



Regulatory Committee

**Wednesday, 3 October 2018 6.30 p.m.
Council Chamber - Town Hall, Runcorn**



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, 28 November 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. THE INCLUSIVE TRANSPORT STRATEGY	5 - 18
4. GAMBLING ACT 2005 STATEMENT OF GAMBLING POLICY	19 - 38
5. SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AND THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985	

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.

6. TAXI MATTER	39 - 50
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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, 4 July 2018 in the Council Chamber, Runcorn Town Hall

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

Apologies for Absence: Councillor A. McInerney

Absence declared on Council business: None

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

Also in attendance: One member of the public

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

Before the start of the meeting the Chair welcomed Cllr Abbott as a new member and expressed her thanks to Cllr Loftus for her work as Chair of the Committee over the past years. The Committee also endorsed the Chair's proposal to write to former Councillor S. Parker to thank him for his work on the Committee prior to his retirement.

Action

REG1 MINUTES

The Minutes of the meeting held on 14th March 2018 having been circulated were signed as a correct record.

REG2 GAMBLING ACT 2005 STATEMENT OF GAMBLING POLICY

The Committee considered a request to authorise a review of the Council's Statement of Gambling Policy. The policy must be reviewed by the Council for successive three year periods and the current policy was due to expire at midnight on 30 January 2019. Members were advised on the consultation process to be followed and a copy of the updated Policy had been circulated to Members. The reference to the Gambling Commission's statutory guidance in the agenda was updated and corrected.

Following the consultation process a report would be

brought back to Committee for consideration and recommendation to Council

RESOLVED: 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 to determine all matters relating to the consultation process; and
3. the matter be reported back to the Regulatory Committee following completion of the consultation process.

REG3 HACKNEY CARRIAGE STAND REVIEW

The Committee considered the outcome of the Hackney Carriage Stands review which had gone through a consultation process via the Taxi Consultative Group. The policy changes sought by the Committee are required to be adopted by the Council's Executive Board. Typographical errors on page 39 of the Agenda relating to Market Street were highlighted and corrected.

The Committee was in general agreement with the proposals in the agenda but considered that certain improvements might be made in particular with regard the Appleton Village Taxi Stand.

RESOLVED: That

1. the Operational Director Legal and Democratic Services (OD-LD) in consultation with the Chairman be delegated to determine the next steps to be taken with a view to try to achieve the improvements discussed at the meeting.
2. the proposals determined by the OD-LD in consultation with the Chairman be referred to the Executive Board be requested to authorise the OD-LD to fulfil all procedural requirements relating to the proposals in accordance with Section 63 Local

Government (Miscellaneous Provisions) Act 1976

REG4 TAXI POLICY CONDITIONS AMENDMENT

The Committee considered a report on miscellaneous policy changes which have gone through a consultation process via the Taxi Consultative Group. These involved changes in existing and additional policy to elements of the Taxi Licensing Policy, Single Status Driver's, Hackney Carriage and Private Hire Vehicle and Private Hire Operator's conditions as set out in the agenda. The policy changes approved by the Committee are required to be adopted by the Executive Board.

RESOLVED: That

1. the Committee endorses all of the proposals set out in Section 4 of the agenda;
2. the Executive Board be recommended formally to adopt the above proposals and that the adoption will take place on a date to be determined by the Executive Board; and
3. pending the decision of the Executive Board the Operational Director Legal and Democratic Services be authorised to take decisions in respect of individual applications as if the policy changes recommended by the Committee were already in force.

REG5 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.

REG6 TAXI MATTER

Case: No 715

RESOLVED: At the request of the individual concerned the application be adjourned to the next meeting of the Regulatory Committee.

Meeting ended at 7.12 p.m.

REPORT:	Regulatory Committee
DATE:	3 October 2018
REPORTING OFFICER:	Strategic Director Enterprise, Community and Resources
PORTFOLIO:	Resources
SUBJECT:	The Inclusive Transport Strategy
WARDS:	Borough-wide

1.0 PURPOSE OF REPORT

To consider the Inclusive Transport Strategy July 2018 in so far as it relates to taxi and private hire licensing.

