

SOUTH LAKELAND DISTRICT COUNCIL

South Lakeland House, Kendal, Cumbria LA9 4UQ

www.southlakeland.gov.uk



**You are requested to attend a meeting of
the Licensing Regulatory Committee
on Monday, 4 July 2022, at 2.15 p.m.
in the Assembly Room, Kendal Town Hall, Kendal**

Committee Membership

Councillors

Rupert Audland

Brian Cooper

Pete Endsor

Alvin Finch

Tom Harvey

Hazel Hodgson

Kevin Holmes

Helen Irving

Andrew Jarvis

Helen Ladhams (Chairman)

Ian Mitchell

Doug Rathbone

Heather Troughton

David Webster

Ian Wharton (Vice-Chairman)

Note – Where relevant, agendas for Members are labelled “Private Document Pack” and contain exempt information within the papers. Any relevant pages are marked as restricted within Agendas labelled “Public Document Pack”.

Friday, 24 June 2022

Linda Fisher, Legal, Governance and Democracy Lead Specialist (Monitoring Officer)

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AGENDA

Page Nos.

PART I

1 APOLOGIES

To receive apologies for absence, if any.

2 DECLARATIONS OF INTEREST

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting.)

Members may, however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

If a Member requires advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote, he/she is advised to contact the Monitoring Officer at least 24 hours in advance of the meeting.

3 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

To consider whether the items, if any, in Part II of the Agenda should be considered in the presence of the press and public.

4 PUBLIC PARTICIPATION

Any member of the public who wishes to ask a question, make representations or present a deputation or petition at this meeting should apply to do so by no later than 0:01am (one minute past midnight) two working days before the meeting. Information on how to make the application can be obtained by viewing the Council's Website www.southlakeland.gov.uk or by contacting the Committee Services Team on 01539 733333.

(1) Questions and Representations

To receive any questions or representations which have been received from members of the public.

(2) Deputations and Petitions

To receive any deputations or petitions which have been received from members of the public.

5 REVIEW OF SOUTH LAKELAND DISTRICT COUNCIL HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

5 - 148

To consider the revised Hackney Carriage and Private Hire Licensing Policy 2022 following public consultation.

6 THE GAMBLING ACT 2005 - REVIEW STATEMENT OF GAMBLING LICENSING POLICY

149 - 238

To consider the revised Statement of Gambling Licensing Policy following a formal consultation period.

PART II

Private Section (exempt reasons under Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, specified by way of paragraph number)

There are no items in this part of the agenda.

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South Lakeland District Council Licensing Regulatory Committee

Monday, 4 July 2022

Review of South Lakeland District Council Hackney Carriage and Private Hire Licensing Policy

Portfolio: Economy, Culture and Leisure Portfolio Holder
Report from: Director of Customer and Commercial Services
Report Author: Sean Hall – Principal Specialist (Health & Environment)
Wards: (All Wards);
Forward Plan: Not applicable

Links to Council Plan Priorities:

Working across boundaries – this is ensuring national standards are adopted by all local authorities to promote minimum safety standards for our communities.

Delivering a fairer South Lakeland – this policy seeks to ensure a consistent standard of Hackney carriage and private hire vehicle and driver.

1.0 Expected Outcome and Measures of Success

1.1 That the Committee approves the revised Hackney Carriage and Private Hire Licensing Policy 2022 following public consultation. The Policy has been reviewed in line with Statutory and Best practice guidance for taxi and licensing authorities, with the suggested amendments listed from 4.1.1 to 4.1.19 inclusive. If Members approve the draft Policy, it will proceed to Overview & Scrutiny Committee prior to adoption.

2.0 Recommendation

2.1 It is recommended that The Licensing Regulatory Committee:-

- (1) Note the contents of this report; and**
- (2) Approve the draft Hackney Carriage & Private Hire Licensing Policy (Appendix 1) and agree that this is adopted following the meeting of the Overview and Scrutiny Committee meeting unless any matters are referred back to the Committee.**

3.0 Background and Proposals

3.1 The current Hackney Carriage and Private Hire Licensing Policy (the HCPH Policy) was approved by the Committee in December 2018, however, since this date there have been a number of changes to take into consideration.

3.2 Local Government Reorganisation within Cumbria is proposing a structural change to the existing arrangements of Local Government organisation. The outcome, determined by the Secretary of State, is that two unitary authorities are created, one

in the East and one in the West. The new East authority will be formed by the existing authorities of South Lakeland District Council, Barrow Borough Council, Eden District Council and Cumbria County Council (Westmorland and Furness Council). This change is likely to result in a combined approach to the licensing strategy across the revised area.

- 3.3 In July 2020, national standards for taxi and private hire vehicles were published by Department for Transport. The standards recognise that although licensing is a devolved matter dealt with by local authorities the Department expects these recommendations to be implemented unless there is a compelling local reason not to. Members can access the Statutory Taxi and Private Hire Vehicle standards at www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards.
- 3.4 From April 2022 local authorities (as licensing authorities) will be required to undertake new tax checks on licence renewal applications which will capture 'taxi licences'. Guidance has been published for local authorities on how to undertake these checks, and licence holders / applicants have been advised what information they must provide when seeking either a new license or renewal of an existing one. Members can access further information on the new tax checks at <https://www.southlakeland.gov.uk/business-and-trade/licensing-and-permits/tax-conditions-for-taxi-drivers-private-hire-operators-and-scrap-metal-dealers/>
- 3.4 The revised version of the HCPH Policy was taken before the Licensing Regulatory Committee on 7th February 2022 and approval was given for it to proceed to public consultation. Should members approve the revised policy, it will proceed to Overview & Scrutiny Committee prior to formal adoption

4.0 Proposals

- 4.1 The following amendments were agreed at the Licensing Regulatory Committee on 7th February 2022. Each amendment is referenced to the relevant paragraph of the draft policy included in brackets and are also highlighted in red within the draft policy at Appendix 1.
- 4.1.1 Inclusion of statement on Local Government Reorganisation (1).
- 4.1.2 Inclusion of the NR3 sharing register and barred lists with local authorities (4.10).
- 4.1.3 Inclusion of the common law police disclosure replacing the notifiable occupations scheme (4.12).
- 4.1.4 Vehicle Proprietor application to include an annual basic DBS disclosure if not in possession of a current Hackney Carriage or Private Hire Vehicle drivers licence with the authority (4.14).
- 4.1.5 Private Hire Operators licence application to include an annual basic DBS disclosure if not in possession of a current Hackney Carriage or Private Hire Vehicle driver's licence (7.4). Introduction of the same basic DBS disclosure for all staff working for the operator involved in taking bookings and dispatching vehicles, along with a mandatory maintained register (13 – Appendix Q).
- 4.1.6 Fare review for Hackney Carriage Vehicles tariff will be completed within the next 12 months (5.3)
- 4.1.7 Arrangements for the completion of medical examination report. The form must be completed by a GP with access to the applicant's full medical records/history (4.13).
- 4.1.8 The current policy provides for the testing awareness as regards disability and child sex exploitation. It is recommended such training be made mandatory for all drivers with agreed refresher training being introduced annually. An increased number of licensing authorities are mandating training with additional refresher training (11.2)

