

Public Document Pack



Regulatory Committee

Wednesday, 4 July 2018 6.30 p.m.
Council Chamber, Runcorn Town Hall

A handwritten signature in black ink, appearing to read 'David W R', positioned above a grey rectangular stamp.

Chief Executive

COMMITTEE MEMBERSHIP

Councillor Pamela Wallace (Chair)
Councillor John Abbott (Vice-Chair)
Councillor Mike Fry
Councillor Pauline Hignett
Councillor Kath Loftus
Councillor Tony McDermott
Councillor Angela McInerney
Councillor Stef Nelson
Councillor Gareth Stockton
Councillor Kevan Wainwright
Councillor Andrea Wall

*Please contact Gill Ferguson on 0151 511 8059 or e-mail gill.ferguson@halton.gov.uk for further information.
The next meeting of the Committee is on Wednesday, 3 October 2018*

**ITEMS TO BE DEALT WITH
IN THE PRESENCE OF THE PRESS AND PUBLIC**

Part I

Item No.	Page No.
1. MINUTES	1 - 4
2. DECLARATION OF INTEREST	
<p>Members are reminded of their responsibility to declare any Disclosable Pecuniary Interest or Other Disclosable Interest which they have in any item of business on the agenda, no later than when that item is reached or as soon as the interest becomes apparent and, with Disclosable Pecuniary interests, to leave the meeting during any discussion or voting on the item.</p>	
3. GAMBLING ACT 2005 STATEMENT OF GAMBLING POLICY	5 - 24
4. HACKNEY CARRIAGE STAND REVIEW	25 - 42
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PART II

In this case the Board has a discretion to exclude the press and public and, in view of the nature of the business to be transacted, it is **RECOMMENDED** that under Section 100A(4) of the Local Government Act 1972, having been satisfied that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act.

7. TAXI MATTER	58 - 66
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In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.

REGULATORY COMMITTEE

At a meeting of the Regulatory Committee on Wednesday, 14 March 2018 in the Council Chamber, Runcorn Town Hall

Present: Councillors K. Loftus (Chair), Wallace (Vice-Chair), Fry, P. Hignett, McDermott, A. McInerney, Nelson, Parker, G. Stockton, Wainwright and Wall

Apologies for Absence: None

Absence declared on Council business: None

Officers present: N. Wheeler, K. Cleary, J. Tully and S.Thornett

Also in attendance: 7 Members of the public.

**ITEMS DEALT WITH
UNDER DUTIES
EXERCISABLE BY THE COMMITTEE**

REG20 LOCAL GOVERNMENT ACT 1972 AND THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 URGENT BUSINESS

Action

The Committee was advised that a matter had arisen which required immediate attention by the Board (Minute REG30 refers), therefore, pursuant to Section 100 B (4) and 100 E and in view that the facts of the case had been made known shortly before the date of the meeting and were sufficiently serious not to be left to the next ordinary meeting of the Committee, the Committee ruled that this item would be considered at this meeting.

REG21 MINUTES

The Minutes of the meeting held on 17th January 2018 having been circulated were signed as a correct record.

REG22 SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AND THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

The Committee considered:

- (1) Whether Members of the press and public should be excluded from the meeting of the Board during consideration of the following items of business in accordance with Sub-Section 4 of Section 100A of the Local government Act 1972 because it was likely that, in view of the nature of the business to be considered, exempt information would be disclosed, being information defined in Section 100 (1) and paragraph 3 of Schedule 12A of the Local Government Act 1972; and
- (2) Whether the disclosure of information was in the public interest, whether any relevant exemptions were applicable and whether, when applying the public interest test and exemptions, the public interest in maintaining the exemption outweighed that in disclosing the information.

RESOLVED: That as, in all the circumstances of the following item only of the Committee Agenda, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, members of the press and public be excluded from the meeting during consideration of the following items of business in accordance with Sub-Section 4 of Section 100A of the Local Government Act 1972 because it was likely that, in view of the nature of the business, exempt information would be disclosed , being information defined in Section 100 (1) and paragraph,3 of Schedule 12A of the Local Government Act 1972.

To avoid any allegation of bias Cllr Parker declared an interest in the following matter and took no part in the application or decision.

REG23 TAXI MATTER

Case No 706

RESOLVED: That the Single Status Drivers Licence be revoked with immediate effect.

REG24 TAXI MATTER

Case No 707

RESOLVED: That

- (1) a Single Status Drivers Licence be granted subject to standard pre- conditions and standards

conditions; and

(2) Private Hire Operators Licence be granted subject to standard conditions

REG25 TAXI MATTER

Case No 708

RESOLVED: That a Single Status Drivers Licence be granted subject to standard pre-conditions and standard conditions.

To avoid any allegation of bias Cllr Nelson declared an interest in the following matter and took no part in the application or decision.

REG26 TAXI MATTER

Case No 709

RESOLVED: That Single Status Drivers Licence be suspended for 1 month but that the suspension be suspended for a period of 12 months.

REG27 TAXI MATTER

Case No 710

RESOLVED: That a Single Status Drivers Licence be granted subject to standard pre-conditions and standard conditions.

REG28 TAXI MATTER

Case No 712

RESOLVED: That the application be deferred to the next available meeting of the Regulatory Committee.

REG29 TAXI MATTER

Case No 713

RESOLVED: That a Single Status Drivers Licence be granted subject to standard pre-conditions and standard conditions.

REG30 TAXI MATTER

Case No 714

RESOLVED: That the matter be placed on record and no further action taken.

Meeting ended at 9.16 p.m.

REPORT TO: Regulatory Committee

DATE: 4 July 2018

REPORTING OFFICER: Strategic Director Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: Gambling Act 2005 Statement of Gambling Policy

WARDS: Boroughwide

1. PURPOSE OF REPORT

To authorise a consultation on a review of the Council's statement of gambling policy.

2. RECOMMENDED: That:-

(1) The Operational Director Legal and Democratic Services (OD-LD) be authorised to undertake a consultation exercise in respect of the Council's Statement of Gambling Policy in accordance with section 349 Gambling Act 2005;

(2) The OD-LD determine all matters relating to the consultation process; and

(3) The matter be reported back to the Regulatory Committee following the completion of the consultation process.

3. SUPPORTING INFORMATION

3.1 In 2016 the Council adopted the current Statement of Gambling Policy in compliance with its obligations under section 349 Gambling Act 2005. Statements of Gambling Policy are also referred to as the "Three-year licensing policy" and the "statement of principles". The function of a Statement of Gambling Policy is to set out the principles that the Council propose to apply in exercising its functions under the Gambling Act 2005.

3.2 Statements of Gambling Policy last for periods of three years and must be reviewed by the Council for successive three year periods. These periods are maximum periods and Statements of Gambling Policy may be reviewed at shorter intervals should the need arise. A Statement of Gambling Policy cannot be re-adopted/revised before the completion of a consultation exercise. The current Statement of Gambling Policy is due to expire at midnight on 30th January 2019 and the new Statement of Gambling Policy must be in place on 31st January 2019.

- 3.3 The form and content must comply with regulations (see below) and with Guidance issued to local authorities by the Gambling Commission. In this agenda references to Guidance issued to local authorities refers to the current Guidance but regard had been had to the draft revised Guidance issued for consultation by the Gambling Commission in March 2015.
- 3.4 This report recommends the delegation of matters relating to the consultation process to the OD-LD. Section 349 of the Gambling Act 2005 specifies the persons who must be consulted and detailed procedures are set out in the Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006 and in Guidance issued to local authorities by the Gambling Commission.
- 3.5 Following completion of the consultation exercise any comments and recommendations received will be reported back to the Regulatory Committee at its meeting on 3 October 2018 for consideration and recommendation to full Council. The appropriate Council meeting would be 17 October 2018. The re-adoption/revision of the Statement of Gambling Policy with or without amendments is reserved for full Council to determine.
- 3.6 The consultation is about the existing Statement of Gambling Policy (which can also be viewed on the Council's website). No new amended policy guidance has been issued since the adoption of the existing policy. An updated version of the current version is attached as Appendix 1 to this report for information and to assist in the consultation process. The guidance referred to is set out the Gambling Commission's Guidance to Local Authorities 5th Edition (Part 6) issued in September 2015.
- 3.7 The Statement of Gambling Policy under section 349 Gambling Act 2005 is analogous to the Statement of Licensing Policy under section 5 of the Licensing Act 2003.