2.0 RECOMMENDED: That the Committee note the report.

3.0 INTRODUCTION AND BACKGROUND INFORMATION

- 3.1 On 30 July 2018 the Under Secretary of State for the Department of Transport wrote to local authorities informing them about the Inclusive Transport Strategy (the Strategy) that was published on 25 July.
- 3.2 The Strategy is a 76 page document and deals a range of accessibility issues affecting disabled people in respect of all modes of transport.
- 3.3 A small part of the Strategy deals with taxi and private hire licensing and this report deals with that part.
- 3.4 The letter from the Under Secretary of State makes the following specific references to taxis and private hire vehicles:-

“ I also wanted to write to you about the accessibility of any taxi and private hire vehicle (PHV) services which your authority may be responsible for licensing. Such services play a vital role in helping disabled people to remain independent and to complete door-to-door journeys, yet all too often they are inaccessible to those who rely on them. I want all licensing authorities to play their part in ensuring that the taxi and PHV service they support meet the needs of passengers wishing to use them, including:

- *Publishing lists of taxis and PHVs designated as being “wheelchair accessible” for the purposes of section 167 of the Equality Act 2010;*

- *Prosecuting drivers for discriminating against assistance dog owners and wheelchair users, where sufficient evidence exists to do so, and applying appropriate licensing sanctions;*
- *Reviewing demand for wheelchair accessible taxis and PHVs in your area, and taking steps to ensure that the composition of fleets reflects this need; and*
- *Requiring all taxis and PHV drivers to complete disability awareness training.*

I am clear that where authorities have the powers necessary to improve services for disabled passengers they should be using them, and I will write to all local licensing authorities later in the year to understand better the steps they are taking to challenge discrimination and to support an inclusive service.”

- 3.5 Appendix 1 to this report lists all the references in the Strategy to taxis and private hire licensing.

4.0 ISSUES ARISING

- 4.1 It is clear from the text in Appendix 1 that the Strategy is at an early stage of development. It stresses the need to achieve accessibility by licensing appropriate vehicles and the requirement to train drivers in disability matters.
- 4.2 It is regrettable that the DfT have put forward no funding to achieve training. The cost and time involved in training over 500 drivers in Halton is not even acknowledged in the Strategy.
- 4.3 There is an emphasis in the Strategy on wheelchair users but the Strategy deals with all aspects of accessibility for persons with disabilities including rights and obligations relating to assistance dogs.
- 4.4 Matters for the near future are:
- By the end of 2019 a new code of best practice will be issued by the DfT.
 - By the end of Autumn 2018 the DfT will be writing to local authorities asking which Councils publish a list of vehicles under section 167 Equality Act 2010.
 - From Autumn 2018 the DfT will publish the proportion of vehicles in each licensing authority which are deemed to be wheelchair accessible vehicles.
 - From Autumn 2019 the DfT will ask which local authorities publish a list of vehicles under section 167 of the Equality Act 2010.
- 4.5 A significant issue not covered by the Strategy is the cost of providing wheelchair accessible vehicles throughout the taxi and private hire trade. Wheelchair accessible vehicles are considerably more expensive than non-wheelchair accessible vehicles. The impact of the Government's policy on deregulation is such that the trade may seek to be licensed by a local authority with the cheapest and least

controlled requirements. Local authorities seeking to impose higher standards have experienced fewer applications and more 'out of borough' penetration from drivers and vehicles licensed to lower standards. This means that this Council must be very careful in introducing further restrictions which could have the opposite effect than that intended.

5.0 WHAT DOES WHEELCHAIR ACCESSIBLE MEAN?

- 5.1 Unfortunately, the Strategy does not define this expression. However, from existing DfT publications this is assumed to mean what this Council defines as "fully wheelchair accessible". This is where a person in a wheelchair can enter the vehicle and be transported while remaining in the wheelchair.
- 5.2 All of Halton's fleet is "wheelchair accessible" as defined by this Council. This means that a person will be able to move from the wheelchair to a seat in the vehicle and that the wheelchair can be collapsed and stored in the vehicle.
- 5.3 It follows that a person who uses a non-collapsible wheelchair would have to book a fully wheelchair compatible vehicle. However, the majority of wheelchair users use collapsible wheelchairs and the Council has previously been informed by disabled wheelchair users that they prefer to use the normal seats in vehicles.