- 4.1.9 The Disclosure and Barring service provides an 'update service' at a cost of £13 per annum to applicants (in this case hackney carriage and private hire drivers). This enables the local authority as the licensing authority to receive up to date DBS information as soon as possible. The LGA and the Department for Transport suggest that licensing authorities consider making it mandatory for Hackney Carriage and Private Hire Vehicle drivers to sign-up to this service and nominate the licensing authority to be able to check their DBS status at any time. We are also aware that a number of licensing authorities require Hackney Carriage and Private Hire Vehicle drivers to mandatory sign-up to the DBS update service (4.11).
- 4.1.10 Incentives to purchase EV/HV and a commitment from the local authority to seek out government incentives and promote to the trade accordingly (3.2).
- 4.1.11 Assessment of Previous Convictions, specific identification of convictions when determining whether an individual is "fit and proper" with the recommendation of a minimum of 7 years successful rehabilitation (4.1).
- 4.1.12 Implementation of changes regarding assessment of previous convictions, with regard to the Statutory Taxi & Private Hire Vehicle Standards (Appendix H) (2.2) (2.5), (3.1.1) (5.2) (5.4) (5.5), (6.2) (6.4) (6.5).

Additional proposals following public consultation

- 4.1.13 Each amendment is referenced to the relevant paragraph of the draft policy included in brackets and are also highlighted in red within the draft policy at Appendix 1.
- 4.1.14 The Finance Act 2021 requires Licensing Authorities to check that applicants are registered to pay tax as part of their licensing renewal application process. A tax check code is now required to be submitted for renewals in relation to Hackney Carriage Driver, Private Hire Driver, and Private Hire Operator. Failure to submit a tax check code (4.15, appendix E).
- 4.1.15 Any vehicle that has been classified as a category 'A', 'B' or 'S' on the V5 will not be licensed for Hackney Carriage or Private Hire use. An application for a vehicle which has been classified as category 'N' should be accompanied with evidence that it has been repaired professionally. (Appendix A 1.6).
- 4.1.16 Drivers DVLA issued driving license must be valid for the duration of the Hackney Carriage/Private Hire license which they have applied for. The Licensing Authority may suspend the licence of any driver found to have an invalid DVLA issued driving license. (Appendix E, 2.0).
- 4.1.17 Minimum Euro 6 standards for new Hackney Carriage and Private Hire Vehicles (3.2).
- 4.1.18 The Licensing Authority will check all details of the applicants driving license information using the government digital enquiry service. (4.8)
- 4.1.19 Medical examination forms must not be more than 4 months old when submitted as part of the application process. (4.13)

5.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Revised Hackney Carriage and Private Hire Licensing Policy
2	Statutory Taxi & Private Hire Vehicle Standards – Assessment of previous convictions

6.0 Consultation

- 6.1 Following approval by The Licensing Regulatory Committee on 7th February 2022, the revised HCPH Policy commenced a public consultation on 10th April, 2022, which concluded on 11th May, 2022. In addition to this, all drivers currently licensed by SLDC were informed in writing of the revised policy and invited to comment. No public representations were received during the consultation period.
- 6.2 Both the tax check provision of The Finance Act 2021, and The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2021, have been enacted since the revised policy was last presented to The Licensing Regulatory Committee which have resulted in several further proposed amendments (detailed in 4.1.13 – 4.1.15).
- 6.3 A consultation response was received by SLDC Climate Change and Biodiversity Specialist which has resulted in the inclusion of minimum Euro 6 standards for new vehicles (4.1.17)
- 6.4 Recent changes to how driving license checks are undertaken using the governments digital enquiry service has resulted in revised wording in s4.8 of the policy (4.1.18).
- 6.5 Previous requirements for medical reports to be submitted to the Licensing Authority within 28 days of the date of the report, have been extended to 4 months which is the time frame for which the reports are medically valid.

7.0 Alternative Options

- 7.1 The alternative is not to adopt the revised policy. This is not recommended as it will leave the Council with an out-of-date policy which does not reflect current licensing practices or changes in legislation nor does it safeguard the public. The policy gives clarity, transparency and guidance to the Licensing Authority's position in enforcing matters relating to Hackney Carriage and Private Hire licensing

8.0 Implications

Financial, Resources and Procurement

- 8.1 There are no financial implications as the changes in practice are met from existing budget.

Human Resources

- 8.2 There are no Human resource implications; however, any changes in practice will be supported through training and delivering any development needs identified through Licensing Officer's appraisal and one to one process

Legal

- 8.3 Sections 45 and 46 of the Local Government (Miscellaneous Provisions) Act 1976, as amended, places a duty on South Lakeland District Council to carry out its licensing function as to Hackney Carriage and Private Hire Vehicles.
- 8.3.1 Section 51(1) covers Private Hire drivers and section 59(1) covers Hackney Carriage drivers, adding the basic requirement to hold a licence contained in section 46 of the Town Police Clause Act 1874.

8.3.2 While there is no legal requirement for the Licensing Authority to introduce and implement a Hackney Carriage and Private Hire Licensing policy section 47 and section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976, state that a Licensing Authority may attach conditions to Hackney Carriage Vehicles and Private Hire Vehicles. These conditions are contained within the Policy.

8.3.3 Within the statutory taxi and private hire vehicle standards, the Department for Transport recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.

Health and Sustainability Impact Assessment

9.4 Have you completed a Health and Sustainability Impact Assessment? No

9.5 If you have not completed an Impact Assessment, please explain your reasons: This revised policy is considered to have a neutral impact.

9.6 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		x		
	Air Quality	x			
	Biodiversity		x		
	Impacts of Climate Change	x			
	Reduced or zero requirement for energy, building space, materials or travel		x		
	Active Travel		x		
Economy and Culture	Inclusive and sustainable development		x		
	Jobs and levels of pay		x		
	Healthier high streets		x		
	Culture, creativity and heritage		x		
Housing and Communities	Standard of housing		x		
	Access to housing		x		
	Crime		x		
	Social connectedness		x		

Equality and Diversity

9.7 Have you completed an Equality Impact Analysis? No

9.8 If you have not completed an Impact Analysis, please explain your reasons: This policy is considered to have a neutral impact on equality and diversity.

9.9 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"					
Age	P		0	x	N
Disability	P		0	x	N
Gender reassignment (transgender)	P		0	x	N
Marriage & civil partnership	P		0	x	N
Pregnancy & maternity	P		0	x	N
Race/ethnicity	P		0	x	N
Religion or belief	P		0	x	N
Sex/gender	P		0	x	N
Sexual orientation	P		0	x	N
Armed forces families	P		0	x	N
Rurality	P		0	x	N
Socio-economic disadvantage	P		0	x	N

Risk Management	Consequence	Controls required
Failure to publish and implement a Hackney Carriage and Private Hire Licensing Policy may lead to the taxi objectives not being met in a transparent way.	In such circumstances, the Council would be unable to properly fulfil its statutory licensing responsibilities	Ensure that the Policy is regularly updated and approved by Members.