4. POLICY IMPLICATIONS

Once adopted, the Statement of Gambling Policy will be used by applicants and the Regulatory Committee in accordance with the Gambling Act 2005.

5. OTHER IMPLICATIONS

There are no other implications arising out of this report.

6 IMPLICATIONS FOR THE COUNCILS PRIORITIES

6.1 Children and Young People in Halton

The Council's Statement of Gambling Policy operates under a separate statutory code but the protection of children and other vulnerable persons from harm is one of the licensing objectives of the Gambling Act 2005.

6.2 Employment Learning and Skills in Halton

N/A

6.3 A healthy Halton

N/A

6.4 A Safer Halton

N/A

6.5 Halton's Urban Renewal

N/A

7 RISK ANALYSIS

N/A

8 EQUALITY AND DIVERSITY ISSUES

N/A

9. LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972

This report is based on the Gambling Act 2005 and the Guidance issued by the Gambling Commission. See also the Council's existing Statement of Gambling Policy.

DRAFT

APPENDIX 1

Halton Borough Council

STATEMENT OF

GAMBLING POLICY

Gambling Act 2005

Approved by Halton Borough
Council on ?? October 2018
(Minute ??)

Date coming into effect:
31st January 2019

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PART A

1. The Licensing Objectives

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

This policy will promote these licensing objectives.

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".

2. Introduction

Halton Borough Council ("the Council") is situated in the County of Halton and is a Unitary Authority. Halton Borough comprises the towns of Widnes and Runcorn and surrounding villages of Hale, Daresbury, Moore, and Preston Brook. It is predominantly an urban area with a population of 125,773 (2011 Census).

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed 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 the any amended parts re-consulted upon. The statement must be then re-published.

The Council consulted upon this policy statement before finalising and publishing it. A list of the persons we consulted is provided below.

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 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

List of persons this authority consulted:

- Cheshire Constabulary
- Halton Borough Council People Directorate
- Halton Borough Council Enterprise, Communities and Resources Directorate
- The Bingo Association
- Association of British Bookmakers
- British Amusement Catering Association
- Responsibility in Gambling Trust (U.K.)
- GamCare
- The general public through local advertisement and the Council's website

- Cashino Unit 29-33a Forest Walk Halton Lea Runcorn
- British Beer & Pub Association
- William Hill Bookmakers

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and will depend to a large extent on the type of gambling that is proposed for the premises according to the statutory requirements of the Gambling Act 2005. The Council shall aim to permit the use of premises for gambling as set out in section 153 of the Gambling Act 2005.

3. Declaration

In producing this licensing policy 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 policy statement.

4. Competent authority for protection of children from harm

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

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

The Council designates the Halton Borough Council **People and Economy** Directorate for this purpose.

The contact details of all the Responsible Bodies under the Gambling Act 2005 are available from Legal Services Licensing Section.

5. Interested parties

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 authorities activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under section 158 of the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities. Note that decisions on Premises Licences must be "in accordance" with Gambling Commission Guidance.

The Gambling Commission has recommended that the licensing authority states that interested parties include 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 one under the terms of the Gambling Act 2005 e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested parties can be persons who are democratically elected such as Councillors and MP's. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorities activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

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. Contact details are set out in Part D below.

6. Exchange of Information

Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that data protection legislation will not be contravened. The licensing authority will also have regard to Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Issues of confidentiality will be assessed on a case by case basis since the interests of data subjects must be balanced against the public interest. The fundamental principle which the licensing authority must adhere to is that it must act in the public interest. Data subjects can access information via the licensing authority's contact details set out below.

7. Inspection and criminal proceedings

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

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and as per the Gambling Commission's Guidance for local authorities, it 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

This licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme.

The licensing authority's Community Safety Team carries out inspections – often jointly with Gambling Commission enforcement staff.

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 Operator 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. This authority also understands that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

This licensing authority will promote efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on business.

8. Licensing Authority functions

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) of the use of two or fewer gaming machines
- Grant *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- 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

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 Operator Licences.

PART B PREMISES LICENCES

1. General Principles

Premises Licences will be subject to the permissions/restrictions set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

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

Definition of "premises" - Premises is defined in the Act as "any place". It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Gambling Commission states in its Guidance for local authorities, it will always be a question of fact in the circumstances. The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

This licensing authority will also take note of the Gambling Commission's Guidance to local authorities that: Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

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 can. 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 policy 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 the concerns can be overcome.

Duplication with other regulatory regimes - This authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. This authority 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.

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 local authorities and some comments are made below.

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 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.

Ensuring that gambling is conducted in a fair and open way - This licensing authority has noted that the Gambling Commission in its Guidance for local authorities has stated that generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. This licensing authority also notes, however, that the Gambling Commission also states in relating to the licensing tracks the licensing authorities' role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. This licensing authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.

Protecting children and other vulnerable persons from being harmed or exploited by gambling - This licensing authority has noted the Gambling Commission Guidance to local authorities states that the objective talks of protecting children from being "harmed or exploited by gambling, but in practice that often means preventing them from taking part in or being in close proximity to gambling.

This licensing authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos. It is understood that a Code for casinos must:

- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;

- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person (“the supervisor”) who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

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.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

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

Door Supervisors - The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Gambling Act 2005 has amended the Security Industry Act and that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority. This licensing authority may therefore has specific requirements for door supervisors working at casinos or bingo premises.

2. Adult Gaming Centres

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 ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

3. (Licensed) Family Entertainment Centres:

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 ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operator 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, when they have been published.

4. Casinos

The Council did not make an application for new casinos under the Gaming Act 1968 (prior to the deadline of 26th April 2006). Consequently 'Section 4. Casinos' is not directly relevant to this Statement but is included for the sake of completeness.

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.

Casinos and competitive bidding - This licensing authority is aware that where a licensing authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations issued under the Gambling Act 2005 by the Secretary of State.

Betting machines - This licensing authority is aware that, as explained in the Gambling Commission's Guidance for local authorities: Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.

Credit - This licensing authority has noted that the Gambling Commission has stated in its Guidance for Local Authorities that section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, not make any payment in connection with the machines. Guidance on the further conditions that may apply in relation to such machines will be included in the next version of this guidance

5. Bingo premises

This licensing authority notes that the Gambling Commission's Guidance states:

- Licensing authorities will be able to find information about the restrictions that apply in the codes of practice that will be published on the Commission's website.
- Further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises.

Once this information is available, this licensing authority will consider its application to premises licences for bingo premises.

6. Betting premises

Betting machines - It is noted that the Gambling Commission's Guidance for local authorities states: "Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into

account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.”

Credit - It has also been noted that the Gambling Commission Guidance states: section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, nor make any payment in connection with the machines. It is also understood that the Gambling Commission will be placing restrictions and requirements on Operating Licences for betting premises as regards credit and this licensing authority will consider the guidance when it is available.

7. Tracks

This licensing authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- The location of gaming machines

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

Betting machines - Licensing authorities have a power under the Gambling Act 2005, to restrict the number of betting machines, their nature and the circumstances in

which they are made available, by attaching a licence condition to a betting premises licence. The Gambling Commission's Guidance will be noted in that it states: In relation to betting premises away from tracks, the Commission is proposing that licensing authorities should take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted. Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

This licensing authority also notes that, In the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Condition on rules being displayed - The Gambling Commission has advised in its Guidance for local authorities that licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

8. Travelling Fairs

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.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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 which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

This licensing authority notes the Guidance for the Gambling Commission which states that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence and that requiring the building to be complete ensures that the authority could, if necessary, inspect it fully.

In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change

in the applicant's circumstances. 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 objectors at the provisional licence stage;
or
- (b) which is in the authority's opinion reflect a change in the operator's circumstances.

