority may, however, seek further information from the society and in particular may require a copy of the society's constitution.

7.6 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion.

7.7 The licensing authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocations will take place unless the society has been given the opportunity to make representations. The licensing authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

7.8 With regards to where small society lottery tickets may be sold, the licensing authority applies the following guidance criteria to all small society lotteries it registers:

- Tickets should not be sold in a street, where street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
- Tickets may be sold from a kiosk, in a shop or door-to-door.

This approach is consistent with the operating licence conditions imposed by the Commission upon operators of large lotteries.

8. Review

- 8.1 This statement of policy will remain in force for a period of three years and will be subject to review and further consultation before January 2025. However, following consultation, the Licensing Authority may make revisions to it as deemed necessary.

9. Glossary

- 9.1 A glossary of terms is attached at Appendix C.

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Appendix A

Summary of Licensing Authority delegations permitted under the Gambling Act.			
MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE OF LICENSING COMMITTEE	OFFICERS
Final approval of three year licensing statement of principles	✓		
Statement of principles not to permit casinos	✓		
Fee setting (when appropriate)	✓		
Application for premises licences (including applications for reinstatement under S195)		<p>Where representations have been received and not withdrawn</p> <p>Representation made and not withdrawn (S154 (4)(a))and/or Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary</p>	<p>Where no representations received/representations have been withdrawn</p> <p>The only representations received are vexatious, frivolous, or certainly will not influence the Authority's determination of the application.</p>
Application for a variation to a licence		<p>Where representations have been received and not withdrawn</p> <p>Where the Licensing</p>	<p>Where no representations received/representations have been withdrawn</p> <p>The only representations received are vexatious,</p>

		<p>Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary (S187(3))</p> <p>If the application for variation is to remove a default condition and there are no representations and there are no proposals by the Authority to otherwise alter the conditions this could be dealt with at officer level without a hearing</p>	<p>frivolous, or certainly will not influence the Authority's determination of the application</p>
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission/ representations have been withdrawn
Application for a provisional statement		<p>Where representations have been received and not withdrawn</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b)</p>	Where no objections made/objections have been withdrawn

Revocation of a premises licence due to non-payment of annual fee.			✓
Review of a premises licence		✓	
Application for a club gaming/club machine permit		Where objections have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits		✓	
Application for other permits			✓
Cancellation of licensed premises gaming machine permits Sch 13 paragraph 16		✓	
Cancellation of licensed premises gaming machine permits for non-payment of fee			✓
Cancellation Club Gaming Permits/Club Machine Permits for non-payment of fee			✓
Consideration of temporary use notice		<p>All cases where an objection notice has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary.</p> <p>All cases where a counter notice may be required (S232(3))</p>	All other cases
Decision to give a counter notice to a temporary use notice		All Cases except where time limits for temporary events are exceeded	All Cases where time limits for temporary events are exceeded pursuant to Section

		pursuant to Section 218(3) and Section 218(5)	218(3) and Section 218(5)
Registration of small society lotteries		Where officers believe there is reason to refuse the application for registration	✓
Cancellation of a small society lottery due to non-payment of annual fee.			✓

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Appendix B

Consultees

Age UK
Association of British Bookmakers Ltd
BACTA
BALPPA (The British Association of Leisure Parks, Piers & Attractions Limited)
BII
British Beer & Pub Association
Businesses in Sport and Leisure
Buzz Group Limited
Chamber of Commerce
Citizens Advice Bureau
City of Lincoln Council
Civic Voice
Public Health Directorate
Done Brothers
Federation of Small Businesses
Framework
Gamble Aware
Gamblers Anonymous
Gambling Commission
GamCare
H.M. Revenue & Customs
Head of Community Services, Leisure and Sport
Health & Safety Executive
Institute of Directors
Ladbrokes Betting and Gaming Ltd
Licensing Committee City of Lincoln Council
Lincoln Business Improvement Group
Lincoln Magistrates Court
Lincolnshire County Council
Lincolnshire Fire & Rescue
Lincolnshire Police
Lincolnshire Safeguarding Children Partnership
Lotteries Council
Mencap
Mental Health Trust
MIND
Merkur Slots UK Limited
NSPCC
Relate
Responsible Gambling Trust
RTB Investments Limited
The Bingo Association
The Racecourse Association
Trading Standards Service
We are with you