6.0 WHAT DOES SECTION 167 EQUALITY ACT 2010 SAY?

- 6.1 Section 167 of the Equality Act 2010 is part of a group of sections (sections 165 to 167) which must be read together. Appendix 2 to this report sets out the text of these sections in full.
- 6.2 Essentially, section 165 gives certain rights to passengers in "designated taxis" and "designated private hire vehicles". The procedure for producing lists of private hire vehicles is set out in section 167. The exemptions in section 165 can be ignored for the purposes of this report.
- 6.3 This Council has so far not gone down the road of designating vehicles and the methodology of other local authorities is not considered to be compliant with legislation. The Council's conditions give the same rights to disabled users whether or not they would have been travelling in what might have been "designated". It must be stressed that the use of section 167 is voluntary at present.

7.0 POLICY IMPLICATIONS

- 7.1 This report is for information only. There may be policy implications in the future as the DfT provide more information.
- 7.2 It should also be pointed out that there is a move to harmonise a number of policies and conditions within the six Merseyside authorities which as yet is at a preliminary stage. The matter covered by this report will doubtless be part of those discussions.

8.0 OTHER IMPLICATIONS

None

9.0 IMPLICATIONS FOR THE COUNCILS PRIORITIES

9.1 Children and Young People in Halton

None

9.2 Employment Learning and Skills in Halton

N/A

9.3 A Healthy Halton

N/A

9.4 A Safer Halton

None

9.5 Halton's Urban Renewal

N/A

10.0 RISK ANALYSIS

None

11.0 EQUALITY AND DIVERSITY ISSUES

Equality issues are central to this agenda item

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

Document	Place of Inspection	Contact Officer
Inclusive Transport Strategy	Licensing Section	John Tully

APPENDIX 1

The Inclusive Transport Strategy - Achieving Equal Access for Disabled People - July 2019 DfT

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Recent developments

3.4 As a result of the Government's action and investment, we have seen many developments in recent years that will improve the travelling experience for disabled people, including:

- 58%¹⁶ of taxis in England in 2017 are wheelchair accessible;

16 Taxi and Private Hire Vehicle Statistics: England, 2017, [TAXI0103](#) ↗

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Taxis and Private Hire Vehicles

4.17 Taxis and Private Hire Vehicles (PHVs) play an essential role in enabling disabled people to complete door-to-door journeys where other forms of transport may not be available or accessible. Vehicles and drivers are licensed by local licensing authorities (LLAs) which have broad powers to shape the service provided within their jurisdiction.

4.18 Disabled passengers travelling by taxi or PHV have a number of rights, including:

- Section 20 of the Equality Act 2010, which requires service providers to make reasonable adjustments to enable them to access their services;
- Section 165 of the Equality Act 2010, which requires non-exempt drivers of taxis and PHVs designated as wheelchair accessible to accept the carriage of wheelchair users, to provide them with appropriate assistance, and to refrain from charging them more than other passengers would pay for the same service; and
- Sections 168 and 170 of the Equality Act 2010, which requires non-exempt drivers of taxis and PHVs to accept the carriage of assistance dogs and to refrain from charging extra for them.

4.19 Around 58% of vehicles are already **wheelchair accessible**, but these tend to be concentrated in urban locations and taxi fleets. The proportion of wheelchair accessible PHVs remains very low, at about 2% nationally.

4.20 This Strategy should help ensure that authorities not only use the powers available to them to ensure that taxi and PHV services not only comply with the legal requirements but that these services meet the needs of passengers more consistently.

4.21 In the longer term we want the service currently provided by taxis and PHVs to be as accessible to disabled passengers as it is for those who are not disabled. This should mean not only that vehicles are sufficiently accessible to provide for people with a range of access needs, but that the means of hiring them is accessible, that passengers can be picked up or dropped off at a location convenient to them, and that no disabled person is ever left at the kerbside or charged extra for their journey. We also want LLAs to understand their role in helping this to happen, both through the licensing system and through other areas of influence, such as traffic management.