This authority has noted the Gambling Commission's Guidance on not taking into account irrelevant matter: one example of an irrelevant matter would be the likelihood of the applicant obtaining planning or building regulations approval for the proposal.

10. Reviews:

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, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

- 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

The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PART C

Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 para 7)

Where a premises does not hold a Premises Licence but wishes to provide 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 (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* 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 local authorities also states: In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues. Further guidance on the information that should be obtained from the applicant and others will be provided in the next version of this guidance.

The Guidance also states: An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application. Relevant considerations to take into account would include the applicant's suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about disorder.

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the statement of principles only applies to initial applications and not to renewals.

Statement of Principles: 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 BRC checks for staff, training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. 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

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 site of the bar, or in the sight of staff who will monitor that the

machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons this applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Adult Entertainment Centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3. Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles 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”.

This licensing authority has not prepared a statement of principles. Should it decide to do so it will include details in a revised version of the policy statement.

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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 Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in

forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Gambling Commission Guidance for local authorities states: Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.

The Guidance also makes it clear that before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members’ club and may grant the permit if the majority of members are over 18.

This Licensing Authority is aware 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.

It should be noted that there is a ‘fast-track’ procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission’s Guidance for local authorities states: Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced and that 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.

5. Temporary Use Notices

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a ‘set of premises’ where Temporary Use Notices are received relating to the same building / site.

6. Occasional Use Notices:

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. The licensing authority will though need to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

Contact Details

Please contact the licensing authority via the following email address and telephone number: Email - legalservices@halton.gov.uk; Tel: 0151 511 7879

REPORT:	Regulatory Committee
DATE:	4 th July 2018
REPORTING OFFICER:	Strategic Director Enterprise, Community and Resources
PORTFOLIO:	Resources
SUBJECT:	Taxi Licensing Matter
WARDS:	Borough-wide

1. PURPOSE OF REPORT

To update members on the outcome of the consultation on taxi rank provision in Halton and seek approval for amendments to the Council's existing provision of hackney carriage stands (referred to in this report by their more common name of taxi ranks).

2. RECOMMENDED:

- (1) that the information set out in the attached appendices be noted by the Committee;**
- (2) the proposals set out in Appendix B be referred to the Executive Board with a recommendation for approval subject to the Executive Board considering any representations which may be made in respect thereof;**
- (3) the Executive Board authorise the Operational Director, Legal and Democratic Services to fulfil all procedural requirements and relating to the proposals in Appendix B in accordance with Section 63 Local Government (Miscellaneous Provisions) Act 1976.**

3. SUPPORTING INFORMATION

- 3.1 A consultation exercise has been undertaken with representatives of the Halton taxi trade on the provision of taxi ranks in the borough. Details of the consultation together with additional information can be found at **Appendix A, B and C**.
- 3.2 The various proposals have been discussed with the Council's Highways Section as the cost of implementation has been prime consideration. The Council has a very limited budget for 2018/2019 for implementing any new schemes.

- 3.3 The Council's Legal Services Licensing Section reviewed the provision for ranks and has put forward amendments for consideration. **Appendix B** provides details of these amendments together with a proposed schedule for a new order.
- 3.4 Not all requests from the trade to consider new or amended taxi ranks have been recommended. **Appendix C** sets out the reasons why certain proposals should not be pursued.

4. JURISDICTION OF THE COMMITTEE

- 4.1 The Committee is responsible for determining the Council's policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire (see Terms of Reference of the Regulatory Committee part 17B).
- 4.2 However, the Constitution must now be interpreted in accordance with the case of R (On the application of 007 Stratford Taxis Limited v Stratford on Avon District Council 2011. This Court of Appeal decision interpreted the meaning of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in respect of matters which must be dealt with by a Council's Executive or by a committee of its council. Essentially, the court held that: (1) it was clear that individual applications relating to taxi matters must be dealt with by the equivalent of this Council's Regulatory Committee and (2) matters calculated to facilitate, or be conducive or incidental to such applications must also be dealt with in the same way but (3) any "plan or strategy" associated with such a function would be an executive function and therefore have to be determined by a council's executive. The Stratford case concerned the introduction of a wheelchair access policy. The decision was taken by the Council's cabinet rather than its Licensing Committee. The challenge from the taxi trade was that the Licensing Committee should have adopted the policy. This element of the challenge was rejected by the court.
- 4.3 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.

5. POLICY IMPLICATIONS

If approved by the Executive Board the Council's Taxi Ranks Order will be superseded and a new order created.

6. FINANCIAL CONSIDERATIONS

The cost of implementing the recommended changes must be met by the Taxi Licensing and Highways budgets except for the amendment on Hough Green Road which will be met by the property developer.

7. IMPLICATIONS FOR THE COUNCILS PRIORITIES

7.1 **Children and Young People in Halton**
None

7.2 **Employment Learning and Skills in Halton**
N/A

7.3 **A Healthy Halton**
N/A

7.4 **A Safer Halton**
None

7.5 **Halton's Urban Renewal**
N/A

8. RISK ANALYSIS

None

9. EQUALITY AND DIVERSITY ISSUES

There are no equality or diversity issues related to a review

10. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Driver File	Licensing Section	Kay Cleary Nick Wheeler

TAXI RANKS IN HALTON CONSULTATION 2017/2018

Halton Council Legal Services Licensing Section is undertaking a review of taxi rank provision in the Borough. This document sets out the background to the review together with a statement of the relevant law. The taxi trade will be asked to put forward proposals for consideration and to comment on any proposals put forward by the Licensing Section.

What is a taxi rank or stand?

- A taxi rank or stand is a place where hackney carriages “stand for hire”. When a taxi is in motion and is hailed in the street it is normally said to be plying for hire (although “plying for hire” can include standing for hire). In both cases, a taxi advertises that it is available for hire by illuminating its “for hire” light.
- Normally, a rank will provide space for more than one taxi. This has entered the language as an assumption because the expression “ranking up” means to form a queue.
- A taxi rank may exist anywhere: either on or off a highway or street. However, rules have evolved to restrict the places where taxis may rank up.

Designated taxi ranks

- National model taxi byelaw No. 7 (which has been adopted by the Council) require drivers when plying for hire in any STREET and not actually hired ... to proceed ... to one of the stands fixed by [section 63 Local Government (Miscellaneous Provisions) Act 1976].
- In this document “designated” stand means a stand fixed by an order made under the 1976 Act. The order currently in place is the Halton Borough Council (Various Hackney Carriage Stands, Widnes and Runcorn) Order 2010.
- But for byelaw No. 7 there would be no restriction on plying for hire by driving around on the highway or (subject to landowner consents) standing on any land either as a single vehicle or with others or (subject to traffic regulation orders) standing on the highway. Given that the byelaw does exist there is a responsibility on the taxi licensing authority to provide ranks so that the byelaw can be complied with. One issue to consider is whether the byelaw should continue to exist or should be revoked.
- Note that the byelaw only applies where a driver is plying for hire in any street.

What is a “street”?

- Section 3 Town Police Clauses Act 1847 defines a **street** as extending to and including any “road, square, court, alley and thoroughfare, or public passage ...”.

- The case of *Young v Scampton* (1988) overturned well established cases by holding that land will only be a street if the public has the **legal right** to be there. In that case a rank at Birmingham Airport was held not to be in a street.
- There have been different interpretations as to what constitutes a street for a number of years. The meaning of the word has also been interpreted differently depending on context. For example, the word has been re-interpreted in the context of the meaning of “street trading” by case of *West Berkshire District Council v Simon Paine* [2009] EWHC 422 (Admin). The essential point from the case is that a street can include private land such as a private car park. It does not just mean land which is part of a highway. This means that a number of activities that have not previously been considered to require a street trading consent will require one from now on. It remains to be seen whether this wider interpretation will be extended to taxi law.
- Railway stations and other railway land constitute streets.

