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Regulatory Committee

Wednesday, 30 June 2021 6.30 p.m.
Council Chamber - Town Hall, Runcorn



Chief Executive

COMMITTEE MEMBERSHIP

Councillor Pamela Wallace (Chair)
Councillor John Abbott (Vice-Chair)
Councillor Dave Cargill
Councillor Eddie Dourley
Councillor Mike Fry
Councillor Kath Loftus
Councillor Angela McInerney
Councillor Gareth Stockton
Councillor Angela Teeling
Councillor Kevan Wainwright
Councillor Bill Woolfall

*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, 6 October 2021*

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

Part I

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2. DECLARATION OF INTEREST	
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.	
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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, 10 March 2021 held remotely.

Present: Councillors Wallace (Chair), Abbott (Vice-Chair), Dourley, Fry, K. Loftus, McDermott, A. McInerney, Nelson, G. Stockton and Wainwright

Apologies for Absence: Councillor P. Hignett

Absence declared on Council business: None

Officers present: K. Cleary, N. Wheeler and L. Woodward

Also in attendance: One Member of the public

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

REG14 MINUTES

The Minutes of the meeting held on 13 January 2021 having been circulated were signed as a correct record.

REG15 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 item 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

Action

that in disclosing the information.

RESOLVED: That as, in all the circumstances of the case, the public interest in maintaining the exemption outweighed that 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 Section 100A (4) 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.

REG16 TAXI MATTER

Case No 727

RESOLVED: The renewal of the Single Status Drivers Licence was granted subject to a 3 month suspension starting from 10 March 2021

Meeting ended at 7.45 p.m.

REPORT TO:	Regulatory Committee
DATE:	30 June 2021
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 2019 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 2022 and the new Statement of Gambling Policy must be in place on 31st January 2022.

- 3.3 The form and content must comply with regulations 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 has been had to the revised changes to the Guidance for Licensing Authorities issued by the Gambling Commission in April 2021.
- 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 6 October 2021 for consideration and recommendation to full Council. The appropriate Council meeting would be 8 December 2021. 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). Minor policy guidance amendments have been made 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 (Amended April 2021).
- 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.

APPENDIX 1

DRAFT
Halton Borough Council
STATEMENT OF
GAMBLING POLICY
Gambling Act 2005

Approved by Halton Borough
 Council on
 (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 gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. 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 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 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 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

REPORT:	Regulatory Committee
DATE:	30 th June 2021
REPORTING OFFICER:	Strategic Director Enterprise, Community and Resources
PORTFOLIO:	Resources
SUBJECT:	Taxi Licensing Matter
WARDS:	Borough-wide

1. PURPOSE OF REPORT

To consider amendments to the medical element of the Taxi Licensing Policy for hackney carriage and private hire drivers 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 Halton Borough Council's current policy on deciding the fitness part of the "fit and proper person" test is to apply the DVLA Group 2 Medical Assessment. A copy of the current policy can be found at Appendix A of this report.

3.2 During the past 3 years, licensed drivers (and new applicants) have advised the licensing section of problems they have encountered with the medical assessment. These problems mostly relate to:

- their own medical centre not undertaking the required medical assessment
- appointment dates considerably far into the future
- exceptionally high costs charged for the assessment

- 3.3 Further checks have found that following the pandemic further local medical centres have taken the decision not to undertake these assessments any more. This issue has been exacerbated by the fact that North West Boroughs Healthcare NHS Foundation Trust (Hollins Park) have yet to restart assessing drivers.
- 3.4 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).
- 3.5 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.
- 3.6 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.
- 3.7 In deciding whether or not to adopt or to recommend the adoption of a policy the following questions should be addressed:
- 3.7.1 Has proper consultation been undertaken?
- 3.7.2 Are the proposals necessary and proportionate?

4. SUPPORTING INFORMATION

4.1 Consider amending the current policy in order to:

- **Agree a minimum standard for 3rd party medical assessments**
- **Delegate the authority of approving who can undertake medical assessments in accordance with current policy to the Licensing Manager**
- **Allow a technical exemption for certain licence-holders from having to undertake the same medical assessment twice**

4.2 The purpose of a minimum standard is to ensure that the same quality of medical assessment is undertaken irrespective of whether it is conducted by an individual's own GP or an approved 3rd party.

4.3 A significant number other licensing authorities (Liverpool, St Helens and Sefton Councils included) have been using 3rd party companies to undertake their driver's medicals for a number of years.

4.4 The benefits of 3rd party medical companies are reduced costs and considerably more flexibility on dates/times of appointments.

4.5 Unfortunately not all licensing authorities require the medical examiner to have sight of a driver's medical history. This can have obvious consequences as the medical examiner can only make their decision of whether an individual meets the required medical standard based on the information they have available to them.