Contact Officers

Sean Hall - Principal Specialist (Health & Environment) – s.hall@southlakeland.gov.uk

Background Documents Available

Name of Background document	Where it is available
Current HCPH Policy 2018	Taxi Licensing Policy (southlakeland.gov.uk)
Statutory Taxi & PH Vehicle Standards for Licensing Authorities	Statutory & Best Practice Guidance for taxi and PHV licensing authorities (publishing.service.gov.uk)

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	24/5/22	25/5/22
Monitoring Officer	24/5/22	25/5/22

Circulated to	Date sent
Lead Specialist	24/5/22
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A

Circulated to	Date sent
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A

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Hackney carriage and Private Hire Licensing Policy 2022

Version 7 effective from ***** 2022

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1. Introduction

Local Government Reorganisation within Cumbria is proposing a structural change to the existing arrangements of Local Government organisation. The outcome determined by the Secretary of State, is that 2 unitary authorities are created, one in the east and one in the west. This will be enacted by an act of Parliament in March 2022 via a Structural Change Order.

The new East authority will be formed by the existing authorities of South Lakeland District Council, Barrow Borough Council, Eden District Council and Cumbria County Council. This change is likely to result in a combined approach to the licensing strategy across the revised area.

- 1.0 This statement of licensing policy is written pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on South Lakeland District Council (the “Licensing Authority”) the duty to carry out its licensing function as to hackney carriage and private hire vehicles.
- 1.1 In setting out this policy, the licensing authority shall promote the following objectives:
 - (i) The protection of public health and safety;
 - (ii) A professional and respected hackney carriage and private hire trade;
 - (iii) Access to an efficient and effective public transport service;
 - (iv) The protection of the environment
- 1.2 In promoting the above objectives the licensing authority will embrace the principles of:
 - a) Fairness and reasonableness to the users of taxis and the trade
 - b) Promotion of free trade
 - c) Open consultative decision making
 - d) Adoption of [Statutory Taxi and PH Vehicle Standards \(July 2020\)](#)
- 1.3 In exercising its discretion in carrying out its regulatory functions, the licensing authority shall have regard to this policy document and objectives set out above.
- 1.4 Despite the existence of this policy, each application or enforcement measure shall be considered on its own merits. Where it is necessary for the licensing authority to depart substantially from its policy, clear and compelling reasons shall be given for doing so.
- 1.5 When carrying out its regulatory function the licensing authority will do so in



accordance with the Corporate Enforcement Policy and will do so in a transparent, accountable, proportionate and consistent way and will target regulatory activities only at cases in which action is needed.

- 1.6 The aim of the licensing process in this context is to work with the hackney carriage and private hire trade in order to promote the above objectives. It is the licensing authority's wish to facilitate well-run and responsible businesses.
- 1.7 Upon implementation of this policy, the licensing authority expects licence holders to comply with its terms immediately, except in regard to certain provisions for which a timescale for compliance has been stated within the relevant section of this policy.
- 1.8 In drawing up this policy, the licensing authority has consulted with the following:
 - Representatives of the hackney carriage and private hire trade
 - Cumbria Constabulary
 - Cumbria County Council (Schools Contract)
 - Cumbria County Council (Highways Authority)
 - Vehicle and Operator Services Agency
 - Disabled Persons Transport Advisory Committee
 - Local businesses and their representatives
 - Town centre management
 - Regional Transport and General Workers Union Representatives
 - South Lakeland District Council Equality and Diversity Officer
 - Town and Parish Councils
- 1.9 Proper weight has been given to the views of all those consulted prior to this policy statement taking effect.

2. Arrangement of sections

- 2.1 In order to provide clarity for potential applicants for hackney carriage licences or for existing licence holders, this policy document sets out the licensing authority's expectations, intentions and guiding principles under the following headings:
 - Vehicles (Section 3)
 - Drivers (Section 4)
 - Fares (Section 5)



- Taxi stands (Section 6)
- 2.2 In relation to private hire licensing, this document sets out the licensing authority's expectations, intentions and guiding principles under the following headings:
- Operators (Section 7)
 - Stretched Limousines and Novelty Vehicles (Section 10)
 - Tuk tuk vehicles (Section 11)
 - Executive Hire, Chauffeur Services, Airport Travel (Section 12)
 - Exempted Vehicles (Section 13)
- 2.3 The following sections are in relation to both hackney carriage and private hire licensing:
- Offences (Section 14)
 - Fees (Section 15)
- 2.4 Provisions relating to non-motorised hackney carriage vehicles (e.g. horse drawn vehicles, rickshaws and trishaws) are set out separately in this document in section 16.

3. Hackney carriage licensing: Vehicles

3.1 Licence application

A hackney carriage or private hire vehicle licence shall only be granted to a new vehicle, if it complies with the age limits contained in section 3.5 of this policy.

Anyone making an application for the grant or renewal of a Hackney Carriage Vehicle Licence shall only do so using the council's specified application form.

Every application form shall be accompanied by the following documents:

- (a) Vehicle registration document (V5C) or lease document
- (b) Certificate of insurance or cover note showing cover for public or private hire purposes (as appropriate)
- (c) Current MOT certificate issued no earlier than 28 days before the date of application
- (d) Vehicle inspection report, issued no earlier than 28 days before the date of application
- (e) Current licence fee



The council has to be satisfied that all appropriate requirements have been met before it grants a licence. Consequently, the council shall not accept an application without the documents listed at (a) to (e) above. However, the council may waive the requirements in exceptional circumstances where individuals have been unable to apply on time.

'Exceptional circumstances' includes unforeseen circumstances, for example where the applicant has been unable to apply due to a significant accident or emergency situation.

'Exceptional circumstances' does not include reasonably foreseeable events, such as financial hardship.

On successful application for a licence, the proprietor(s) will be issued with a vehicle licence and licence plate.

The licence and plate shall be issued for a period of one year, subject to successful periodical retesting (see section 3.8).

The licence plate must be displayed in accordance with Appendix A, paragraph 19.

3.2 Environmental considerations

The council supports and will encourage the use of low-carbon alternative vehicles, particularly the use of Electric vehicles for Hackney Carriage and Private Hire purposes. We will work actively to support the decarbonisation of the South Lakeland taxi fleet through promoting public incentives and taking part in projects and initiatives to provide infrastructure and support the low-carbon transition.

All new vehicles engines must be a minimum of Euro 6 standard. This is being implemented to ensure that new vehicles on the SLDC fleet are not emitting dangerous levels of emissions and pollution.