Competition for parking space in streets

- In modern urban streets there is fierce competition for parking space. The reservation of scarce parking resources for particular user groups requires special justification.
- Taxis constitute a significant part of the public transport system. It follows that taxi ranks have a similar justification to bus stops and bus lanes.
- The existence of byelaw No. 7 also implies that a certain number of ranks must be made available. There are 267 licensed hackney carriage vehicles in Halton. Should there be a relationship between the number of designated ranks and the number of taxis? Historically, there has been a gross mismatch between the number of ranks and the number of vehicles but the trade has never indicated that this causes a problem in practice.
- Many taxi ranks are time limited so that road space is taken up only for the optimum number of hours.
- Nevertheless, each taxi rank must be justified in terms of function and amenity.

Limitations on the positioning of ranks

- The positioning of taxi ranks is subject to a number of restrictions as set out in section 63 Local Government (Miscellaneous Provisions) Act 1976.
- This states that nothing in the section shall empower a district council to appoint any such stand-
 - so as unreasonably to prevent access to any premises;
 - so as to impede the use of any points authorised to be used in connection with a local service within the meaning of the Transport Act 1985 or PSV operator’s licence granted under the Public Passenger Vehicles Act 1981, as points for the taking up or setting down of passengers, or in such a position as to interfere unreasonably with

access to any station or depot of any passenger road transport operators, except with the consent of those operators;

- on any highway except with the consent of the highway authority;
- In deciding the position of stands a district council shall have regard to the position of any bus stops for the time being in use.

Highways issues

- The majority of taxi ranks are on adopted highways. The consent and advice of the highways authority are therefore crucial.
- Orders designating ranks under the 1976 Act have a relationship with traffic regulation orders made under the Road Traffic Regulation Act 1984.
- Taxi ranks may be placed on highways which have no other restrictions on road users: an order under the 1976 Act may then be seen to be a “free standing” order unrelated to a traffic regulation order.
- Taxi ranks may also be placed on highways which already have a number of restrictions placed on road users (such as no waiting or no stopping orders). In these cases, the designation of a taxi rank will, in effect, place an exception on the pre-existing traffic regulation order.
- Depending on the situation that applies, there will be different types of “lining and signing” designating the effect of the designation of the taxi rank.

“Private” Ranks

- The expression “private” ranks (for the purposes of this document) refers to ranks on private land which have not been designated by the taxi licensing authority. These can typically be found in certain supermarket car parks. Provided that such private ranks are not on a street the use of them does not constitute a breach of byelaw No. 7. Such ranks are often formalised (that is, marked out with lines and signs) and are sometimes restricted to particular taxi firms on payment to the landowner. Ranks at railway stations are a hybrid form of private rank because of the effect of section 76 Public Health Act 1925 (see below for further information).
- Another kind of rank to distinguish from the “private” rank described above is the informal rank. This describes off-street ranking without the formalisation associated with “private” ranks.
- With the consent of the landowner (and subject to various other control mechanisms such as the possible need for planning permission) the taxi licensing authority may designate ranks in the above categories under section 63 Local Government (Miscellaneous Provisions) Act 1976 in association with (in the case of railway stations) section 76 Public Health Act 1925.
- A list of the private ranks within the Borough is set out below.

Could the Council provide private ranks?

- There is no legal rule to prevent the Council from providing private ranks.

- However, as Licensing Authority, the Council should not put itself in a position whereby it could be accused of bias by favouring one element of the taxi trade over another.
- The Council should therefore restrict itself to providing designated ranks which would be open to all hackney carriage drivers.

Railway stations

- Section 76 Public Health Act 1925 extended the controls in the Town Police Clauses Act 1847 to include railway stations and other railway land. Essentially, the meant that the meaning of “street” was extended to include such land.
- Railway stations are deemed to be stands and (provided that drivers have the consent of the railway company) drivers may return to railway stations without contravening byelaw number 7.
- However, the Council cannot formally designate stands (i.e. fix the sites) at a railway without the consent of the railway company.

Ranking and private hire vehicles

- The basic distinction between taxis and private hire vehicles is that private hire vehicles may not be used to ply for hire in any street. The topic of taxi ranks should in theory be of no interest to the private hire trade.
- The licensing of private hire vehicles is based on a vehicle (1) not being a licensed hackney carriage vehicle or public service vehicle (2) being constructed or adapted to seat fewer than 9 passengers (3) which is used for hire with the services of a driver for the purposes of carrying passengers.
- Nevertheless, the issue of private hire “ranking” does arise. The question is what kind of activities might result in private hire vehicles being held to be being used for standing or plying for hire. The first scenario is that of a single private hire vehicle simply being parked on a street. The second scenario is two or more private hire vehicles being parked in a street. In both cases we can take “in a street” to include “very close to a street”.
- Button on Taxis puts the tests as follows¹:
 - Nothing in the legislation or case law prevents a private hire vehicle parking lawfully to await a booking made via the operator, provided that the vehicle is not standing or plying for hire;
 - The length of time that a private hire vehicle is lawfully parked is irrelevant;
 - The test of whether or not the vehicle is available for hire (i.e. is plying for hire) is based on the intentions of the driver, as evidenced by his actions if approached by a prospective passenger.

¹ Fourth Edition - Paragraph 12.46 (page 635)

- It would seem to follow that the same tests would apply if two or more private hire vehicles are parked together.

The issue of what constitutes private hire “ranking” is really outside the scope of this document. Button deals with the issue in greater detail. It is mentioned here to avoid confusion.

SCHEDULE LIST

Schedule 1	Details of Designated Ranks in Halton under the 2010 Order
Schedule 2	Details of Private Ranks in Halton
Schedule 3	Procedural Issues
Schedule 4	Legislation Relevant to Ranks

Details of Designated Ranks in Halton under the 2010 Order

**OFFICIAL TAXI STANDS REGULATED BY HALTON BOROUGH COUNCIL
UNDER SECTION 63 OF LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1976**

WIDNES

Stand Number	Location	Order Plan Number	Permitted Maximum Number of Vehicles	Permitted Times of Use
1	Market Street (in 3 separated locations)	8902	8	Any
2	Alforde Street	8635/3	6	Any
3	Hale Road	8635/4	8	Any
4	Arley Drive	8635/5	4	Any
5	Hough Green Road	8635/6	5	Any
6	Upton Lane	8635/7	3	Any
7	Dickson Street	8635/8	5	Any
8	Cross Street	8635/11	8	Any
9	Victoria Square	8903	8	2100-0600
10	Prescot Road	8635/13	4	Any
11	Appleton Village	8635/14	10	Any
12	Cronton Lane	8635/15	4	Any
13	Croft Street	8635/16	7	2300-0300
14	Widnes Road	8901	8	0000-0600
15	Albert Road (outside Wetherspoons)	8905	3	1800-0600
16	Albert Road (outside Imperial)	9116	3	1800-0600
17	Albert Road (feeder rank to Wetherspoons)	9115	3	1800-0600

RUNCORN

Stand Number	Location	Order Plan Number	Permitted Maximum Number of Vehicles	Permitted Times of Use
18	Public Hall Street	8904	8	Any
19	Halton Lea (off Second Avenue)	TD/TM/SJ B/R/L/01	3	Any
20	High Street (in existing layby)	9118	5	2200-0500
21	High Street (outside Bargain Booze adj Mersey Road)	9117	8	2000-0600

Details of Private Ranks in Halton

Widnes

Albert Square (following Kent Street)

Asda

Morrisons/Market

Runcorn

Asda

Runcorn Railway Station

Co-op (off High Street)

“The Hut” (off High Street)

Trident Shopping Centre

PROCEDURAL ISSUES**Section 63 Local Government (Miscellaneous Provisions) Act 1976****Ranks****Where**

- On any highway maintainable at public expense
- Any other land with the owner's consent.

How

- Give notice to the chief officer of police
- Advert in local paper
- Consider objections which may be received within 28 days of (first) publication

Form of order

Not specified but should identify:

- Where
- How many
- Time limits if any

Road Markings and signs

The Traffic Signs Regulations and General Directions 2016 contain detailed requirements.