4.6 An example of what the minimum standards could look like are as follows:

- Only medical assessment packs issued by Halton Borough Council licensing team are allowed to be used
- Where the applicant is not using their registered GP to conduct the medical assessment then they must obtain a recent summary care record from their medical practice. The summary care record must be presented to the examining medical officer when attending their examination.
- Photo identification (passport or DVLA licence) must be presented at the medical.

These standards must be met by both the applicant and the medical assessment provider.

- 4.7 The purpose for requesting delegation for approving the medical assessment providers to the Licensing Manager is to save having to refer the matter back to the Regulatory Committee and then the Council's Executive Board should a medical assessment provider need to be changed due to non-compliance with the proposed standards or that they cease to trade. Not doing so may result in an applicant being denied a licence and therefore unable to work while a new provider is being referred through the Council's appropriate licensing channel.
- 4.8 At present there a small number of hackney carriage/private hire licence-holders who also hold licences to drive heavy goods vehicles (HGV) and public service vehicles (PSV). These individuals also have to undertake the DVLA Group 2 medical assessment in order to drive very large vehicles. At present they have to successfully pass the same medical assessment twice at similar times. One for Halton Borough Council and a further one for the DVLA. This means that 2 lots of medical fees are paid by the same person as well as time taken to undertake such assessments.
- 4.9 It is still believed to be good practice to require a person applying for a licence to driver hackney carriage/private hire vehicles for the first time to undertake a DVLA Group 2 medical assessment even if they already hold a HGV/PSV licenses. This is because of the potential time lapse between completing a medical for their HGV/PSV licence and applying for a hackney carriage/private hire licence i.e. up to 24 years.
- 4.10 For consideration is that upon applying to renew a hackney carriage/private hire driver's licence, licensing staff could request the applicant sign a medical self-declaration and verify that the applicant has successfully passed a DVLA Group 2 medical by checking they still hold the appropriate status with the DVLA.
- 4.11 As and when a hackney carriage/private hire decides not to renew their HGV/PSV licence then DVLA Group 2 medicals would then resume in line with existing policy.

5. CONSULTATION

- 5.1 As part of a consultation the local trade were contacted on 16th April 2021 by email for any comments on this matter. Details of the consultation were also posted on the Council's website with a closing date for comments or opinions to be made by 21st May 2021.

5.2 The following replies were made to the licensing team as part of the consultation process. Each person submitting their views on this matter has had their identities removed but has been referred to with a number for audit purposes only. No comment has been amended, corrected or rephrased.

5.2.1 Number 1

Medical Consultation

1). Where drivers can obtain medicals from

It is correct that ever since the introduction of the current medical policy whereby restrictions allowed only for the registered GP and Hollins Park to conduct medicals. The provision by both is very poor and fraught with difficulties regarding the obtaining of an appointment within the time scale for the application/renewal of licences. In particular, referring to GP practice, taxi medicals are quite literally placed on to the back burner. This is now grossly exacerbated with the pandemic making GP appointments virtually unobtainable.

The recommendation of an additional contract outside of the GP infrastructure may help. It is our recommendation in addition to this, that applicants may obtain a medical from any GP. Historically this was the case and a small number of GPs were popular with the trade due to the lower charges. Competition lowers prices.

With the computerisation of GP records, patients/applicants records can be accessed by any Doctor of medicine across the United Kingdom. This takes away the lack of background knowledge provided by access to medical records. Quite frankly, with GP practices adopting nominated doctors (partners from the same practice) to perform such examinations (medicals) rather than the regular GP of the applicant/patient our proposal is very much the same as the current policy, standards wise and should introduce much needed capacity and possibly costs savings.

The Department of Transport allow any GP to perform medicals for LGV and PCV applicants where Group 2 medicals are mandatory unlike taxi medicals which is merely adopted or best practice of DoT guidance. That is to say it is not legally binding to have Group 2 medicals as taxis actually fall within Group 1.

5.2.2 Number 2

I am all for a new service provider for the taxi badge medical. In the past I've been overcharged, and messed around.

5.2.3 Number 3

Thank you for inviting comment regarding the proposed changes.

We welcome the proposed changes for a number of reasons:

We are trying to employ additional Taxi Drivers to support our business expansion in Cheshire. We hope to employ 65 additional drivers each year for the next 5 years. In the past 12 months we have only been able to license and employ 21 which is well short of our target and the main reason for this being that appropriate candidates have been unable to obtain Taxi Medical through their GP's due to Covid reduced services.

The proposed changes will certainly enable us to employ more people. As an example we have one gentleman who agreed to join us as a driver in Sept 2020 who is still waiting unable to get a GP medical. This is quite an intolerable situation and most people simply don't have the means to wait that long in order to start work. Currently we still have a large number of applicants wishing to join us but are stuck with their GP unwilling to process a medical.

The difficulty in obtaining medicals is making it very difficult to recruit people because the delays are off putting and this forces them to find other work elsewhere.

Many GP's have wised up to this situation and are raising the cost. We had to pay £180 recently to one GP practice for a Taxi Medical.