These are the following diesel and petrol standards:

- Euro 6 Diesel Emissions Standards (grams per kilometre): 0.50 CO, 0.080 NOx, 0.005 PM
- Euro 6 Petrol Emissions Standards (grams per kilometre): 1.0 CO, 0.060 NOx, 0.005 PM

Appendix A paragraph 17 makes it clear that LPG conversions to vehicles are perfectly acceptable.

Clearly emissions from taxis and private hire vehicles could be reduced further by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at taxi ranks. This is something which is highlighted in the Code of Good Conduct, and in particular in relation to the responsibilities to residents in Appendix C, paragraph 3.0.

Drivers are reminded that it is an offence to leave the engine running on any motor vehicle that is stationary on a road, other than if it is due to an enforced stoppage of traffic.



3.3 Conditions

The licensing authority is empowered to impose such conditions, as it considers reasonably necessary in relation to the grant or renewal of a hackney carriage vehicle licence. The following represent the minimum standards, which are expected. They should be read in conjunction with conditions for both hackney carriage and private hire vehicles set out in Appendix A and those specific to hackney carriage set out in Appendix K and Appendix X.

3.4 Limitation of number

The licensing authority has no policy to limit the number of hackney carriages, which may be licensed within South Lakeland District Council area. This does not however imply lack of regulation regarding licenced vehicles and drivers as the licensing authorities quality controls are consistently and rigorously applied to both vehicles and drivers.

3.5 Maximum age of vehicle

- 1) All vehicles, other than wheelchair accessible vehicles, must be less than 5 years old when first licensed as a Hackney Carriage or Private Hire vehicle;
- 2) No Hackney Carriage or Private Hire vehicle, other than wheelchair accessible vehicles, will be re-licensed after reaching 10 years old;
- 3) All vehicles that are wheelchair accessible vehicles must be less than 7 years old when first licensed as a Hackney Carriage or Private Hire vehicle;
- 4) No wheelchair accessible Hackney Carriage or Private Hire vehicle will be re-licensed after reaching 14 years old;
- 5) Any vehicle may be licensed or relicensed outside of these age limits, but any such an application must be referred to a Licensing Regulatory Sub-Committee for consideration.

3.6 Vehicle size

Vehicles can be licensed to carry up to eight passengers.

3.7 Advertising

Detailed provisions on advertising on vehicles are contained in Appendix K.

3.8 Vehicle testing

All Hackney Carriages and Private Hire vehicles regardless of type shall be tested:



- (a) Annually for vehicles up to 3 years old
- (b) Every six months for vehicles over 3 years and under 8 years old
- (c) Every four months for vehicles over 8 years old

The age of the vehicle shall be calculated from the date of first registration that is recorded on the vehicle registration document V5C.

The test shall be conducted not more than 28 days before the date upon which;

- a) the first licence application is submitted,
- or;
- b) the next vehicle test falls due

The test shall be conducted at a garage that is approved by the council.

The test shall be conducted in two parts;

- a) MOT test that is appropriate for that type of vehicle, and;
- b) Hackney Carriage/Private Hire Vehicle Inspection.

And a test certificate showing pass or fail shall be issued by the garage for each test.

It is the responsibility of the vehicle proprietor to produce both test certificates, showing they have passed the relevant test to the council:

- (a) when the licence application is submitted
- or;
- (b) before the date upon which the periodical test falls due

Failure to produce the certificates to the council shall result in the immediate suspension of the vehicle licence. Reinstatement of the licence shall only take place when the certificates have been delivered to the council and the council is satisfied that the vehicle meets the criteria to be licensed.

3.9 Livery

There is a requirement to display the council logo on vehicles. See Appendix A section 19.

4. Hackney carriage and private hire licensing: Drivers

4.1 General

The licensing authority shall not grant a licence to drive a hackney carriage or private hire vehicle unless it is satisfied that the applicant is a fit and proper person.



An assessment of Previous Convictions, prior to application, will be carried out with regard to the Statutory & Best Practice Guidance for taxi and phv licensing authorities, 2020, detailing specific convictions with a recommendation of at least 7 years having elapsed before giving consideration to the grant of a licence.

4.2 Conditions

The licensing authority is not permitted to attach conditions to a hackney carriage drivers' licence. However, those drivers who are licensed to drive private hire vehicles shall be subject to all those conditions relevant to private hire drivers (Appendix O). All drivers are expected to comply with the Code of Good Conduct, as set out within Appendix C.

4.3 Code of conduct

Hackney carriage drivers are expected to comply with the code of conduct in Appendix C and dress code in Appendix D.

4.4 Age, experience and qualification

Every applicant for the grant of a hackney carriage or private hire driving licence shall:

- 1) Be at least 18 years of age
- 2) Show that they are entitled to work in the UK (see 4.5 and 4.6)
- 3) Have held for at least one year and not be disqualified from holding either;
 - (a) A valid UK driving licence (unrestricted) for group B (including B auto) or;
 - (b) An EU driving licence (unrestricted) for motorcars with a Maximum Authorised Mass (MAM) up to 3,500kg with up to 8 passengers seats. The EU driving licence must be registered with DVLA by completing form D9 – Application to Register a Non GB Driving Licence
- 4) Have no more than six penalty points on their driving licence
- 5) Submit a mandate permitting the Licensing authority to make 'online' enquiries with DVLA for information on the driving record of the applicant.
- 6) Completed and passed a council approved driving assessment or equivalent such as PVS, ADI, or any other driving test specifically designed for hackney carriage or private hire driver. The applicant must provide a copy of the certificate.
- 7) Have passed the local knowledge test set by the licensing authority



- 8) Have a satisfactory DVLA Group 2 medical report
- 9) Have a satisfactory Disclosure and Barring Service certificate of criminal convictions and cautions
- 10) Have completed a self-declaration of convictions and cautions
- 11) Have completed disability and child sex exploitation mandatory training.

4.5 Authorisations to work in the UK

All applicants shall demonstrate that they are authorised to work in the UK before an application for the grant of a drivers' licence will be considered. The licensing authority will operate its application procedures in line with guidance issued by the UK Border Agency.

The council will work in partnership with the UK Border Agency to ensure all drivers are eligible to work in the UK.

Further information on your eligibility to work in the UK can be obtained from www.ukba.homeoffice.gov.uk or www.workpermit.com.

Identification documents may be scanned and forwarded to the Home Office for verification.

4.6 Non UK applicants

All non UK applicants for hackney carriage and private hire licensing are required as part of the licensing process to provide the authority with a "Certificate of Good Conduct" or equivalent document from the appropriate Embassy or High Commission of the country/countries in which they have lived. The certificate must be written in English.

EU applicants must register their EU driving licence with the DVLA by completing form D9 – Application to Register a Non GB Driving Licence.

EU applicants must provide at least one document that is listed in List A or List C of Appendix Y as proof that they are entitled to work in the UK. A licence issued under the authority of documents provided from List C will be limited in duration and will expire on the date that the List C documents expire.