The Traffic Signs Regulations and General Directions 2016 (SI 2016/362)

Legislation Relevant to Ranks**Local Government (Miscellaneous Provisions) Act 1976****Section 63 Stands for hackney carriages**

— (1) For the purposes of their functions under the Act of 1847, a district council may from time to time appoint stands for hackney carriages for the whole or any part of a day in any highway in the district which is maintainable at the public expense and, with the consent of the owner, on any land in the district which does not form part of a highway so maintainable and may from time to time vary the number of hackney carriages permitted to be at each stand.

(2) Before appointing any stand for hackney carriages or varying the number of hackney carriages to be at each stand in exercise of the powers of this section, a district council shall give notice to the chief officer of police for the police area in which the stand is situated and shall also give public notice of the proposal by advertisement in at least one local newspaper circulating in the district and shall take into consideration any objections or representations in respect of such proposal which may be made to them in writing within twenty-eight days of the first publication of such notice.

(3) Nothing in this section shall empower a district council to appoint any such stand—

(a) so as unreasonably to prevent access to any premises;

(b) so as to impede the use of any points authorised to be used in connection with a local service within the meaning of the Transport Act 1985 or PSV operator's licence granted under the Public Passenger Vehicles Act 1981, as points for the taking up or setting down of passengers, or in such a position as to interfere unreasonably with access to any station or depot of any passenger road transport operators, except with the consent of those operators;

(c) on any highway except with the consent of the highway authority;

and in deciding the position of stands a district council shall have regard to the position of any bus stops for the time being in use.

(4) Any hackney carriage byelaws for fixing stands for hackney carriages which were made by a district council before the date when this section comes into force in the area of the council and are in force immediately before that date shall cease to have effect, but any stands fixed by such byelaws shall be deemed to have been appointed under this section.

(5) The power to appoint stands for hackney carriages under subsection (1) of this section shall include power to revoke such appointment and to alter any stand so appointed and the expressions "appointing" and "appoint" in subsections (2) and (3) of this section shall be construed accordingly.

Local Government (Miscellaneous Provisions) Act 1976**Section 64 Prohibition of other vehicles on hackney carriage stands**

— (1) No person shall cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages during any period for which that stand has been appointed, or is deemed to have been appointed, by a district council under the provisions of section 63 of this Act.

(2) Notice of the prohibition in this section shall be indicated by such traffic signs as may be prescribed or authorised for the purpose by the Secretary of State in pursuance of his powers under section 64 of the Road Traffic Regulation Act 1984.

(3) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence.

(4) In any proceedings under this section against the driver of a public service vehicle it shall be a defence to show that, by reason of obstruction to traffic or for other compelling reason, he caused his vehicle to wait on a stand or part thereof and that he caused or permitted his vehicle so to wait only for so long as was reasonably necessary for the taking up or setting down of passengers.

Public Health Act 1925

Section 75 Byelaws as to persons waiting to enter public vehicles

— (1) The local authority may make byelaws for regulating the conduct of persons waiting in streets to enter public vehicles, and the priority of entry into such vehicles, and may by such byelaws require queues or lines to be formed and kept by such persons.

(2) The local authority may erect and maintain, or permit other persons to erect and maintain, in any street such barriers and posts as appear to the local authority to be necessary for the purposes of securing compliance with any such byelaws:

...
F1

(3) Nothing in subsection (2) of this section shall be construed as empowering the local authority to hinder the reasonable use of the street by the public, or to obstruct the access to or exit from any station or goods yard belonging to a railway company or to or from any premises belonging to the owners, trustees, or conservators, acting under powers conferred by Parliament, of any canal, inland navigation, dock or harbour, and used for the purposes of the canal, inland navigation, dock or harbour, nor shall any barrier or post be erected on any bridge carrying any street over a railway or the approaches thereto.

Public Health Act 1925

Section 76 As to public vehicles taken at railway stations

In any area within which the provisions of the ^{M1}Town Police Clauses Act 1847, with respect to hackney carriages are in force, those provisions and any byelaws of the local authority with respect to hackney carriages shall be as fully applicable in all respects to hackney carriages standing or plying for hire at any railway station or railway premises within such area, as if such railway station or railway premises were a stand for hackney carriages or a street:

Provided that—

(a) the provisions of this section shall not apply to any vehicle belonging to or used by any railway company for the purpose of carrying passengers and their luggage to or from any of their railway stations or railway premises, or to the driver or conductor of such vehicle;

(b) Nothing in this section shall empower the local authority to fix the site of the stand or starting place of any hackney carriage in any railway station or railway premises, or in any yard belonging to a railway company, except with the consent of that company.

Town Police Clauses Act 1847

Section 45 Penalty for plying for hire without a licence

If the proprietor or part proprietor of any carriage, or any person so concerned as aforesaid, permits the same to be used as a hackney carriage plying for hire within the prescribed distance without having obtained a licence as aforesaid for such carriage, or during the time that such licence is suspended as hereinafter provided,

or if any person be found driving, standing, or plying for hire with any carriage within the prescribed distance for which such licence as aforesaid has not been previously obtained, or without having the number of such carriage corresponding with the number of the licence openly displayed on such carriage, every such person so offending shall for every such offence be liable to a penalty not exceeding forty shillings

Town Police Clauses Act 1847

Section 64

Improperly standing with carriage; refusing to give way to, or obstructing, any other driver or depriving him of his fare

Any driver of any hackney carriage who suffers the same to stand for hire across any street or alongside of any other hackney carriage, or who refuses to give way, if he conveniently can, to any other carriage, or who obstructs or hinders the driver of any other carriage in taking up or setting down any person into or from such other carriage, or who wrongfully in a forcible manner prevents or endeavours to prevent the driver of any other hackney carriage from being hired, shall be liable to a penalty not exceeding level 1 on the standard scale.

**Taxi Rank Review
Proposals consequent on review**

Widnes

<p>Market Street (stand no.1)</p>	<p>The northern rank (for 4 vehicles) to have new operating hours of 21.00 till 06.00 hours</p> <p>This amendment is to allow the legal parking of vehicles (residents and employees of local businesses) in these bays during daytime hours when they are not used by Hackney Carriages.</p> <p>The two ranks (for 2 vehicles each) situated on the eastern side to be removed</p> <p>This would free up parking spaces for residents at night time and make better use of the limited road space</p> <p>A new rank to be created on the west side of the road for 3 vehicles with operating hours of 21.00 till 06.00 hours</p> <p>This would allow better use of the limited road space</p>
<p>Alforde Street (stand no.2)</p>	<p>New operating hours of 21.00 till 06.00 hours</p> <p>This amendment is to allow the legal parking of vehicles (residents and employees of local businesses) in these bays during daytime hours when they are not used by Hackney Carriages.</p>
<p>Arley Drive (stand no.4)</p>	<p>Rescind order</p> <p>The public house served by the rank has long gone (The Sundowner) and a nursery is now in that position. The rank lines and signage have been removed and a bus stop is now in place.</p>
<p>Hough Green Road (stand no.5)</p>	<p>Remove rank and rescind order</p> <p>The public house (The Sporting Ford) and bookmakers served by this rank is about to make way for a new residential development. Although a medical centre and some shops are nearby there is no suitable road space to relocate this rank.</p>

Cross Street (stand no.8)	Remove rank and rescind order This rank primarily served Top of the Town nightclub until it closed. Due to the location of the entrance/exit to the DW Sports service yard and the fact that there is no footfall in general, this location is no longer suitable for a rank.
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Croft Street (stand no.13)	Remove rank and rescind order This rank primarily served the Landmark nightclub until it closed. There is no longer any purpose for a rank in this area or the foreseeable future.
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Runcorn