I believe that LA's in Cheshire are finding it challenging to award essential Transport Contracts due to a shortage in drivers. No doubt the difficulty in obtaining medicals is a contributing factor.

Thank you very much for allowing me to comment on the challenges we face in relation to this matter.

5.2.4 Number 4

Hi I believe that if a driver requires a medical they should be able to go to any approved examinations example is my doctor's beeches no longer do them and advised me that they refer there patients to a approved taxi and lorry drivers medical in st Helen's which I have advised nick wheeler on at a cost of around £60 which is substantially less then Hollins park which is around £150 as long as examinations me standards are safe I don't see why we should be made to pay excessive amounts

5.2.5 Number 5

I would support these changes fully.

5.3 Members of the Regulatory Committee may add any weight to the above comments as they see reasonable.

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;
- minimise 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 the policy 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 relating to applicants applying to hold a hackney carriage and private hire driver's licence (referred to as a Single Status Driver's Licence) 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

There are no associated risks which have been identified with this item.

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
1. Taxi Consultation File	Licensing Section	Kay Cleary Nick Wheeler
2. Current licensing policies		

APPENDIX A

**Driver Medical Standards
Policy Document**

The Local Government (Miscellaneous Provisions) Act 1976 sets out the legal requirement for local authorities to only grant a hackney and/or a private hire driver's licence when they are satisfied that the applicant is a fit and proper person to do so. The legislation does not provide a definition of what is a fit person however guidance was provided by the Department for Transport (DFT) in their publication "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance - March 2010".

"It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:

- *they carry members of the general public who have expectations of a safe journey;*
- *they are on the road for longer hours than most car drivers; and*
- *they may have to assist disabled passengers and handle luggage.*

It is common for licensing authorities to apply the "Group 2" medical standards – applied by DVLA to the licensing of lorry and bus drivers – to taxi and PHV drivers. This seems best practice."

Like most local authorities, Halton Borough Council accepted the guidance provided by the DFT and adopted the DVLA Group 2 Medical Standard for all of its licensed drivers (with minor differences to the frequency of renewal assessments) as part of its own policy along with the following requirements:

DVLA Group 2 Medicals for driving hackney carriages and private hire vehicles licensed by Halton Borough Council will only be accepted where they were undertaken and the certificate correctly completed and signed by either of the following:

1. The applicants own registered medical practitioner (or another registered medical practitioner from the same practice or group practice) who has access to your medical history can conduct the medical examination and complete the certificate of fitness
2. The Council's preferred Occupational Health facility, North West Boroughs Healthcare NHS Foundation Trust which is based at Hollins Park House, Hollins Lane, Winwick, Warrington, WA2 8WA

Medical assessments are required as follows:

- When making an application to become a licensed hackney carriage/private hire driver for the first time
- After the initial application a further medical assessment is required when renewing an application prior to turning 45 (you will reach age 45 years during the licence period for which you are applying for)
- Then every 6 years with the renewal application
- When renewing an application prior to turning 65 (you will reach age 65 years during the licence period for which you are applying for)
- After the age of 65 a medical will be required every 2 years
- A licence-holder may be required to have medical assessments more frequently if stated by the medical examiner at a previous medical examination
- Where an existing licence-holder has declared a medical condition that requires a further assessment to confirm they meet the DVLA Group 2 Standards*
- Where there is reasonable evidence to suggest a licensed driver may not reach the DVLA Group 2 Standards*

*This decision will be made by the Licensing Manager in accordance with the current guidance provided by the DVLA publication "Assessing Fitness to Drive - A Guide for Medical Professionals".

The DVLA Group 2 Medical Assessment is undertaken as private work due to it not provided free by the NHS. The cost will be met by the applicant direct to whoever conducts the assessment and is not included in any part of the licensing fee.

Driver Medical Assessment Policy Implementation Document

Where can a medical assessment be undertaken?

DVLA Group 2 Medicals for driving hackney carriages and private hire vehicles licensed by Halton Borough Council will only be accepted where they were undertaken and the certificate signed by either of the following:

1. The applicants own registered medical practitioner (or another registered medical practitioner from the same practice or group practice) who has access to your medical history can conduct the medical examination and complete the certificate of fitness
2. The Council's preferred Occupational Health facility, North West Boroughs Healthcare NHS Foundation Trust which is based at Hollins Park House, Hollins Lane, Winwick, Warrington, WA2 8WA. Tel 01925 664071

What do I need to take to a medical assessment?

If you are undertaking your medical assessment at you own medical practice then you will need to take a medical assessment pack which will be provided to you by the licensing section. The pack will contain notes about the medical, a medical assessment sheet and certificate for the medical examiner to complete.

If you book your medical assessment with North West Boroughs Healthcare NHS Foundation Trust then you only need to take photo identification with you on the day of the assessment i.e. DVLA Driver's licence or valid passport.

When are medicals required?