Appendix C

GLOSSARY OF TERMS UNDER THE GAMBLING ACT 2005

Council:	City of Lincoln Council
Applications:	Applications for licences and permits as stated in the Statement of Policy
Notifications:	Notifications of temporary and occasional use notices
The Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Premises Licence	Issued by the Licensing Authority to authorise premises to be used for the activities as defined by Section 150 of the Gambling Act
Operator Licence	Issued by the Gambling Commission to organisations and individuals who are providing facilities for gambling as defined by Section 65 of the Gambling Act
Personal Licence	Issued by the Gambling Commission to certain categories of people working in the gambling industry as defined by Section 127 of the Gambling Act
Family Entertainment Centre	The Act creates two classes of Family Entertainment Centres – Licensed: which provide category C and D gaming machines and require a premises licence Unlicensed: which provide category D gaming machines in reliance on a Gaming machine Permit
Adult Gaming Centre	Premises which provide category B, C and D gaming machines and require an operating licence and a premises licence
Members' Club	Club as defined by section 266 of The Gambling Act 2005.
Commercial Club	Club as defined by section 267 of The Gambling

Act 2005

Miners' welfare institute

Association as defined by section 268 of The Gambling Act 2005

Gaming Machine

A machine which is designed or adapted for use by individuals to gamble as defined by Section 235 of the Gambling Act

Money Prize Machine

A machine in respect of which every prize which can be won as a result of using the machine is a money prize as defined in regulation 3(7) of the Categories of Gaming Machine (Amendment) Regulations 2009.

Non- Money Prize Machine

A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize as defined in regulation 3(7) of the Categories of Gaming Machine (Amendment) Regulations 2009. For non-money prize machines in general, the maximum stake (charge for use) must be no more than 30 pence, and the maximum prize value must be no more than £8.

Crane Grab Machine

A crane grab machine is defined as a non-money prize machine in respect of which two conditions are satisfied. The first is that every prize which can be won as a result of using the machine consists of an individual physical object (such as a stuffed toy). The second is that whether or not a person using the machine wins a prize is determined by the person's success or failure in manipulating a device forming part of the machine so as to separate and keep separate one or more physical objects from a group of such objects. The maximum stake may be anything up to and including £1, and the maximum prize value may be anything up to and including £50

Coin Pusher or Penny Fall Machine

These machines are commonly found in seaside arcades and are defined in regulation 2(3) of the Categories of Gaming Machine Regulations 2007 with the additional requirement that the machine be neither a money-prize nor a non-money prize machine. The maximum stake may be anything up to and including 20 pence, and the maximum prize value may be anything up to and including £20 (of

which no more than £10 may be a money prize).

The Gambling Commission's web site contains up to date [information about gaming machine categories, stakes and prizes](#)

Code of Practice: Means any relevant code of practice under section 24 of the Gambling Act 2005

Responsible Authority: For the purposes of this Act, the following are responsible authorities in relation to premises:

1. The Licensing Authority in whose area the premises are wholly or mainly situated (City of Lincoln Council);
2. The Gambling Commission;
3. Lincolnshire Police;
4. Lincolnshire Fire and Rescue;
5. Planning Department, City of Lincoln Council;
6. Environmental Health (Pollution Section) City of Lincoln Council
7. Lincolnshire Safeguarding Children's Partnership, Lincolnshire County Council;
8. HM Revenue and Customs.

Interested Party: For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) Has business interests that might be affected by the authorised activities;
- c) Represents persons who satisfy a) or b) above.

Appendix D

Safeguarding of Children

What are the risks to children?

The risks will vary, depending on the type of gambling activities taking place at the premises. For example, at Adult Gaming Centres, Off-Course (High Street) Betting Premises or Casinos, safeguarding systems should be in place to prevent young people gaining access to the premises.

If children are permitted access to adult gambling activities, they may be at risk of being:

- exposed to information or advertisements encouraging them to gamble
- allowed, or invited to, gamble or bet in a commercial setting
- allowed to purchase and consume alcohol (casino premises)
- financially exploited.

They may also witness, or be involved in, other dangerous or threatening behaviour.

Managing the risks

To prevent children and young people accessing adult gambling activities, stringent safeguarding measures should be in place, examples of such measures could include:

- the Think 21 scheme operated by all door and bar staff and only recognised proof of age accepted (for example photo driving licence or passport; PASS cards)
- all points of entry monitored by security staff/CCTV
- signage prominently displayed at all points of entry regarding the prohibition of under 18's
- signage displayed on machines highlighting age restrictions
- signage prominently displayed in bar areas regarding the law and the sale of alcohol
- operating a membership scheme
- all staff being trained to be vigilant and respond if a child gains illegal access to premises.

If a premises offers a range of gambling activities (for example, a licensed Family Entertainment Centre or Bingo Premises) premises must operate systems to ensure that under 18's are prevented from accessing areas where adult activities (such as betting or high stakes gambling) take place; or where adult gaming machines are located.