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Enforcement

5.6 To ensure passengers' rights are better enforced and regulated, we will:

Taxis/PHVs:

- **By end of 2019, publish for consultation revised best practice guidance** to support local licensing authorities (LLAs) to use their existing powers more effectively. In particular we will recommend that authorities require taxi and private hire vehicle (PHV) drivers to complete disability awareness and equality training, make it simple to report discrimination and take robust action against drivers alleged to have discriminated against disabled passengers. Consulting on best practice guidance for taxi and PHV licensing, authorities will provide an opportunity to further the discussion with the Local Government Association and other representative organisations around potential approaches for ensuring that licensing authorities use the powers available to them, and take robust action against drivers who have discriminated illegally against disabled passengers;
- Take steps to understand why taxi and PHV drivers continue to refuse to transport assistance dogs. For over a decade it has been illegal for drivers of taxis and PHVs to refuse the carriage of an assistance dog. Even where enforcement of this requirement is rigorous, such as in London, we understand anecdotally that refusal incidents continue to happen. We will undertake research to identify why the risk of fines and the loss of a driver's licence appear

insufficient in some circumstances to prevent them from discriminating against assistance dog owners. We will use evidence from this work to support any further action that we may take in this area to ensure that assistance dog owners are able to travel by taxi and PHV free from the fear of discrimination.

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Actions to deliver our objectives:

6.8 In order to improve the service provided to disabled people, by 2020 we will:

- Lead the way, by providing disability equality and awareness training for Department for Transport staff as part of our staff development programmes;
- Raise awareness amongst DfT staff on how the Public Sector Equality Duty, and the needs of people with protected characteristics, should be considered as part of transport policy development and delivery. This will include through staff training, the creation of an Equality Leaders Scheme to drive change across the Department, and steps to ensure equality considerations are made explicit to decision makers such as Senior Civil Servants and Ministers.
- Develop a disability equality and awareness training package that can be made available across modes to all transport operators;
- Develop an accreditation scheme to incentivise operators to use the disability equality and awareness training package, publicly sign up to commitments to improve inclusivity, and to become Disability Confident employers;
- Recommend, or where appropriate require, that transport operators and regulators involve disabled people or representative organisations wherever possible in the training received by staff (i.e. transport operators should ensure that the course content is informed by the lived experience of disabled people, relevant to the transport mode concerned).

Taxi/PHV:

- Do everything in our power to ensure that local licensing authorities make full use of their existing powers, including recommending that driver disability equality and awareness training be mandated in licensing policies.

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Increasing levels of Wheelchair Accessible Taxis and PHVs

8.33 Whilst we have seen improvements in the numbers of accessible buses or trains in service, we are aware that the levels of wheelchair

accessible taxis and private hire vehicles are still comparatively low, with only 58% of taxis and 2% of private hire vehicles being wheelchair accessible. A number of draft AAP consultation responses highlighted regional variations in the levels of provision of wheelchair accessible vehicles (WAVs) with some areas of the country (particularly those outside urban areas) having low proportions of WAVs, whilst more urban areas, such as London having higher proportions.

8.34 Under Section 167 of the Equality Act 2010 local licensing authorities may maintain lists of vehicles they have designated as being wheelchair accessible, so as to ensure that their drivers are subject to the requirements at Section 165 of the same Act, to provide wheelchair users with assistance and to refrain from charging them extra. We strongly encourage authorities to exercise this power and maintain and publish lists, and to ensure that wheelchair users are protected from discriminatory behaviour.

8.35 Through our engagement with disabled people during the consultation it was clear how important wheelchair accessible taxis and PHVs were to enabling people to attend hospital appointments, go shopping or visit friends. We want to see a much greater proportion of WAVs, particularly in non-urban areas, over the next 10 years.

8.36 By autumn 2018, we will write to all local licensing authorities stressing the importance of supporting an inclusive taxi and PHV fleet and ask those authorities who have not already done so to publish lists of vehicles designated as wheelchair accessible under Section 167 of the Equality Act 2010. We will continue to monitor the proportion of WAVs within overall taxi and private hire vehicle fleets, as [reported in the annual DfT taxi and PHV statistics](#), and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles. As a first step we have published a list of the highest performing local licensing authorities in terms of the proportion of WAVs in their fleet (see [Annex A](#)).

8.37 We will also publish a list of those authorities which do, and do not, publish lists of WAVs, to share best practice. If the number of authorities publishing these lists does not increase significantly, we will consider amending the Equality Act to mandate local licensing authorities to publish lists of wheelchair accessible vehicles in their local areas.