A successful DVLA Group 2 Medical Assessment is required as follows:

- When making an application to become a licensed hackney carriage/private hire driver for the first time
- After the initial application a further medical assessment is required when renewing an application prior to turning 45 (you will reach age 45 years during the licence period for which you are applying for)
- Then every 6 years with the renewal application
- After the initial application a further medical assessment is required every 6 years with the renewal application
- When renewing an application prior to turning 65 (you will reach age 65 years during the licence period for which you are applying for)
- After the age of 65 a medical will be required every 2 years
- A licence-holder may be required to have medical assessments more frequently if stated by the medical examiner at a previous medical examination. The licence may be suspended and/or revoked if this is not complied with
- Where an existing licence-holder has declared a medical condition that requires a further assessment to confirm they meet the DVLA Group 2 Standards*. Depending on the nature of the medical matter the licence may be suspended until such time

that the DVLA Group 2 standard is met. In some circumstances the licence may be revoked due to the severity of the condition.

- Where there is reasonable evidence to suggest a licensed driver may not reach the DVLA Group 2 Standards*. The licence-holder will be advised in writing of what is required in order to satisfy the licensing section that they do meet the DVLA Group standard. A reasonable decision will be taken based on the individual circumstances as well guidance from the DVLA's current publication.

*This decision will be made by the Licensing Manager in accordance with the current guidance provided by the DVLA publication "Assessing Fitness to Drive - A Guide for Medical Professionals".

What does this cost?

There is no set cost for a DVLA Group 2 medical assessment which means that you should ask this question before booking. North West Boroughs Healthcare NHS Foundation Trust will require payment before an appointment is given anyway. Some medical centres in Halton do the same but not all.

What is the difference between my own medical practice and North West Boroughs Healthcare NHS Foundation Trust?

In most circumstances the choice is entirely up to the applicant or licence-holder, however please note that not all medical centres in Halton will undertake this medical assessment. If this is the case there is no alternative but to book your medical assessment with North West Boroughs Healthcare NHS Foundation Trust.

REPORT:	Regulatory Committee
DATE:	30 th June 2021
REPORTING OFFICER:	Strategic Director Enterprise, Community and Resources
PORTFOLIO:	Resources
SUBJECT:	Taxi Licensing Matter
WARDS:	Borough-wide

1. PURPOSE OF REPORT

To update the Committee on the Statutory Taxi & Private Hire Vehicle Standards and to make a recommendation to the Executive Board on the assessment of previous convictions.

2. RECOMMENDED: That -

2.1 The Executive Board be recommended to resolve as follows:

- **The amendments to the “Previous Convictions Policy” put forward in this report be considered and adopted**
- **An amendment be made to the hackney carriage and private hire driver’s conditions relating to the requirement to report matters relating to their behaviour**

3. INTRODUCTION AND BACKGROUND INFORMATION

3.1 On 2nd September 2020 this Committee recommended to adopt the Department for Transport’s (DFT) “Assessment of Previous Convictions” document as part of the hackney carriage and private hire driver’s licensing policy. This recommendation was subsequently adopted by the Executive Board. A copy of the current “Convictions Policy” can be found at Appendix A of this document.

3.2 At the same Committee hearing, Members were also notified that further matters from the DFT’s “Statutory Taxi & private Hire Vehicle Standards” would be thoroughly examined by Officers of the Council and referred back to this Committee for consideration.

- 3.3 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.
- 3.4 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.
- 3.5 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.
- 3.6 In deciding whether or not to adopt or to recommend the adoption of a policy the following questions should be addressed:
- 3.6.1 Has proper consultation been undertaken?
- 3.6.2 Are the proposals necessary and proportionate?

4. SUPPORTING INFORMATION

- 4.1 Following the introduction of the current policy in September 2020 it has been noticed by Officers that there are gaps in the policy which provide little or no guidance as to what action (if any) is to be taken by Officers or Members in certain circumstances.
- 4.2 This is not to say that action must be taken against a driver who has committed a criminal offence however the necessity of having a clear and transparent policy benefits everyone.

- 4.3 The proposed additions to the policy not only give guidance on convictions but also on the following which may be taken into account when considering if a person can be deemed to be a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976:
- Matters which do not meet the threshold to be found guilty of an offence beyond all reasonable doubt
 - Driving convictions/offences
 - Formal or simple cautions
 - Actions of a driver where they fall below a level to the extent that Members of the Regulatory Committee would not feel safe with a member of their family being carried in a vehicle driven by said driver.
- 4.4 The proposed policy (should it be approved) will be referred to as the “*Professional Standards Policy*”.
- 4.5 The proposed policy can be found at Appendix B of this document.
- 4.6 To accompany the potential changes to the policy, the second proposal is to amend the existing hackney carriage/private hire driver licensing condition partly at the request of the Department for Transport as well as ensuring the condition is fit for purpose.**
- 4.7 The current licensing condition requiring licensed drivers to report indiscretions to the licensing section is as follows:
- “Duty to disclose convictions, cautions, reprimands, warnings, and fixed penalty notices*
- The holder shall immediately disclose to the Council Solicitor in writing details of any conviction, cautions, reprimands and warnings imposed on the holder during the currency of this Licence. (Convictions include road traffic offences and whether involving endorsements or not). This duty also extends to any fixed penalty notice following payment and simple and conditional cautions.”*
- 4.8 The Department for Transport have stated the following within the “Statutory Taxi & Private Hire Vehicle Standards”:
- “Licence-holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.*

Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation”.