The measures set out above should be used to help the public clearly identify from which areas children are prohibited.

If a premise offers a variety of activities, it may be necessary to operate the following systems:

- designated family-friendly areas using physical barriers/cordons to segregate these from restricted areas

- points of access/egress located for easy supervision by staff and regularly monitored
- signage displayed to indicate access rules
- signage to remind parents/adults of their responsibilities
- use of screens
- use of the Think 21 scheme
- assigning at least one member of staff as a 'Children's Safeguarding Lead'

Premises should ensure that the environment to which they allow children access is safe and suitable.

Action should be taken if adults demonstrate irresponsible behaviour, such as showing signs of intoxication, using strong or offensive language, threatening behaviour, or violence towards others or towards machinery.

Adults accompanying children should be encouraged to supervise them, to minimise the risk of children being exposed to inappropriate or dangerous behaviour or gaining access to prohibited areas of the premises.

The employment of children and young people

The Gambling Act 2005 does not prohibit the employment of children and young people at some premises.

However, it does restrict the type of tasks and areas to which children and young people may have access and it is important that premises comply with these restrictions, as failure to do so may result in committing an offence; for example, it is an offence to employ children and young people to provide facilities for gambling, or to perform a function in relation to a gaming machine, at any time.

Children should not be exposed to gambling as they carry out their employment functions.

Appendix E

Safeguarding of Vulnerable persons

The Gambling Commission puts a high priority on the social responsibilities operators have to protect vulnerable persons from the harm associated with gambling; and policies must be in place to support the protection of vulnerable persons.

Who is a vulnerable person?

Persons may be vulnerable if, for example, they are taking certain types of prescribed medication which may impair their judgement or prevent them making informed, balanced decisions about gambling; or if they are intoxicated from misusing drugs or alcohol.

If a person has mental health issues, a mental impairment or problems with addiction, they may also be vulnerable as they may have difficulty controlling their activities or behaviour, or understanding the players' guides to games.

What are the risks to vulnerable persons?

If a vulnerable person are not supported within the gambling environment they may be at risk of:

- gambling beyond their financial means
- problems with addiction
- financial exploitation
- causing, or being a victim of dangerous, abusive or threatening behaviour
- physical, emotional or accidental harm.

These difficulties may have a serious impact upon the person's relationships, home life or employment.

Managing the risks and being socially responsible

Premises should consider the following steps:

- Designate a member of staff to lead on problem gambling issues.
- Train staff on how to recognise and respond to indicators of concern.
- Staff should be trained to recognise the signs of persons becoming aggressive and how to deal with such situations whilst maintaining their own safety.
- Information should be made readily/discreetly available to customers on how to gamble responsibly and seek help in respect of problem gambling.
- Offer a self-exclusion, or self-limit scheme, enabling individuals to restrict the amount of time or money they spend.
- When offering membership schemes, the details of a contactable person should be required in the event of an emergency.

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Cullen, Ian (City of Lincoln Council)

From: Contact <Contact@BeGambleAware.org>
Sent: 31 August 2021 10:22
To: Cullen, Ian (City of Lincoln Council)
Subject: RE: Gambling Act 2005 Policy Consultation - City of Lincoln Council

WARNING: This email originated from outside of the organisation. Do not click links, open attachments or reply unless you are confident that the content is safe and do not share inappropriately.

Dear Ian

Thank you for consulting us on your draft Statement of Principles under the Gambling Act 2005.

Due to resource constraints on a small charity, we are not able to offer specific feedback on your policy. However, you may find GambleAware's recently published [interactive maps](#) useful, which have been designed for use by local authorities. The maps show the prevalence of problem gambling severity in each local authority and ward area as well as usage of, and reported demand for, treatment and support for gambling harms.

GambleAware also strongly commends two publications by the Local Government Association which set out the range of options available to local authorities to deal with gambling-related harms using existing powers:

- <https://www.local.gov.uk/tackling-gambling-related-harm-whole-council-approach>
- <https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales>

GambleAware is also fully supportive of local authorities which conduct an analysis to identify areas with increased levels of risk for any reason. In particular we support those who also include additional licence requirements to mitigate the increased level of risk. Areas where there are higher than average resident or visiting populations from groups we know to be vulnerable to gambling harms include children, the unemployed, the homeless, certain ethnic-minorities, lower socio-economic groups, those attending mental health (including gambling disorders) or substance addiction treatment services.