High Street (opposite Chambers) (stand no.20)	New operating hours proposed of 22.00 till 06.00 hours This amendment is to allow customers of the Chambers to get taxi after closing time (05.00hours).
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High Street (offset to the immediate front of Chambers)	Create a new rank for 5 vehicles for the period 22.00 till 06.00 hours This new rank will allow for a greater number of vehicles to safely ply for hire in the immediate vicinity of a busy licensed premise and would also allow vehicles to start their journey in the opposite direction of the existing rank on the other side of the road.
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Bridge Street (outside Wilsons)	Create a new rank for 4 vehicles for the period 22.00 till 06.00 hours This new rank will allow for further hackney carriages to ply for hire at the far end of the town centre
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High Street (The Hut)	Create a new rank for 6 vehicles for the period 20.00 till 06.00 hours This area has been used as private rank for some years. By creating an official rank at this location it will allow for enforcement of non Halton BC licensed vehicles
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PROPOSED 2018 SCHEDULE

**OFFICIAL HACKNEY CARRIAGE STANDS REGULATED BY
HALTON BOROUGH COUNCIL UNDER SECTION 63 OF
THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

WIDNES

Stand Number	Location	Order Plan Number	Permitted Maximum Number of Vehicles	Permitted Times of Use
1	Market Street		7	2100 - 0600
2	Alforde Street		6	2100 - 0600
3	Hale Road		8	Any
4	Upton Lane		3	Any
5	Dickson Street		5	Any
6	Victoria Square		8	2100 - 0600
7	Prescot Road		4	Any
8	Appleton Village		10	Any
9	Cronton Lane		4	Any
10	Widnes Road		8	2300 - 0600
11	Albert Road (outside Wetherspoons)		3	1800 - 0600
12	Albert Road (feeder rank to Wetherspoons)		3	1800 - 0600
13	Albert Road (outside Imperial)		3	1800 - 0600

RUNCORN

Stand Number	Location	Order Plan Number	Permitted Maximum Number of Vehicles	Permitted Times of Use
14	Public Hall Street		8	Any
15	Shopping City (off Second Avenue)		4	Any
16	High Street (opposite side of road from Chambers)		5	2200 - 0600
17	High Street (in front of Chambers)		5	2200 - 0600
18	Bridge Street (in front of The Wilsons)		4	2200 - 0600
19	High Street (outside Bargain Booze adj Mersey Road)		8	2000 - 0600
20	High Street lay-by immediately east of entrance to Co-op car-park		6	2000 - 0600

**Taxi Rank Review
Additional Ranks Consideration**

<p>Crossville Way, Runcorn</p>	<p>Near to the Ten Lock Flight pub and restaurant.</p> <p>The space around the Ten Lock Flight is private land. There is a public car park to the far side of Costa Coffee but a taxi rank would be incompatible with the off street parking order.</p>
<p>Runcorn Railway Station (1)</p>	<p>Shaw Street - Road leading to the Railway Station (to include the section under the bridge fly-over.</p> <p>This is a busy road used for station access. This road is deemed too narrow and is frequently used by coaches.</p>
<p>Runcorn Railway Station (2)</p>	<p>Picow Farm Road - Below steps leading from/to Railway Station.</p> <p>This location is not deemed feasible due to the cost of re-locating a section of bus stop for a rank that would not be visible from the railway station.</p>
<p>Shopping City, Runcorn</p>	<p>Extending the existing rank on Second Avenue.</p> <p>Additional space in front and behind the existing rank is designed for loading/unloading of vehicles. This option may be considered in the future.</p>

REPORT:	Regulatory Committee
DATE:	4 th July 2018
REPORTING OFFICER:	Strategic Director Enterprise, Community and Resources
PORTFOLIO:	Resources
SUBJECT:	Taxi Licensing Matter
WARDS:	Borough-wide

1. PURPOSE OF REPORT

To consider additions/amendments to elements of Taxi Licensing Policy, Single Status Driver's, Hackney Carriage, Private Hire Vehicle and Private Hire Operator's conditions as set out below.

2. RECOMMENDED: That the Committee considers the proposals and make appropriate recommendations to the Executive Board.

3. INTRODUCTION AND BACKGROUND INFORMATION

3.1 During meetings of the Taxi Consultative Group various changes and additions were tabled to the Single Status Driver's, Hackney Carriage and Private Hire Vehicle, and Private Hire Operator's conditions as set out below. The group was asked to consult with the taxi trade they represent regarding the proposed changes. The potential changes to existing policy are summarised at section 4 of this report.

3.2 The Committee is responsible for determining the Council's policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire (see Terms of Reference of the Regulatory Committee part 17B).

3.3 However, the Constitution must now be interpreted in accordance with the case of R (On the application of 007 Stratford Taxis Limited v Stratford on Avon District Council 2011. This Court of Appeal decision interpreted the meaning of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in respect of matters which must be dealt with by a Council's Executive or by a committee of its council. Essentially, the court held that: (1) it was clear that individual applications relating to taxi

matters must be dealt with by the equivalent of this Council's Regulatory Committee and (2) matters calculated to facilitate, or be conducive or incidental to such applications must also be dealt with in the same way but (3) any "plan or strategy" associated with such a function would be an executive function and therefore have to be determined by a council's executive. The Stratford case concerned the introduction of a wheelchair access policy. The decision was taken by the Council's cabinet rather than its Licensing Committee. The challenge from the taxi trade was that the Licensing Committee should have adopted the policy. This element of the challenge was rejected by the court.

3.4 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.

3.5 In deciding whether or not to adopt or to recommend the adoption of a policy the following questions should be addressed:

3.5.1 Has proper consultation been undertaken?

3.5.2 Are the proposals necessary and proportionate?

3.5.3 In considering 3.5.2 what is it about the existing policy which has proved deficient or has failed to deal adequately with changes in circumstance?

4. POTENTIAL CHANGES

4.1 Consider amending the period of time required to notify the Licensing Section of a medical condition that may affect their ability to drive in accordance with the Council's current medical standards.

4.1.1 Currently, all licensed drivers are required by condition to notify the Licensing Section of certain medical conditions within 28 days.

4.1.2 This means that a licensed driver could continue to driver for up to 28 days before they notify the Licensing Section of a medical condition that may deem them not fit to continue to drive members of the public.

4.1.3 The current condition therefore appears to go against the Council's current policy which requires a driver to meet the DVLA Group 2 standard at all times.

4.2 Consider amendment to the current condition that requires the fold up seats in a vehicles' boot area to be removed.

4.2.1 Hackney carriage and private hire vehicle condition 2.2.1 currently states the following:

Fold up seats within the boot area of any vehicle must be permanently removed and the connecting points sealed.

4.2.2 The current condition was introduced to ensure passengers are not carried in these seats as they are either not suitable for full size adults and/or there is no direct access from these seats to a passenger door without moving the seats in front.

4.2.3 Due to changes in manufacturer's safety features, removing seats would also involve disconnecting safety features which produce warning messages on the driver's dashboard. This would then leave the vehicle unfit for use.

4.2.4 The proposed amendment would allow for these types of vehicles to be used again.

4.3 Consider a new condition requiring private hire operators to notify the licensing section of certain types of complaints/incidents.

4.3.1 At present, operators receive allegations of incidents and complaints where they are either dealt with internally or the complainant is advised to refer the matter to the Council or the Police.

4.3.2 The Licensing Section has become aware that a number of these matters do not get reported to them for various reasons. Sometimes the complainant chooses not to report the matter to either the Police or Council. Even if a matter is referred to the Police this does not mean that there is sufficient evidence to prove an offence beyond all reasonable doubt. In these circumstances there could be sufficient evidence that a licence-holder falls below the threshold (balance of probabilities) to continue to hold a licence but as the Police do not always refer the matter to the Council's Licensing Section, no further action can be taken.

4.3.3 The proposed new condition would place a duty on a private hire operator to notify the Licensing Section of serious complaints.

4.4 Consider amending the current condition for Private Hire vehicles to make a clearer distinction between them and Hackney Carriage vehicles.

4.4.1 Vehicles that are converted to be fully wheelchair accessible are usually designed to be used as either a Hackney Carriage or Private Hire vehicle (subject to each local authority's policy).