- 4.9 Details of the proposed new condition can be found at Appendix C of this document.

5. CONSULTATION

- 5.1 As part of a consultation the local trade were contacted on 16th April 2021 by email for any comments on this matter. Details of the consultation were also posted on the Council’s website with a closing date for comments or opinions to be made by 14th May 2021.

- 5.2 The following replies were made to the licensing team as part of the consultation process. Each person submitting their views on this matter has had their identities removed but has been referred to with a number for audit purposes only. No comment has been amended, corrected or rephrased.

- 5.2.1 Number 1

Reply to Point 6 of the proposed policy change

Fixed penalty notices are issued as an alternative to a prosecution and where paid the case is subsequently closed. Each year over three million FPNs are issued by the police for motoring offences. These should not be included in the conditions. Clearly they have slipped in and now is the time to correct this injustice and remove it. A FPN as an alternative to conviction is a fundamental legal right. It does not appear on the DBS and is not a conviction.

Where is the reasoning behind these proposals? Is the gravity of such so severe that it warrants this change whilst ignoring all the other problems such as unlicensed and uninsured out of town vehicles?

Reply to Point 13 of the proposed policy change

Reference the 1974 Act and 2002 Order and quote from your consultation, 'allows the licensing authority to take into account all convictions recorded against an applicant or an existing licence holder, whether spent or not.' We accept this decision based on the Herefordshire District Council (stated case) v Prosser, however It does not include Fixed Penalty Notices

which by way of being an alternative to prosecution cannot be construed as a criminal record and therefore, neither can they be viewed as a spent conviction.

Note: FPNs are an alternative to a prosecution and are not a conviction subject to the penalty being paid. They are issued for low level singular offences. Offences of which it should be noted are not Specific Intent offences. Paradoxically, offences of theft; criminal damage etc share the requirement of intent.

Reply to Point 19 of the proposed policy change

Noted - maximum of 14 days

Reply to Point 20 of the proposed policy change

Noted

Reply to the proposed policy change on types of offences

Crimes resulting in death (driving)

We feel that this should not be an automatic reason to debar the grant of a licence where the offence is by way of careless or inconsiderate. The option to require a driver improvement course attendance or additional tuition should be available.

Motoring Convictions

We believe that the limit of a single offence (debar possibility) is too severe. Again referring back to specific intent and the ease by which a transgression of a speed limit for example can unintentionally be committed with the arsenal of enforcement measures thrown at the motorist, most drivers plead guilty to avoid court and legal costs. Given the number of invalid speed restrictions by way of non-compliance with the Road Signs and General Directions rules and/or the enormous TRO anomalies then drivers could lose their livelihoods unlawfully. There are plenty of signage and TOR irregularities in Halton (source: M Noone former HBC/Operational Director/Highways, Transport & Logistics to the Env & Urban Renewal PPB Chair meeting)

Plying for Hire

This is currently a persistent problem throughout Halton with out-of-town vehicles. Widnes is flooded with Knowsley and Sefton vehicles whereas Runcorn is overrun with Chester and Cheshire West vehicles.

Proposed Amendment to Licensing Condition

Fixed penalty notices should not be brought within the scope of this because these are not convictions; they are a conditional offer as an alternative to a prosecution for a low-level offence. They are not classed as a criminal conviction and provided you pay an FPN within the time limit one will not get a criminal record for it. The matter is then closed.

To proceed with this proposal is draconian, unnecessary.

5.2.2 Numbers 2, 3 and 4 refer solely to the consultation to the proposed changes to the medical policy which was also conducted at the same time.

5.2.3 Number 5

I would support these changes fully.

5.3 Members of the Regulatory Committee may add any weight to the above comments as they see reasonable.

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;
- minimise 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 the second option to amend any of the potential changes to the policy and/or licensing condition then they 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 to the Licensing Manager.

8. POLICY IMPLICATIONS

8.1 Any changes made would change elements of existing policy relating to applicants applying to hold a hackney carriage and private hire driver's licence (referred to as a Single Status Driver's Licence) 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

There are no associated risks which have been identified with this item.