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Actions to deliver our objectives

8.48 In order to improve physical infrastructure, we will:

Taxis and PHVs:

- From autumn 2018, publish data on an annual basis on the proportion of wheelchair accessible taxis and PHVs in local areas;
- From autumn 2019 publish on an annual basis a list of those authorities which we know to have issued a list of taxis and PHVs designated as being wheelchair accessible in accordance with Section 167 of the Equality Act 2010;
- Continue to encourage local licensing authorities, which have not already done so, to publish lists of taxis and PHVs designated as wheelchair accessible under Section 167 of the Equality Act 2010, and to inform the Department that they have done so.

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Annex B: Key rights of disabled passengers

The annex B section of [rights for disabled passengers on transport](#) is listed separately.

This largely repeats Paragraph 4.18 above plus the additional complaints and enforcement section below.

Taxi and PHV complaints and enforcement process

Passengers who feel that a driver has failed to comply with Sections 165, 168 or 170 of the Equality Act 2010 should contact the relevant Local Licensing Authority (LLA) in the first instance. LLAs may often be identified by a notice displayed in or on licensed vehicles, and are usually the relevant district or unitary authority. In London, Transport for London licenses taxis and PHVs on behalf of the Boroughs.

Where passengers believe that a driver has failed to make reasonable adjustments under Section 20 of the Equality Act 2010 they are encouraged in the first instance to contact the relevant LLA. They may however also wish to seek their own legal advice regarding the potential to take action in the courts.

Finally, where a passenger requires information on the accessibility of taxi and PHV services in their area, or on the steps being taken to improve it, they should also contact the LLA. If they feel the action being taken by the LLA is inappropriate or insufficient they might consider complaining to the authority concerned. Where complaints cannot be resolved they may be escalated to the [Local Government Ombudsman](#).

APPENDIX 2

EQUALITY ACT 2010

165 Passengers in wheelchairs

(1) This section imposes duties on the driver of a designated taxi which has been hired—

(a) by or for a disabled person who is in a wheelchair, or

(b) by another person who wishes to be accompanied by a disabled person who is in a wheelchair.

(2) This section also imposes duties on the driver of a designated private hire vehicle, if a person within paragraph (a) or (b) of subsection (1) has indicated to the driver that the person wishes to travel in the vehicle.

(3) For the purposes of this section—

(a) a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167;

(b) “the passenger” means the disabled person concerned.

(4) The duties are—

(a) to carry the passenger while in the wheelchair;

(b) not to make any additional charge for doing so;

(c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;

(d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;

(e) to give the passenger such mobility assistance as is reasonably required.

(5) Mobility assistance is assistance—

- (a) to enable the passenger to get into or out of the vehicle;**
- (b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;**
- (c) to load the passenger's luggage into or out of the vehicle;**
- (d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.**

(6) This section does not require the driver—

- (a) unless the vehicle is of a description prescribed by the Secretary of State, to carry more than one person in a wheelchair, or more than one wheelchair, on any one journey;**
- (b) to carry a person in circumstances in which it would otherwise be lawful for the driver to refuse to carry the person.**

(7) A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with a duty imposed on the driver by this section.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) It is a defence for a person charged with the offence to show that at the time of the alleged offence—

- (a) the vehicle conformed to the accessibility requirements which applied to it, but**
- (b) it would not have been possible for the wheelchair to be carried safely in the vehicle.**

(10) In this section and sections 166 and 167 “private hire vehicle” means—

- (a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;**

(b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;

(c) a vehicle licensed under an equivalent provision of a local enactment;

(d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982.

166 Passengers in wheelchairs: exemption certificates

(1) A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 165 (an “exemption certificate”) if satisfied that it is appropriate to do so—

(a) on medical grounds, or

(b) on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with those duties.

(2) An exemption certificate is valid for such period as is specified in the certificate.

(3) The driver of a designated taxi is exempt from the duties imposed by section 165 if—

(a) an exemption certificate issued to the driver is in force, and

(b) the prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.

(4) The driver of a designated private hire vehicle is exempt from the duties imposed by section 165 if—

(a) an exemption certificate issued to the driver is in force, and

(b) the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.

(5) For the purposes of this section, a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167.

(6) In this section and section 167 “licensing authority”, in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area.

167 Lists of wheelchair-accessible vehicles

(1) For the purposes of section 165, a licensing authority may maintain a list of vehicles falling within subsection (2).

(2) A vehicle falls within this subsection if—

(a) it is either a taxi or a private hire vehicle, and

(b) it conforms to such accessibility requirements as the licensing authority thinks fit.