4.4.2 The designs in question refer to illuminated pods and signs displaying the word "Taxi".

4.4.3 Private hire condition 3.2 currently states:

*The vehicle **must not** be fitted with any **roof sign and mounting**.*

4.4.4 Private hire condition 3.3 currently states:

*The vehicle **must not** be fitted with any **"For Hire" sign**.*

4.4.5 It is proposed to make small additions to these 2 licensing conditions to ensure clarity as to their meaning. The proposed wording can be found in appendix A.

4.5 Consider amending a condition to remove the requirement for a Single Status Driver to adhere to a by-law about using a taximeter when driving a private hire vehicle.

4.5.1 Where a fee has not been agreed between the customer and the operator beforehand, the operator will provide a means for the driver to calculate the fare at the end of the journey.

4.5.2 The proposal is to remove the following line from Single Status Driver's licence condition 16:

5 - use of taximeter

4.5.3 The original requirement is historical but has now been superseded therefore is recommended for amendment.

4.6 Consider a new hackney carriage and private hire vehicle licence condition to remove the ability to licence an insurance write-off vehicle:

4.6.1 Prior to any vehicle being issued with a Private Hire or Hackney Carriage vehicle licence, they are inspected by the Council's vehicle examiners at the Lower House Lane depot to establish the vehicle's roadworthiness. Unlike cosmetic damage, structural damage cannot always be seen during

these inspections which could have an impact on the way the vehicle drives or acts in the unfortunate event of a collision.

4.6.2 If a vehicle is involved in an accident the insurance company will consider if the vehicle can be safely repaired. If it can be safely repaired but it is not financially viable to do the insurance company will “write-off” the vehicle by paying the owner an amount of money the car is believed to be worth and then notify the DVLA of this.

4.6.3 The DVLA will be notified that the vehicle is one of the following:

- Has structural damage but can be repaired (known as category S)
- Has non-structural damage but can be repaired (known as category N)

4.6.4 Category N and S vehicles can be purchased back from the insurance company and frequently sold on as used vehicles. It is not illegal to sell a category N or S vehicle as long as it is clearly advertised as such.

4.6.5 It is a risk when buying a category N or S vehicle as there is no way of fully knowing what actual damage the vehicle has sustained. In most circumstances these vehicles will sell below their normal value and usually attract a higher insurance premium.

4.6.6 The proposal does recommend continuing to licence a vehicle where it is allocated a category N status only where strict criteria are met. This will only be in circumstances where the full scale of cosmetic damage has been officially recorded, corrected and can be examined by the Council’s vehicle examiners.

4.7 Consider amending the advertising policy and condition for rear windscreens of licensed private hire and hackney carriage vehicles.

4.7.1 The trade have asked if they can promote their Private Hire Operators with a larger advertisement that what is currently allowed on a vehicle’s rear windscreen.

4.7.2 The current policy/condition for both Hackney Carriage and Private Hire Vehicles is as follows:

a one line display on the rear windscreen (top or bottom so as not to interfere with rear visibility), provided that letters within the advertisement shall not exceed two inches in height and

provided that the display shall only contain a telephone number and the identity of the system shall be permitted.

- 4.7.3 It has been proposed that this policy/condition is amended to allow for an advertisement to cover the entire rear windscreen where prior approval has been obtained from the Licensing Section. Where approval has been given, the advertisement must be attached the vehicle using “one way film” which will still allow the driver some visibility through the covered glass.
- 4.8 Full details of the seven sets of proposals outlined above are set out in Appendix A.

5. ISSUES ARISING

It is not envisaged that any current licence-holder would be disadvantaged by the implementation of any of the recommendations made in this report.

6. REGULATORS' CODE 2014

- 6.1 The Regulators' Code 2014 requires regulators (such as the Council) to take into account a number of factors when introducing new policies.
- 6.2 For example, paragraph 1.2 of the Code states: “When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:
- understand and minimise negative economic impacts of their regulatory activities;
 - minimising the costs of compliance for those they regulate;
 - improve confidence in compliance for those they regulate, by providing greater certainty; and
 - encourage and promote compliance.”
- 6.3 The Code also states that regulators should base their regulatory activities on risk. In the present case the balancing exercise is to weigh any negative consequences on the taxi trade against the positive consequences on the public who use the services of the trade.
- 6.4 It is taken as read that unnecessary burdens should never be imposed and that all actions need to be proportionate.

7. OPTIONS

7.1 The options available to the committee are to **recommend**:

- Agreement to some or all of the potential changes or
- Amendment to some or all of the potential changes or
- Rejection of the potential changes.

7.2 Should the Committee recommend a course of action other than outright rejection of any potential changes existing conditions will need to be altered. The Committee would therefore be requested to include within the resolution a delegation of the task of preparing detailed wording and other consequential matters.

8. POLICY IMPLICATIONS

8.1 Any changes made would change elements of existing policy and vary Conditions relating to applicants applying to hold Single Status Driver's, Hackney Carriage & Private Hire, Vehicles and Private Hire Operator's Licences issued by Halton Borough Council.

9. OTHER IMPLICATIONS

None

10. IMPLICATIONS FOR THE COUNCILS PRIORITIES

10.1 **Children and Young People in Halton**

None

10.2 **Employment Learning and Skills in Halton**

N/A

10.3 **A Healthy Halton**

N/A

10.4 **A Safer Halton**

None

10.5 **Halton's Urban Renewal**

N/A

11. RISK ANALYSIS

None

12. EQUALITY AND DIVERSITY ISSUES

There are no equality or diversity issues related to a review

13. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Taxi Consultative	Licensing Section	Kay Cleary Nick Wheeler

Proposed changes to elements of policy together with Single Status Drivers, Hackney Carriage, Private Hire Vehicle and Private Hire Operator licence conditions

Proposal	Mischief being addressed	Arguments in favour of change	Arguments against change	Proportionality	Grandfather rights issues	Proposed Wording of condition
<p>Amending the current requirement of a licensed driver to notify the Council of certain medical conditions from “within 28 days” to “without undue delay”.</p> <p>(para 4.1 of the report relates)</p>	<p>Current condition allows for a licensed driver to continue driving a hackney carriage or private hire vehicle for up to 28 days before notifying the licensing section even though their medical condition may put them, as well as customers and members of the general public at risk.</p>	<p>Allows the licensing section to consider the drivers suitability to continue to meet the current medical standard (DVLA Group 2) at the earliest possible opportunity. This proposed amendment is solely for the purpose of public safety as well as that of the driver.</p>	<p>No arguments against have been submitted.</p>	<p>There is no perceived question of proportionality relating to this proposal as it is does not affect the medical standard of a licensed driver.</p>	<p>Not applicable</p>	<p>Driver Condition</p> <p>Amend condition number 4 to read as follows:</p> <p><i>The licence holder must notify the Council in writing without undue delay of becoming aware of any change in medical condition which may affect the continued fitness to drive in accordance with the Council’s current medical standards.</i></p>
<p>Amending the current requirement to permanently remove the fold up seats within the boot area and seal the connecting points condition to covering them instead.</p>	<p>The current condition (if applied) would deem a vehicle unusable as a licensed vehicle due to the disconnection of an electrical seatbelt</p>	<p>This is a simpler option that provides licensed drivers a larger range of vehicles available to be used as a hackney carriages or private hire</p>	<p>There is the possibility that a driver may abuse this rule by using the fold up seats to carry more passengers than they are licensed for.</p>	<p>The current requirement is now deemed to be a disproportionate way of counter-acting the perceived issue of using seats that are not suitable. This proposal</p>	<p>Not applicable</p>	<p>Vehicle Condition</p> <p>Amend HCV and PHV condition 2.2.1 bullet point 1 to read as follows:</p> <p><i>“Fold up seats within the boot area of any vehicle must be kept in the folded down position and covered</i></p>