Finally, GambleAware is a leading commissioner of prevention and treatment services for gambling harms. It provides these functions across England, Scotland and Wales and its work is underpinned by high quality research, data and evaluation. We encourage all local authorities to signpost people to the **National Gambling Helpline on 0808 8020 133** and also www.begambleaware.org. Both are part of the **National Gambling Treatment Service** and offer free, confidential advice and support for those who may need it.

From: Cullen, Ian (City of Lincoln Council) 
Sent: 26 August 2021 16:43
Subject: Gambling Act 2005 Policy Consultation - City of Lincoln Council

Dear all,

GAMBLING ACT 2005 – STATEMENT OF LICENSING POLICY

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 during the three-year period to which the policy applies.

The list of persons to be consulted is deliberately wide and thus enables us to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing statement and give appropriate weight to the views of those it has consulted before publishing the statement.

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GOSSCHALKS

BY EMAIL ONLY
LICENSING SECTION
CITY OF LINCOLN COUNCIL

Please ask for: Richard Taylor
Direct Tel:
Email:
Our ref: RJT / MJM / 123267.00001
#GS4127560
Your ref:
Date: 01 October 2021

Dear Sirs,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Betting and Gaming Council (BGC) and are instructed to respond on behalf of the BGC to your consultation on the review of your Gambling Act 2005 Statement of Principles.

The Betting and Gaming Council

The Betting and Gaming Council (BGC) was created in 2019 as the new standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers.

BGC members support 119,000 jobs and account for £4.5 billion to the Treasury annually in tax. Recent study also showed that BGC members contributed around £7.7 billion in gross value added to the UK economy in 2019.

The gambling industry is integral to the survival of sport. Betting companies spend over £40 million a year on the English Football League (EFL) and its clubs. Horse racing, an industry estimated to be worth £3.5 billion a year to the UK economy and which generates 85,000 jobs receives over £350 million per annum through the Horse Racing Industry Levy, media rights and sponsorship. Darts and Snooker receive in excess of £10 million per annum which represents 90 % of all sponsorship revenue.

The BGC has four principal objectives. These are to –

- **create a culture of safer gambling throughout the betting and gaming sector, with particular focus on young people and those who are vulnerable**
- **ensure future changes to the regulatory regime are considered, proportionate and balanced**

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- become respected as valuable, responsible and engaged members of the communities in which its members operate
- safeguard and empower the customer as the key to a thriving UK betting and gaming industry

Before we comment on your draft policy document, it is important that the backdrop against which the comments are made is established.

Betting and Gaming in the UK

Betting and gaming is an incredibly important part of the UK leisure and hospitality industry, employing over 70,000 people, including 50,000 in betting, 13,000 in casinos and 10,000 people directly employed online. The betting and gaming industry contributes £8.7 billion Gross Value Added to the UK economy & contributes £3.2 billion to HM Treasury. In addition, casinos contribute over £120 million to the tourism economy each year.

Betting and gaming is widely enjoyed in the UK. Around 30 million people participate in some sort of gambling, whether that is on the National Lottery, placing a bet in betting shops, playing in casinos or at bingo. The overwhelming majority of these people do so safely without reporting any problems.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that the number of betting offices (as of March 2020) was 7681. This is reducing every year and has fallen from a figure of 9137 in March 2014. Covid 19 had a devastating effect on the betting industry. The number of betting offices in June 2020 was down to 6461.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- In April 2019 a maximum stake of £2 was applied to the operation of fixed odds betting terminals
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable and possibly falling.

Problem Gambling

Problem gambling rates are static or possibly falling. The reported rate of 'problem gambling' (according to either the DSM-IV or the PGSI) was 0.8% of the adult population in 2015, in 2016 it was 0.7% and in 2018 it was 0.5% of the adult population.

This is termed statistically stable but is encouraging that we might finally be seeing a reduction in problem gambling due to the raft of measures that have been put in place recently both by the

industry, the Gambling Commission and the Government – from a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures and voluntary restrictions on advertising. These rates have remained broadly the same since the introduction of the Gambling Act 2005.

Whilst one problem gambler is too many, both the Government and regulator both say there is no evidence that problem gambling has increased in recent years.

During the Covid-19 period of lockdown, both the Gambling Commission and Government have acknowledged that problem gambling levels have not increased.

In June 2020, the BGC's five largest members committed to increasing the amount they spend on research, education and treatment (RET) services from 0.1 per cent to 0.25 per cent of their annual revenue in 2020, 0.5 per cent in 2021, 0.75 per cent in 2022 and 1 per cent in 2023. The five operators confirmed they will provide £100 million to GambleAware charity to improve treatment services for problem gamblers.