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
1. Taxi Consultation File	Licensing Section	Kay Cleary Nick Wheeler
2. Current licensing policies		

APPENDIX A



Assessment of Previous Convictions Policy Document

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person **they will not be licensed**.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, **they will not be licensed**. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted **until at least 10 years** have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at **least seven years** have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, **a licence will not be granted**.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at **least seven years** have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at **least 10 years** have elapsed since the completion of any sentence imposed. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until **at least five years** have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until **at least seven years** have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until **at least seven years** have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until **at least five years** have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

APPENDIX B



Proposed Policy on Professional Standards

This document aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed
- Licensing Officers
- Members of the Regulatory Committee / Regulatory Sub-Committee
- Magistrates hearing appeals against Halton Borough Council decisions

Thereby providing transparency and consistency in accordance with the principles of good enforcement and relevant regulatory compliance codes.

Where Licensing Officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Regulatory Committee / Regulatory Sub-Committee. Whilst Officers and the Committee/Panel will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the Committee/Officer may depart from the guidelines.

Background

1. In this policy the word applicant refers to either new applicants, or those existing licence holders who are seeking renewal. It also includes existing licence holders who are being considered by the Council by virtue of activity that questions their ability to continue to be considered a fit and proper person.
2. Licences for drivers of hackney carriages and private hire vehicles may only be granted where the Council is satisfied that the applicant is a 'fit and proper person' to hold such a licence.
3. The policy is intended to give guidance on one aspect of whether a person is or is not a fit and proper person namely the situation where a person has previous convictions, formal/simple cautions, has been the subject of restorative justice and/or other matters.

4. The Council is concerned to ensure:
 - a. That a person is a 'fit and proper' person
 - b. That a person does not pose a threat to the public
 - c. That the public are safeguarded from dishonest persons
 - d. The safeguarding of children, young persons as well as vulnerable adults
5. The public do not normally attend licensing hearings for hackney carriage or private hire applications. The Regulatory Committee / Regulatory Sub-Committee however are required to take account of the public's human rights in reaching their decisions.
6. When submitting an application for a licence to drive a hackney carriage or private hire vehicle, applicants are required to declare all previous allegations and/or convictions they may have. This includes all formal cautions as well as providing details of all criminal matters of which they are currently being investigated or prosecuted for. This also extends to their driving record.
7. The information given will be treated in confidence and will only be taken into account in relation to the relevant application to assist the Council in determining whether the applicant is a 'fit and proper person' to hold a driver's licence for the purposes of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether the Council should exercise any of its powers under section 61 of the Act (i.e. suspension, revocation or refusal to renew a licence).
8. Applicants should be aware that the Council is empowered by law to check with the Disclosure & Barring Service (formerly the Criminal Records Bureau) for the existence and content of any criminal record and other intelligence held in their name. Information received from the DBS will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary and in any event will be destroyed in accordance with current data protection legislation after the application is determined or any appeal against such determination is decided.
9. The disclosure of a criminal record or other information relating to criminal matters will not necessarily debar an applicant from obtaining a driver's licence. Whether or not an applicant will be granted a licence will depend upon whether or not they can satisfy the Council that they are a fit and proper person to hold such a licence.
10. The Council may fail to be satisfied that an applicant is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence. It is the requirement of the applicant to prove that they are a fit and proper person except when reviewing a licence then the burden of proof reverts to the Council.
11. In considering evidence of an applicant's good character and fitness to hold a driver's licence, where previous allegations and/or convictions or other information relating to criminal matters is disclosed, the Council will consider the nature of the offence, when it was committed, the date of conviction, the applicant's age when the offence was committed and any other factors which might be relevant. Where an applicant has been convicted of a criminal offence, the Council cannot review the merits of the conviction [*ref. Nottingham City Council v. Mohammed Farooq (1998)*].

12. The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for drivers' licences.
13. The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or an existing licence holder, whether spent or not. Therefore the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
14. In this policy the word "Conviction" is to be defined as including convictions, cautions, fixed penalties, warnings, reprimands and other relevant information. Where a complaint is considered by the Council and is upheld this will also be treated as a conviction for the purpose of this guidance.
15. These guidelines do not deal with every type of allegation / offence, but do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an individual's application. If an applicant has a conviction for an offence not covered by the guidelines, regard will be taken to the factors at paragraph 11 when deciding what action (if any) should be taken.
16. Offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines.
17. A complaint relating to the conduct of a licensed driver will be investigated and where evidence is found that their behaviour falls below the standard that is expected, appropriate action will be taken by the relevant licensing officer or where applicable/necessary the matter will be referred to the Regulatory Committee / Regulatory Sub-Committee.
18. In some circumstances, matters originating from a complaint or enforcement action may result in prosecution proceedings as well as being referred to the Regulatory Committee / Regulatory Sub-Committee for a decision.
19. This policy is not an attempt to define what a 'fit and proper person' is.
20. When determining an application or reviewing an existing licence the Council have the following options:
 - Approve the application
 - Refuse the application
 - Revoke the licence
 - Suspend the licence
 - Issue a warning
 - For existing drivers where their driving record continues to fall below any reasonable standard expected of a professional driver they will be required to successfully undertake the current approved taxi driving test, at their own expense
 - Take any further action as deemed reasonable
 - Take no further action