All other non UK applicants must provide at least one document that is listed in List B of Appendix Y as proof that they are entitled to work in the UK. They must also hold a UK licence (unrestricted) for at least one year before submitting their application.

4.7 Application procedure

An application for a hackney carriage or private hire drivers' licence shall be made on the council's specified application form. The application procedure is set out in Appendix E.



4.8 DVLA driver licence check

As part of the Licensing Authority's fit and proper person test, the driving license information of all applicants will be checked using the government digital enquiry service (www.gov.uk/view-driving-licence). Details of the applicants DVLA record and National Insurance number will be shared with other government departments (HMRC and DWP) to check identity, as described in the DVLA Privacy Policy - www.viewdrivingrecord.service.gov.uk/privacypolicy

Applications for the grant of a licence will not be approved until all driving licence entitlement and endorsement data is received by the licensing authority and in accordance with this policy.

A hackney carriage or private hire driving licence may be renewed before the DVLA check can be carried out. However, if the DVLA driver licence record shows that there have been convictions that place the licence outside of this policy, the application will be referred to a Licensing Regulatory Sub-Committee.

The DVLA mandate will be cancelled if the hackney carriage or private hire driving licence is surrendered.

4.9 Testing of applicants

The licensing authority shall not grant a licence to drive a hackney carriage or private hire vehicle unless it is satisfied that the applicant is a fit and proper person.

In order to determine such fitness, the applicant shall be required to undertake the following:

Written tests of the applicant's knowledge of:

- (a) Local geography
- (b) The Highway Code
- (c) The hackney carriage and private hire licensing policy, as applicable
- (d) Numeracy
- (e) Disability Awareness and child sex exploitation awareness.
- (f) Legislation Associated with hackney carriage or private hire vehicle driving
- (g) Safeguarding

The procedures in relation to the above are set out in Appendix F.

4.10 The consideration of applications

The licensing authority shall consider the application once the appropriate tests have been undertaken, and the application form and supporting documents are complete. The relevant



elements of the procedure to consider the merits of the application are set out in Appendix G.

Introduction of the national register of taxi and private hire vehicle driver licence refusals and revocations known as NR3 allow the sharing of information, mitigating the risk of non-disclosure of relevant information by applicants. The Licensing Authority will comply with the requirements of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety 2021) and report any refusals/revocations into the national databases.

A licence will be refused to any individual appearing on relevant barred lists.

4.11 Disclosure and barring service (DBS)

Before the licensing authority shall consider an application for the grant of a hackney carriage or private hire drivers' licence, every applicant must provide an Enhanced DBS certificate of criminal convictions.

The online Disclosure and Barring Service (DBS) update service allows applicants to keep their DBS certificates up to date and employers to check a DBS certificate. Further information can be obtained from: <https://www.gov.uk/dbs-update-service>

Applicants are required to join the Disclosure and Barring's update service (paid for by the applicant) ensuring the local authority are provided with up to date DBS information as soon as possible.

Considering the Department for Transport and The LGS guidance, it is mandatory for both new applicants and applicants who are renewing an existing license to join the scheme, nominating the licensing authority enabling checks to be made on DBS status at any time

The DBS scheme reduces the administrative burden on officers and mitigates potential delay on relicensing.

Existing license holders will continue to use current arrangements (detailed below), until they submit a renewal application.

The DBS application form can only be obtained from the South Lakeland District Council or Cumbria County Council. The County Council will deal with the application, but the DBS fee shall be paid by the applicant to South Lakeland District Council.

It is the responsibility of the applicant to deliver the original DBS disclosure certificate to the council. Failure to do so will result in the decision to grant the application being delayed.

The DBS disclosure certificate must be less than twelve weeks old from the date of issue, when it is delivered to the council. A further application may be required if the DBS disclosure certificate is more than 12 weeks old when it is delivered to the council.



Non UK applicants will also need to provide further information about their conduct from countries in which they have lived prior to moving to the UK. For more information, see paragraphs 4.5 and 4.6 of this section.

The authority is bound by rules of confidentiality, and will not divulge information obtained to any third party.

4.12 Relevance of convictions and cautions

Every applicant is required to declare every conviction and caution (including motoring convictions and fixed penalty notices) they have received when submitting an application for the grant or renewal of a driving licence for a hackney carriage or private hire vehicle. The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 provides for this as an exception to the Rehabilitation of Offenders Act 1974.

Common law police disclosure replaces the Notifiable occupations scheme is appropriate with regard to the sharing of sensitive information where there is a pressing social need.

South Lakeland District Council reserve the right to seek intelligence from all 'approved sources' such as the Police, Social Services, Alcohol and Drug Rehabilitation Units, Probation Services, Child Protection Agency, general practitioners etc.

Special attention will be paid to criminal offences involving dishonesty, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of motor vehicles.

In particular, applications will be referred to the Licensing Regulatory Sub-Committee where the applicant's record includes one or more of the following:

- Any terms of imprisonment or custody
- Any convictions for a violent or sexual offence, or dishonesty, which is of a serious nature
- Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving
- More than nine points have been acquired on their DLVA Driving Licence

Whilst the licence is in force, the licensing authority will receive updates from Police and Courts, of new convictions and cautions for licence holders. This will allow the licensing authority to decide whether action is needed to be taken on the continuation of the licence. It is the responsibility of each licence holder to inform the council of any conviction, caution or fixed penalty arising during the currency of the licence. A criminal record check is required on application, and thereafter every three years.

Any applicant refused a hackney carriage or private hire drivers' licence on the grounds that he/she is not a fit and proper person to hold such a licence has the right to appeal to a Magistrates Court. Such appeal must be made within 21 days of being notified of the licensing authority's decision.



Guidance in relation to specific offences, along with a summary of the principals of the Rehabilitation of Offences Act 1974, is given in Appendix H. In general terms, the more recent, serious and relevant to public safety the offence, is the less likely that an application will be granted. Each application will be judged on its individual merits.

4.13 Medical examination

Every applicant for a licence to drive a hackney carriage or private hire vehicle must show that they comply with the current DVLA Group 2 standard of medical fitness for professional drivers.

The standard of fitness of the applicant must be reported on the form that is provided by the council. **The form must be completed by a GP who has access to the full medical/history of the applicant.** The cost of any examination or report associated with this requirement will be paid for by the applicant to the provider of the examination report. **The report must not be more than 4 months old when it is presented with the rest of the application paper work.**

The standard of fitness report must be completed every three years for persons under the age of 65 and annually for persons aged over 65 years, unless the medical advisor to the licensing authority states that a report is required at a more frequent interval.

The standard of fitness report must be completed on written demand by the licensing authority.

Licence holders must immediately advise the council of any deterioration of their health that may affect their driving capabilities and which may negate their ability to pass a Group 2 medical standard examination. Examples include high blood pressure, angina, diabetes, vision disorder, fainting, blackouts, drug taking or alcoholism. Where there is any doubt as to the medical fitness of the applicant, the council may require the applicant to undergo and pay for a further medical examination by a doctor appointed by the council.