Rates of 'problem gambling' in the UK are low by international standards – compared to France (1.3%), Germany (1.2%), Sweden (2.2%) and Italy (1.27%).

The BGC supported the creation of the new NHS gambling treatment clinics who have promised 22 clinics, 3 of which are open now. We are pleased that the NHS have committed to work to increase the number of clinics in the UK in addition to existing serviced delivered by Gordon Moody Association and GamCare's 120 treatment centres located throughout the UK.

The BGC welcomes the Gambling Commission's National Strategy was a way of accelerating progress on responsible gambling and tackling problem gambling. Our members are fully committed to meeting this challenge and are working tirelessly to deliver new responsible gambling initiatives including technology that tackles problem gambling and supporting a statutory levy and increased funding for problem gambling clinics.

Underage participating by those aged 11-16 in any gambling activity has declined from 22% to 11% over the past decade; here, 'gambling activity' mainly relates to personal betting (e.g. playing cards with friends) and legal play of lotteries (e.g. participating with consent of parents / guardians). BGC members have a zero tolerance to those under the age of 18 attempting to use their products.

Working in partnership with local authorities

The BGC is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

Differentiation between Licensing Act 2003 and Gambling Act 2005 applications

When considering applications for premises licences, it is important that a clear distinction is made between the regimes, processes and procedures established by Gambling Act 2005 and its

regulations and those that are usually more familiar to licensing authorities – the regimes, processes and procedures relating to Licensing Act 2003.

Whilst Licensing Act 2003 applications require applicants to specify steps to be taken to promote the licensing objectives, those steps being then converted into premises licence conditions, there is no such requirement in Gambling Act 2005 applications where the LCCP provide a comprehensive package of conditions for all types of premises licence.

It should continue to be the case that additional conditions in Gambling Act 2005 premises licence applications are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called “Think 21”. This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%.

When reviewing draft statements of principles in the past, we have seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The BGC is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

Considerations specific to the draft Gambling Act 2005 Statement of Licensing Principles 2022 to 2025

Paragraph 1.18 of part B (Location) refers to the possibility of a specific policy with regard to areas where gambling premises should not be located. This sentence should be removed. Any such policy is likely to be unlawful and is certainly contrary to the section 153 “aim to permit” principle. Furthermore, the use/mix of use of premises in an area is an issue for the Planning Authority and the Licensing Authority should be careful not to trespass into that domain. This is especially the case given paragraph 1.19 which is clear that the Licensing Authority will seek to avoid any duplication within the statutory regulation systems where possible, including planning.

Paragraphs 1.28 to 1.36 explain the Licensing Authority’s approach to the imposition of conditions on premises licences. This section would be assisted by a clear explanation that the mandatory and default conditions that attach to all premises are intended to be sufficient to ensure operation that is reasonably consistent with the licensing objectives. This section should also state that additional conditions will only be considered in exceptional circumstances where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that is not adequately

addressed by the policies, procedures, and mitigations policies outlined in an applicant's local area risk assessment.

Paragraphs 2 to 7 inclusive refer to premises licences for specific types of gambling. In each of these sections, there is a statement that the Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. Examples of appropriate measures are then given.

It is important that the policies, procedures, and mitigation measures proposed by an applicant to ensure consistency with the licensing objectives are confined to the risk assessment where possible rather than by way of conditions. The reason for this is that the risk assessment is a dynamic document and (in accordance with SR Code Provision 10.1.2) must be reviewed if there is a significant change in local circumstances. As risks change or new risks are identified, the policies, procedures and mitigation measures to address those identified risks may be changed very quickly. However, if the mitigation measures are the subject of premises licence conditions, then an application for variation of the premises licence will be required to change these conditions. This could delay any change and would cause unnecessary expense and administration for both operators and the Licensing Authority.

Conclusion

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope that these comments above are useful. The BGC will work with you to ensure that its members' operation of its premises will operate in accordance with the licensing objectives.

Yours faithfully,

GOSSCHALKS LLP

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SUBJECT:	EXCLUSION OF THE PRESS & PUBLIC
DIRECTORATE:	CHIEF EXECUTIVE & TOWN CLERK
REPORT AUTHOR:	CAROLYN WHEATER, MONITORING OFFICER

1. Purpose of Report

1.1 To advise members that any agenda items following this report are considered to contain exempt or confidential information for the reasons specified on the front page of the agenda for this meeting.

2. Recommendation

2.1 It is recommended that the press and public be excluded from the meeting at this point as it is likely that if members of the press or public were present there would be disclosure to them of exempt or confidential information.

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