(para 4.2 of the report relates)	connection which triggers a dashboard warning light fitted to most modern vehicles.	vehicle.		addresses this issue.		<i>with a suitable boot mat, carpet or liner”.</i>
Consider a new condition requiring Private Hire Operators to notify the licensing section of certain type of complaints/incidents. (para 4.3 of the report relates)	Private Hire Operators and their staff may receive allegations or complaints that are either dealt with internally or the complainant is advised to report the matter to the Police. These matters don't always come to the attention of the Licensing Section for various reasons.	The licensing section may already hold additional or similar information which may provide a greater picture of a person's suitability to hold a licence. It may also be the case that the Police may not investigate a matter but the licensing section feel it relevant for internal investigation.	No arguments against this proposed condition have been received.	There is no perceived question of proportionality relating to this proposal as it is seen to assist the Licensing Section with its primary function of public protection.	Not applicable.	<p>Private Hire Operator Condition</p> <p>New condition</p> <p><i>Upon receiving a 'specified complaint' or allegation listed below, regarding any person licensed by this Authority, or otherwise engaged in fulfilling Private Hire bookings on behalf of the licensed Operator, the Operator must notify the Licensing Authority immediately via email to legalservices@halton.gov.uk or by telephone and forward full details of the complaint to the Licensing Section in any event within 72 hours.</i></p> <p><i>The specified complaints or allegations are:</i></p> <ul style="list-style-type: none"> • <i>Of sexual misconduct, sexual harassment or inappropriate sexual</i>

						<p><i>attention</i></p> <ul style="list-style-type: none"> • <i>Racist behaviour</i> • <i>Violence</i> • <i>Dishonesty</i> • <i>Breaches of equality</i> <p><i>In straight forward terms, allegations of criminal behaviour whilst acting as a Private Hire or Hackney Carriage Driver.</i></p>
<p>Consider amending the current condition for private hire vehicles to make a clearer distinction between a private hire vehicle and a hackney carriage vehicle.</p> <p>(para 4.4 of the report relates)</p>	<p>Certain vehicle conversions that may be licensed as a private hire vehicle in Halton appear too similar to a hackney carriage vehicle by design (not colour) and could be mistaken or used incorrectly.</p>	<p>The proposed amendments give clear instruction of how these type of vehicles must be presented to the Council for licensing so that it looks less like a hackney carriage vehicle.</p>	<p>Minor cosmetic work would have to be undertaken prior to presenting for licensing at cost to the applicant.</p>	<p>There is no perceived question of proportionality relating to this proposal this will assist in differentiating between the 2 types of licensed vehicles.</p>	<p>Grandfather rights to be granted to a small number of vehicles already licensed with roof signs or “pods”.</p>	<p>Private Hire Vehicle Condition</p> <p>Amend PHV licence condition 3.2 to read:</p> <p><i>The vehicle must not be fitted with any roof sign and mounting. This includes roof signs or “pods” previously fitted to the vehicle for any reason.</i></p> <p>Licence condition 3.3 of Halton’s PHV licence states:</p> <p><i>The vehicle must not be fitted with any “For Hire” sign.</i></p> <p>It is proposed to amend this condition to read as follows:</p>

						<i>The vehicle must not be fitted with any signs or adverts using the words “For Hire” or “Taxi” (or any derivative) unless authorised by the Council where it is incorporated into an advertisement or door sign.</i>
Consider amending a condition which requires a single status driver adhere to a bye-law about using a taximeter when driving a private hire vehicle. (para 4.5 of the report relates)	This condition is now out-dated as drivers of private hire drivers cannot use taximeters where their private hire operator charges a tariff different from that set by Halton Borough Council for hackney carriages.	The current condition cannot be legally enforced and therefore serves no purpose.	Not applicable.	There is no question of proportionality for this amendment.	Not applicable.	Driver Condition Amend condition number 16 to remove the reference to bye-law number 5 - use of taximeter.
Consider new condition regarding the licensing of insurance “write-off” vehicles. (para 4.6 of the report relates)	Certain vehicles involved in an accident and not deemed financially feasible to repair by insurance companies (“written-off”) may be repaired and put back on the	By introducing the proposed condition a more consistent approach to vehicle standards could be applied.	Applicants would no longer have the option of licensing vehicles purchased at considerably reduced prices.	The purpose of the licensing regime is to ensure public safety. It is therefore not deemed to be disproportionate to ensure the standard of vehicles being	Grandfather rights would be granted to a very small number of vehicles currently licensed that do not meet the proposed	Vehicle condition New condition <i>Halton Borough Council will not grant a licence to any vehicle that has been “written-off” by an insurance company.</i>

	road. The problem with these vehicles is that inspections may not guarantee the vehicle's roadworthiness.			used to carry the general public. There is also a proposed exemption if the licence-holder can verify where cosmetic damage only has been repaired.	condition.	<p><i>The only exception to this condition is where all the following criteria are met:</i></p> <ul style="list-style-type: none"> <i>• The vehicle held a valid licence issued by Halton Borough Council when the incident happened that lead to the insurance company deciding to write the vehicle off</i> <i>• The vehicle licence-holder can provide written evidence of the damage assessment that was used by the insurance company to decide to write-off the vehicle</i> <i>• A detailed receipt or invoice for repair work can be provided to verify that the accident damage has been repaired</i>
Consider reviewing the advertising policy and condition for rear windscreens of licensed vehicles. (para 4.7 of the	The trade have asked if they can further promote their locally licensed operator on the rear	At present, private hire operators are disadvantaged by being unable to advertise their business on vehicles within	No arguments against this proposed condition have been received.	The proposed amendment would apply to both hackney carriage and private hire vehicle licences and is not seen to	Not applicable.	<p>Advertising Policy</p> <p>Amend the advertising policy to read as follows:</p> <ul style="list-style-type: none"> <i>• Subject to what is set out below no</i>

<p>report relates)</p>	<p>windscreen.</p>	<p>(and outside) the Halton area even though companies licensed outside of Halton can. Advertising the private hire operator on the rear windscreen can provide clear identification within a busy collection area to the customer as well as to persons who feel it necessary to report the vehicle/driver for good or bad reasons.</p>		<p>be disproportionate in this instance.</p>		<p><i>advertisements will be permitted on Private Hire Vehicles except for authorised operator door and rear windscreen signs. The reason for this being that since they are pre-booked there is no necessity to draw attention to them. This policy also minimises the chance that they will be hailed in the street as a taxi.</i></p> <ul style="list-style-type: none"> • <i>Hackney Carriage Vehicles that are London style vehicles (TX, FX or Metro Cabs) may be allowed to have "all-over" adverts subject to prior approval from the Council. The reason for this is that their shape denotes them as taxis and adverts do not detract from this.</i> <p><i>continued.....</i></p>
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- *All Hackney Carriage Vehicles may be permitted to have adverts on side panels and the rear windscreen subject to prior approval from the Council. Adverts will be restricted to spaces which do not detract from the overall appearance of the vehicle.*
- *Hackney Carriage Vehicles and Private Hire Vehicles will be permitted without requiring approval to have small adverts in the rear windows which advertises the licensed operator (if any) through whom they are operating. These small adverts will be permitted in the form of a one line advertisement on the rear windscreen (top or bottom so as not to interfere with rear visibility). The letters within the advertisement shall not exceed two inches (5.08mm) in height, and shall only relate to a telephone number and the identity of the licensed operator. This information may be displayed around the door signs of a PHV subject to conditions and the consent of the Council.*
- *NOTE: The door signs must be permanently affixed (not magnetic) to the front doors of Private Hire Vehicles. These signs which are described in the Private Hire Vehicle Conditions are not advertisements but notices designed to make it easier for members of the public to identify those vehicles as being Licensed Private Hire Vehicles. Approved adverts on rear windscreens will only be allowed where one way film is used to allow the driver a better view of the road through his rear mirror.*

Amend HCV condition 13.2 to read as follows:

All other vehicles not referred to in condition 13.1 may be allowed to have adverts on side panels and rear windscreen only where prior approval has been given by the Council. (The reason for this is that, since vehicles must all be black, adverts must be restricted to spaces which do not detract from their overall appearance). In respect of authorised adverts for rear windscreens, only one way film may be used.

Amend PHV condition 13 by inserting the following additional bullet point between the current bullet points 1 and 2:

A sign or advertisement covering the whole (or part) of the rear windscreen may be allowed only where prior approval has been given by the Council. In respect of authorised adverts for rear windscreens, only one way film may be used.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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