4.14 Grant of licences

A successful applicant will be granted a hackney carriage and/or a private hire drivers' licence, as appropriate. The driving licence shall last for three years, or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.

Introduction of an annual basic DBS for vehicle proprietors is required to ensure the fit and proper test is met. This applies to vehicle proprietors who do not hold a private hire or hackney carriage driver's licence.

A license may be suspended should supporting documentation which accompanied their new/renewal application (section 4.4), become invalid for any reason.



4.15 Renewals

Application forms, appropriate fees, and supporting documentation, as set out in Appendix E, must be submitted no earlier than 28 days, and no later than three clear working days before the day upon which it expires.

If a driving licence is not renewed by the expiry date, a new application is to be submitted, as outlined in Appendix E.

In instances where the renewal will be late, the applicant must inform the licensing section in writing, before the expiry date. The application may be deferred for a period of 28 days after the expiry date. The licence shall be valid from the date it is issued to the date upon which the licence would have expired, had the application been submitted on the time.

If a licence renewal application is received more than 365 days after the date of expiry, the applicant will need to submit a full application as detailed in Appendix E, this will include the need to show the applicant has passed the 'local knowledge test' and has passed a taxi/private hire driving assessment that is approved by the Council.

Applicants for renewal are required to provide an Enhanced Disclosure and Barring certificate from the Disclosure and Barring Service every three years, joining the update service as item 4.11 accommodates the requirement.

Applicants for renewal must provide a tax check as part of their application. No application will be processed if the applicant fails to submit a valid code.

5. Hackney carriage licensing: Fees

5.1 Prescribed rates

The driver of a hackney carriage vehicle, whether by agreement or otherwise, shall not charge any fare greater than the rate prescribed by the District Council in the document 'Hackney Carriage Table of Fares'.

5.2 Table of fares

The maximum fares prescribed by the licensing authority are set out in the 'Hackney Carriage Table of Fares' document. A table of authorised fares will be provided to each hackney carriage licence holder and must be displayed in each vehicle so that it is easily visible to all hirers.

5.3 Review

Hackney carriage tariffs will be reviewed on request and in accordance with section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

A fare review for Hackney carriage tariffs will be conducted on a 12 month basis or on



reasonable request of the Hackney Carriage trade.

5.4 Fare tariff criteria

In considering requests to vary a table of fares and in considering any representations received in response to the statutory consultation period of a fare tariff review, the following criteria will be utilised:

- Reasonable and fair to all stakeholders
- Proportionate with the locality
- Benchmarking with other local authorities
- Justified
- Simple, and easily calculated
- Designed with a view to practicality
- In line with published best practice guidance
- Mathematically correct and capable of being entered onto a meter
- Structurally the same for vehicles of different seating capacity
- Designed where possible to avoid either deliberate or accidental over charging

5.5 Charging under the maximum

There are no provisions in the relevant legislation or this policy, which prevent the driver of a hackney carriage vehicle from charging less than the fare shown on the meter.

5.6 Receipts

A hackney carriage driver must, if required by the passenger, provide him/her with a written receipt for the fare paid.

6. Hackney carriage licensing: Taxi stands

6.1 Appointed stands

The licensing authority has appointed stands for hackney carriage within the South Lakeland District Council area, both on public and private land. Appointed stands are listed in Appendix L.



6.2 Waiting on stands

It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare.

6.3 Out of district

Hackney carriages that are licensed by South Lakeland District Council are expected to operate only within the district that is covered by the council.

The council will consider revoking the licence of any hackney carriage that regularly operates outside of the district. In this case 'regularly' includes;

- a) working for a taxi company that is not based in the district, or
- b) working for a private hire operator that is not licensed by this council, or;
- c) has come to the attention of the council by way of complaint, or;
- d) Any other information that the hackney carriage is operating outside of the district on a regular basis

On the rare occasion that a hackney carriage operates outside of the district, the following must be borne in mind by the driver and proprietor:

- a) Hackney carriages that are licensed by South Lakeland District Council must not use a taxi stand (taxi rank) in any other district, and;
- b) Hackney carriages that are licensed by South Lakeland District Council must not ply for hire in any other district. Ply for hire means driving around seeking customers and stopping if hailed by a prospective customer

7. Private hire licensing: Operators

7.1 Requirements for licence

Any person who operates a private hire service must hold a private hire operators' licence.

7.2 Conditions

The licensing authority has power to impose such conditions on an operators' licence, as it considers reasonably necessary.

The conditions that are attached to a Private Hire operators' Licence can be found in Appendix Q.



7.3 Obligations

A private hire vehicle may only be despatched to a customer by a private hire operator who holds an operators' licence, or anybody authorised by that operator. Such a licence permits the operator to make provisions for the invitation or acceptance to bookings for a private hire vehicle. A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire drivers' licence.

7.4 Application

Application for the grant of an operators' licence must be:

1. Made on the prescribed form;
2. Provided with proof that the applicant is legally entitled to work in the UK (see section 4.5), and;
3. Accompanied by the appropriate fee.
4. **Basic DBS check which is due annually throughout the duration of the licence, applies to proprietors who do not hold a hackney carriage or private hire drivers licence with the authority.**

The licensing authority will decide whether the applicant is a fit and proper person to hold an operators' licence. If a licence is granted, it shall remain in force for such period, not being longer than five years, as the district council may specify in the licence.

7.5 Address from which an operator may operate

Upon the grant of an operators' licence, the licensing authority will specify the address from which the operator may operate. The operator shall notify the licensing authority in writing of any change of his/her address, (whether this is a home address or the address from which he/she operates) during the period of the licence, within seven days of such change taking place.

7.6 Public liability insurance

Operators who operate from premises which are open to the public, must provide proof that there is in force, a policy of public liability insurance for the premises to a limit of at least £5 million.

7.7 Bases outside the South Lakeland District Council area

The licenses of the operator, vehicle(s) and driver(s) must be issued by this council.

7.8 Parking at an operators' base

The licensing authority would prefer that the drivers of private hire vehicles (not being



hackney carriage vehicles) would, whenever practical, return to their operating bases after completing each hire contact, prior to being despatched on another hiring. For this purpose, the licensing authority would expect a number of parking spaces to be made available at the premises by the operator, so that there is no congestion caused near the premises by vehicles waiting for bookings.

8. Private hire licensing: Vehicles

8.1 Conditions

The licensing authority is empowered to attach conditions on a private hire vehicle that are considered necessary. All applicants granted a private hire vehicle licence must follow the conditions in appendices A and M.