21. The purpose of suspending a licence will only be considered by Members of the Regulatory Committee / Regulatory Sub-Committee as a means of positive action for a transgression which is deemed to have fallen below the threshold for revoking the individual's licence.
22. By implementing a period of suspension the licence-holder will likely suffer a financial loss until their licence is re-instated. The relevance of an individual's financial circumstances cannot be considered when making a decision to suspend or revoke a licence. With this in mind, any suspension period considered by Halton Borough Council will be limited to a maximum of 14 days. Where Members of the Regulatory Committee / Regulatory Sub-Committee consider any period longer than 14 days, then it is likely the individual cannot be deemed a fit and proper person and revocation of the licence will be the relevant outcome.
23. Any applicant or existing licence-holder who is not satisfied with the Council's decision to grant, refuse, revoke or suspend a licence has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.
24. Any person applying for a new licence who has previously had a licence revoked by Halton Borough Council (or any other Authority responsible for the licensing of drivers under the Local Government (Miscellaneous Provisions) Act and the Town Police Clauses Act 1847) will have their application referred to the Regulatory Committee / Regulatory Sub-Committee. The decision to revoke a licence is not taken lightly therefore any applicant wishing to regain a licence must provide evidence that their circumstances have changed and that they can now be considered a "fit & proper person".

Guidance on Types of Offences

Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. Passenger safety must be treated as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or license-holder has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed. This also applies to motoring offences.

Terrorism

Terrorism means the use or threat of action where designed to influence the Government or an international governmental organisation or to intimidate the public or a section of the public, for the purpose of advancing a political, religious or ideological cause.

'Action' includes serious violence against a person, serious damage to property, endangering a person's life, other than that of the person committing the action, creating a serious risk to the health or safety of the public or a section of the public, or an act designed to seriously interfere with or seriously to disrupt an electronic system, or the use of firearms or explosives.

This also includes any offence, act or omission linked to a terrorism offence. Applications with any offence(s)/conviction(s) or cautions relating to terrorism should be refused and any existing licence should be revoked.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. This also extends to any conviction for offences of (or relating to) the harassment and/or stalking of an individual.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. This also applies to motoring offences.

Any dishonesty by an applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs. This also applies to motoring offences.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

MAJOR TRAFFIC OFFENCES

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

A conviction for failing to provide a test for either alcohol or drug related driving will be treated as if the individual had been convicted of the offence of driving under the influence.

For the purposes of these guidelines the following motoring offences are classed as 'Major Traffic Offences and therefore a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
DD40	Dangerous driving
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving / attempting to drive
DR61	Failure to provide specimen for drug analysis in circumstances other than driving / attempting to drive
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway

MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

INTERMEDIATE TRAFFIC OFFENCES

Any Intermediate Traffic Offence, which has attracted 4 or more penalty points will be treated as though it were a Major Traffic Offence. This is because the Court issuing the points, deemed the actual offence to be more severe than just merely reaching the legal threshold for the minimum amount of penalty points.

Where an applicant has a single Intermediate Traffic Offence within the 12 months immediately preceding the date of application, they will normally be expected to show a period of at least 6 months free from conviction before an application is considered.

For existing licence-holders where they hold no other driving convictions within a 2 year period prior to receiving an intermediate traffic offence **and** do not have a history of frequent motoring convictions then a written warning may be issued.

Two or more Convictions

Where an applicant has 2 or more Intermediate Traffic Offences in the 12 months immediately preceding the date of application, the applicant will normally be expected to show a period of at least 12 months free from conviction before an application is considered.

If any conviction for an Intermediate Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled "disqualification".

For the purposes of these guidelines the following motoring offences are classed as 'Intermediate Traffic Offences':

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users

CD30	Driving without due care and attention or without reasonable consideration of other road users
MS70	Driving with uncorrected defective eyesight

MINOR TRAFFIC OFFENCES

Any Minor Traffic Offence which has attracted 4 or more penalty points will be treated as though it were an Intermediate Traffic Offence. This is because the Court issuing the points, deemed the actual offence to be more severe than just merely reaching the legal threshold for the minimum amount of penalty points.

Where an applicant has a single Minor Traffic Offence in the 12 months immediately preceding the date of application, the application will normally be granted with a letter of warning being placed on the file.

For existing licence-holders where they hold no other driving convictions within a 2 year period prior to receiving a minor traffic offence **and** do not have a history of frequent motoring convictions then a written warning may be issued.

Two or more Convictions

Where an applicant has two or more Minor Traffic Offences in the 12 months immediately preceding the date of application an applicant will normally be expected to show a period of at least six months free from conviction before an application is considered.