(3) A licensing authority may, if it thinks fit, decide that a vehicle may be included on a list maintained under this section only if it is being used, or is to be used, by the holder of a special licence under that licence.

(4) In subsection (3) “special licence” has the meaning given by section 12 of the Transport Act 1985 (use of taxis or hire cars in providing local services).

(5) “Accessibility requirements” are requirements for securing that it is possible for disabled persons in wheelchairs—

(a) to get into and out of vehicles in safety, and

(b) to travel in vehicles in safety and reasonable comfort,

either staying in their wheelchairs or not (depending on which they prefer).

(6) The Secretary of State may issue guidance to licensing authorities as to—

(a) the accessibility requirements which they should apply for the purposes of this section;

(b) any other aspect of their functions under or by virtue of this section.

(7) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (6).

REPORT TO:	Regulatory Committee
DATE:	3 October 2018
REPORTING OFFICER:	Strategic Director, Enterprise, Community & Resources
PORTFOLIO:	Resources
SUBJECT:	Gambling Act 2005 Statement of Gambling Policy
WARDS:	Boroughwide

1.0 PURPOSE OF REPORT

To approve a draft Statement of Gambling Policy for recommendation to the Council for adoption.

2.0 RECOMMENDED: That

- (1) Having undertaken a consultation exercise the draft Statement of Gambling Policy as amended be approved by the Committee and be recommended to full Council for adoption.**
- (2) An appropriate form of wording for the Council resolution would be:**
“The Council:
 - (1) adopts the Statement of Gambling Policy attached to the report to come into effect immediately following the expiry of the current Policy; and**
 - (2) directs that the OD-LD publishes the Statement in accordance with section 349 Gambling Act 2005 and the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.”**

3.0 SUPPORTING INFORMATION

- 3.1 At its meeting held on 4 July 2018 the Committee considered a report on the Statement of Gambling Policy which must be adopted by the Council to replace the current policy which will expire in January 2019. 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. Full details are set out at Minute COU 38 and agenda item 9d to the meeting.
- 3.2 The Committee authorised the Operational Director Legal and Democratic Services (OD-LD) to undertake a consultation exercise in respect of the Council’s Statement of Gambling Policy in accordance with section 349 Gambling Act 2005.

- 3.3 The consultation exercise was completed on 31 August 2018. Only one response was received to the consultation. This was a very helpful response from the Gambling Commission. The response asked that the Council keep in mind the possibility of including references Local Risk Assessments, Local Area Profiles and joint working with other local authorities. Joint working groups do exist for sharing best practice. The usefulness of including additional guidance on Local Risk Assessments has been considered in the past and it has been decided that references in the Statement would simply be a gloss on the legislation and serve no useful purpose locally. Equally, the inclusion of a Local Area Profile in such a compact Borough as Halton would serve no useful purpose. There was also a request to update the section of the Statement dealing with Bingo Premises since the Gambling Commission guidance has been updated. The updated guidance has now been incorporated.
- 3.4 The original consultation draft Statement is therefore attached as Appendix 1. The previous guidance on bingo is shown struck through and the updated guidance is shown in bold text underneath.
- 3.5 The appropriate Council meeting to consider this matter will be held on 17 October 2018.

4.0 POLICY IMPLICATIONS

- 4.1 Once it comes into effect, the Statement of Gambling Policy will be used in accordance with the Gambling Act 2005.

5.0 OTHER IMPLICATIONS

- 5.1 There are no other implications arising out of this report.

6.0 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 since it involves licensable activities it is designed to contribute to licensing objective of the protection of children from harm.

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

7.0 RISK ANALYSIS

N/A

8.0 EQUALITY AND DIVERSITY ISSUES

N/A

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

This report is based on the Gambling Act 2005. See also the Council's existing Statement of Gambling Policy.

31st January 2019

APPENDIX 1

DRAFT
Halton Borough Council
STATEMENT OF
GAMBLING POLICY
Gambling Act 2005

Approved by Halton Borough
 Council on October 2018
 (Minute)

Date coming into effect:

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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 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.~~

This licensing authority will follow the guidance issued by the Gambling Commission relating to bingo. There will be a focus on the protection of children and young persons, use of gaming machines and appropriate conditions.

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.

Part D

Contact Details

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

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