9. Private hire licensing: Novelty vehicles

- 9.1 A 'novelty vehicle' is any vehicle that has been substantially modified. This category includes stretched limousines, fire engines, former military vehicles and any other vehicle that has been substantially modified from the base vehicle. An application for a vehicle of this type shall be referred to the Licensing Regulatory Sub-Committee for a decision. Each case will be considered on its own merits.
- 9.2 Imported novelty vehicles will be required to undergo an Individual Vehicle Inspection (IVI). This inspection is to ensure the vehicle meets the requirements of the European Community Whole Vehicle Type Approval, which is designed to ensure that vehicles meet relevant environmental and safety standards.

Appendix N sets out conditions for novelty vehicles.

10. Private hire licensing: Executive hire, chauffeur services, airport travel etc.

10.1 Introduction

Some private hire businesses provide what they refer to as 'Executive Hire Cars'. Although clearly private hire vehicles, they are often used by companies, firms and hotels to transport visitors, senior members of staff in a more discreet manner, and are perceived as being more akin to a chauffeur driven vehicle than a private hire vehicle.

Private hire licence plates are a statutory requirement and it is South Lakeland District Council's policy to require signage on private hire vehicles in line with the conditions approved by the Licensing Regulatory Sub-Committee. These measures identify a vehicle as a properly licensed private hire vehicle and avoid confusion with hackney carriages.



However, private hire businesses providing what they refer to as executive hire may wish to apply for exemption from the requirements to display private hire plates and signage because of the nature of their vehicle(s) AND their business. A Licensing Regulatory Sub Committee will determine any such application where this policy cannot be implemented through delegation arrangements.

This document sets out our policy concerning the executive hire exemption referred to above. It is designed to help you to decide whether to make an application for exemption and to guide (but not bind) the Licensing Sub Committee should they need to determine an application.

10.2 The type of work which may be deemed to be executive hire

Examples of the type of work which are considered to be executive hire are as follows:

- Corporate bookings to transport employees and clients on business related journeys
- Other journeys where the client specifically requires a vehicle without any private hire plates or signage on it at the time of booking
- The fact that the hirer pays a higher fee for hiring what may be referred to as an executive hire car (compared to what the hirer may pay for a non-exempt private hire vehicle displaying private hire plates and signage) may be indicative (but not conclusive) that the nature of the business is executive hire and that the exemption may be appropriate.

10.3 Types of vehicles which may be granted exemption

The average person may envisage an executive to travel in a prestige vehicle being of materially higher specification than a standard vehicle. Examples of vehicle types perceived to be prestige from the sample of people we asked were [Mercedes, BMW, Audi, Jaguar and Lexus].

The council do not wish to form a prescriptive list of acceptable vehicles because this may be subjective and also require frequent update. Conversely, the council do not wish to restrict the types of vehicles which may be top of the range and therefore deemed to hold prestige status.

Instead, the council set out a range of general criteria that leaves it open to the private hire vehicle trade to put forward vehicles of its own choice which can be shown to meet the criteria. This will enable flexibility if the circumstances merit it.

The following may be indicative (but not conclusive) that a vehicle is an executive hire car and conditions that relate to executive hire therefore apply:



- Engine size of 2000cc or greater
- Each seat is of adequate dimension and permits direct access into and out of the side doors of the vehicle without the need to move, remove or fold down any seat. Vehicle types which are capable of seating more than four passengers will be considered for the exemption but will only be licensed for, in the opinion of the authority, the number of passengers who can travel comfortably. This consideration relates to the level of comfort that the average person may believe an executive hire car should afford
- Evidence to show that the vehicle is a prestige or top of the range as represented by the vehicle manufacture
- Relevant considerations as to whether a vehicle is an executive hire car include but are not limited to cost, reputation, specification, appearance, perception and superior comfort levels
- The vehicle has a minimum specification of air conditioning/climate control, all electric windows, central locking and suitable front and rear headrests for each passenger
- Vehicles will need to fulfil the current age requirements for private hire vehicles

10.4 Exemptions to executive hire

Private hire vehicle owners who undertake only executive hiring and wish their vehicles to be exempt from the need to display a licence plate and identifying signage need to apply for exemption which would be granted by way of an exemption certificate.

There is no longer any exemption for a vehicle from licensing where it is used only for carrying passengers for hire or reward under a contract for the hire of the vehicle for a period of not less than seven days. The abolition of a previously existing exemption, by the way of The Road Safety Act 2006, Section 53 requires all such vehicles to be licensed as private hire vehicles and drivers of such vehicles must hold a private hire vehicle licence. In general the following vehicles, if they seat up to eight persons will now need a private hire vehicle licence:

- Stretched limousines
- Executive hire
- Chauffeur services
- Airport transfer services
- Hotel cars



- Club & pub transport
- Courtesy services where passengers are driven
- Some hospital car services and school car services – if they are used for both patient transfer and social events

If you are in any doubt as to whether you need a private hire vehicle licence or not, you should contact the licensing team.

Refer to Appendix O for vehicle and driver conditions.

11. Private hire licensing: 'Tuk tuk' vehicle

11.1 General

These conditions apply exclusively to the 'tuk tuk' vehicle.

A tuk tuk vehicle is also known as an auto rickshaw, three wheeler, samosa, tempo, trishaw, is a three-wheeled cabin cycle for private use as a vehicle for hire. It is a motorised version of the traditional pulled rickshaw or cycle rickshaw.

11.2 Application procedure – Driver

An application for a 'tuk tuk' vehicle must include the following:

- (a) A completed application form*
- (b) Current UK driving licence and DLVA counterpart if available
- (c) Disclosure and Barring Service (DBS) enhanced check application form* and supporting documentation, **proof of joining the update scheme**
- (d) Statutory declaration of convictions and cautions*
- (e) Medical examination form* to current DVLA Group 2 standard
- (f) Passport style colour photograph (can only be three months old)
- (g) Correct fee for the application
- (h) **Mandatory disability and child sex exploitation training**

*Items (a), (c), (d) and (e) are only available from the Local Authority.

The testing arrangements as outlined in Section 4.8 and 4.9 will apply with the exception of the test in relation to local geography, which will be exempted due to the nature of tuk-tuk operation typically being localised.

A licence to drive 'tuk tuk' will not be granted to a person who is under the age of 18 years.



Specific conditions relating to 'tuk tuk' vehicle can be found in Appendix W.

12. Private hire licensing: Exempt vehicles

12.1 Introduction

There are a range of vehicles that could fall within the definition of a private hire vehicle. In deciding what is and what is not a private hire vehicle, South Lakeland District Council will take a balanced view of the facts of any one case, taking into account any relevant case law and the 'Department for Transport Private Hire Vehicle Licensing – A Note For Guidance from the DFT'.

The following vehicles are exempted from the private hire vehicle licensing regime.

12.2 Funeral vehicles

No licence is required for a vehicle being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business for a funeral director for the purpose of funerals.

12.3 Wedding vehicles

A vehicle does not need to be licensed while it is being used in connection with a wedding. Where a person "providing a wedding service" claims an exemption, he/she is required to obtain a written certificate for the exemption from the licensing authority. Such written certificate will restrict the vehicle and driver use to wedding contracts.