For the purposes of these guidelines the following motoring offences are classed as ‘Minor Traffic Offences’:

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a “Stop” sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding “Stop” sign, traffic lights or double white lines)

TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence

Information Regarding Offence Codes

Motoring conviction codes can change slightly if any of the offences were committed as follows:

- *Aiding, Abetting, Counselling or Procuring*
Offences as coded above but with 0 changed to 2 (e.g. IN10 becomes IN12).
- *Causing or Permitting*
Offences as coded above but with 0 changed to 4 (e.g. IN10 becomes IN14).
- *Inciting*
Offences as coded above but with 0 changed to 6 (e.g. IN10 becomes IN16).

DISQUALIFICATION

Totting Up

TT99 offence code - Totting up. If the total of penalty points reaches 12 or more within 3 years the driver is liable to disqualification by the Court.

Totting up with Disqualification

An application will generally be refused unless the applicant can show a period of 5 years free from conviction has elapsed from the restoration of the DVLA licence.

Any licence-holder who gets disqualified under the totting up procedure will have their licence revoked as a primary requirement of holding a hackney/private hire driver's licence is to hold a DVLA issued licence.

Totting up without Disqualification

An applicant who has accrued sufficient points for disqualification, under totting up, to be considered by the Court, may argue exceptional hardship and not receive a disqualification from them. Under these circumstances the Court does not consider if a driver is a "fit and proper person" as per the Local Government (Miscellaneous Provisions) Act 1976 but merely considers the drivers ability to hold a driving licence as issued by the DVLA.

In these circumstances the Council will treat the application as if a disqualification had been applied. This is because exceptional hardship cannot be taken into consideration by Local Authorities when considering hackney/private hire driver licence applications. The applicant has demonstrated that the standard of their driving is not of that what is expected by the general public to be deemed a professional driver.

Any licence-holder who holds 12 penalty points or more on their DVLA licence will be referred to the Regulatory Committee/Sub-Committee due to the fact that they still hold a DVLA licence.

PLYING FOR HIRE

In the case of a licensed driver being found guilty by a court or by a Regulatory Committee/Sub-Committee (by way of a complaint) of an offence of plying for hire, a decision will normally be taken to revoke the licence.

BREACH OF LICENSING CONDITIONS / BY-LAWS

Any serious or repeated breach of licensing conditions and/or by-laws by a licensed driver will be referred to the Regulatory Committee / Regulatory Sub-Committee.

RE-APPLICATION

Applicants are advised that Council guidelines are that where an applicant has had an application refused or a licence revoked, the Regulatory Committee / Regulatory Sub-Committee would normally refuse any subsequent application made within 12 months of the date of the previous refusal or revocation unless there are substantial material changes in the applicant's circumstances.

Any person who has previously had a licence refused or revoked within the past 5 years must have any new application heard by the Regulatory Committee / Regulatory Sub-Committee in order to provide evidence that they are now a "fit and proper person" to hold such a licence.

OTHER OFFENCES

Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and Section 167 Criminal Justice and Public Order Act 1994.

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") and Hackney Carriage Byelaws, is to ensure the protection of the public.

For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence. In particular, an applicant will normally be refused a licence if he/she has been convicted of an offence under the Acts at any time during the 2 years preceding the application or has more than one conviction within the last 5 years preceding the date of the application.

Proposed change to hackney carriage and private hire drivers (Single Status Drivers) licence conditions

Proposal	Purpose for changing	Arguments in favour of change	Arguments against change	Proportionality	Grandfather rights issues	Proposed Wording of condition
<p>To amend the current driver condition of reporting certain offences/issues to the licensing section.</p> <p>(para 4.6 of the report relates)</p>	<p>The Department for Transport (DFT) has provided guidance to require licence-holders to self-report specific matters. More clarity on who to report and how to report it have also been proposed.</p>	<p>There is a duty placed on each licensing authority to adopt the DFT's guidance unless there is good cause not to.</p>	<p>A single submission that any matter including motoring offences where a fixed penalty offer has been issued and accepted should not be reported to the licensing section.</p>	<p>There is no question of proportionality for this amendment. This proposal is to ensure a fairer judgement can be made in a timelier manner in line with the current policy.</p>	<p>Not applicable</p>	<p>Duty to report specific matters to the Licensing Manager</p> <p>Replace SSD condition 6 with the following -</p> <p><i>"The holder shall where possible, immediately disclose to the Council's Taxi Licensing Manager in writing (to include email) details of any of the following circumstances. Where it is not possible to do so immediately, notification any of the following MUST be received within 48 hours:</i></p> <ul style="list-style-type: none"> - Arrest and release (or charged) for any matter - Convictions by any Court - Road Traffic Offences whether the DVLA licence is endorsed or not - Cautions (of any kind including simple and conditional)

Proposal	Mischief being addressed	Arguments in favour of change	Arguments against change	Proportionality	Grandfather rights issues	Proposed Wording of condition
						<p>Important: Failure by a licence holder to disclose any of the above within 48 hours might be seen as behaviour that questions their honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.”</p>