12.4 Volunteer drivers

Volunteer drivers are unlikely to need to obtain a private hire vehicle licence if they do not receive payment of the use of their time and vehicle, other than the reimbursement of reasonable expenses.

12.5 Child minders

Child minders transporting children in their care to school are unlikely to need a licence, unless there is a specific requirement in their contract with the family for the provision of transport in return for the payment provided.

12.6 Ambulances/vehicles operating as formal patient transport services

Drivers operating these types of vehicles are unlikely to need a licence provided they carry patients who have been assessed as having a medical need for transporting, are subject to the laws of patient confidentiality and driver training and background checks have been



carried out under the Patient Transport Service Scheme.

If you are in any doubt as to whether you need a private hire vehicle licence or not, you should contact the licensing team.

13. Hackney carriage and private hire licensing: Hearings and enforcement measures

13.1 Aim of intervention

The licensing authority will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference. The licensing authority will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 1.

The authority will regulate the trade in accordance with the regulators code published by the Better Regulation Delivery Office and with principles set out in the Corporate Enforcement Policy. The general principles of proportionality, consistency, transparency and targeting of regulatory activities only at cases in which action is needed.

13.2 Range of powers

The licensing authority seeks to operate as far as possible a graduated enforcement approach.

The licensing authority may take any of these steps below, upon receipt of evidence that an offence has been committed in relation to a hackney carriage vehicle/drivers' licence or private hire driver/vehicle licence. A breach of a condition or of the hackney carriage and private hire licensing policy amounts to an offence in this context.

- Suspension of a licence
- Revocation of a licence
- Refusal to renew a licence
- Issuing of warnings
- Imposition of further conditions
- Prosecution
- Referral to an enhanced drivers course

13.3 Hearings

Any driver or vehicle found in breach of this policy, or found convicted of offences listed in Appendices H and J will be referred to a Licensing Regulatory Sub-Committee of the



licensing authority. The function of the appropriate Licensing Regulatory Sub- Committee is detailed in Appendix I.

13.4 Suspensions

Vehicles

Hackney carriage and private hire vehicles shall be kept at all times in an efficient, safe, tidy and clean condition. Compliance with the vehicle conditions is essential, and will be enforced by periodic, random vehicle inspections by the licensing authority.

Where is found that any hackney carriage is not being properly maintained, a defect(s) notice will be served on the proprietor setting out the defect(s), and where public safety is at risk, the further use of the vehicle is suspended until the defects have been remedied. The suspension will not be lifted until the vehicle has undergone a further test, at the proprietor's expense, and has been passed as fit for use as a hackney carriage.

Vehicle suspension for any reasonable cause

Where an annual vehicle licensing inspection is not provided by a proprietor following requests by the licensing team vehicles are likely to be suspended until a test is provided.

Where there is considerable damage to a vehicle which despite not affecting public safety, seriously affects the appearance of a vehicle, a suspension is likely until the satisfactory works are completed.

Drivers

The licensing authority may exercise its discretion to suspend the operation of a drivers' licence once all the evidence has been collected and considered. The decision to suspend may be taken only after a hearing before the appropriate Licensing Regulatory Sub-Committee.

13.5 Revocations

An authorised officer may revoke, with immediate effect, a drivers' licence if deemed necessary in the interests of public safety. Where a licence holder has been referred to the appropriate Licensing Regulatory Sub-Committee because he/she has been convicted of a serious criminal offence (e.g. those highlighted in section 4) the Licensing Regulatory Sub-Committee may order the revocation of the licence.

When a driver is unable to produce a current enhanced DBS or current medical or fails their medical after an examination from the Licensing Authority's appointed doctor suspension or revocation may follow with immediate effect.

13.6 Refusal to renew

As an alternative to revocation, the Licensing Regulatory Sub-Committee may decide that



the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence will not be renewed.

13.7 Prosecution

The licensing authority will usually prosecute licence holders for relevant offences in the following circumstances:

- Where the allegation is of a serious or repeated offence
- Where prosecution is in the public interest

14. Hackney carriage and private hire licensing: Offences

14.1 Offences

Offences in relation to hackney carriage and private hire licensing are derived from the following sources:

- The Town Police Clauses Act 1847
- The Local Government (Miscellaneous Provisions) Act 1976
- The Transport Act 1980
- The Disability Discrimination Act 1995 (as amended)
- The Equality Act 2010
- South Lakeland District Council bylaws
- The Hackney Carriage and Private Hire Licensing Policy

The relevant offences are set out in Appendix J.

15. Hackney carriage and private hire licensing: Fees

15.1 Fee structure

The fees payable for the grant and renewal of hackney carriage and private hire licences are set out within 'South Lakeland District Council List of Fees' document. Notice of the current scale of fees will be supplied to all applicants at the time of the application.

15.2 Payments

Fees for licences must be made payable to South Lakeland District Council.



15.3 Payment refunds

Hackney carriage and private hire drivers

South Lakeland District Council will on request remit the fees for applications (with the exception of DBS and DBS administrative fees) for hackney carriage and private hire drivers licences where no licence is granted. However where a licence is granted, fees will not be refunded (e.g. on surrender prior to the expiry date).

Hackney carriage and private hire vehicles

Where a private hire or hackney carriage vehicle has been granted a licence, fees will not be refunded.

Private hire operators

South Lakeland District Council will on request remit the fees for applications for private hire operator's licences where no licence has been granted. However fees will not be refunded after a licence has been granted.

16. Non-motorised hackney carriages: Horse drawn carriages

The grant of a licence to a drive a horse drawn carriage as a hackney carriage shall entitle the holder to drive a hackney carriage of the type specified on the licence (i.e. horse drawn carriage). It shall not entitle the holder to drive any other type of hackney carriage or private hire vehicle.

A licence to drive a horse drawn carriage as a hackney carriage will last for one year from the date of issue.

16.1 Application procedure: driver

An application for a non-motorised hackney carriage drivers' licence must include the following:

- (a) A completed application form*
- (b) Current UK driving licence and DVLA counterpart
- (c) Disclosure and Barring Service (DBS) enhanced check application form* and supporting documentation, **proof of joining the update scheme**
- (d) Statutory declaration of convictions and cautions*
- (e) Medical examination form* to current DVLA Group 2 standard
- (f) Passport style colour photograph (can only be 3 months old)



(g) Correct fee for the application

*Items (a), (c), (d), and (e) are only available from the Local Authority.

The testing arrangements as outlined in Section 4.8 and 4.9 will apply with the exception of the test in relation to local geography, which will be exempted due to the nature of non-motorised operation typically being localised.

A licence to drive a non-motorised hackney carriage will not be granted to a person who is under the age of 18 years of age.

The driver of a horse drawn carriage must produce evidence to the authority that they are competent to drive horses in harness. Certification to British Driving Society (BDS) Level 3 Road Driving Safety Qualification for Pairs and Singles is required. For grooms the standard is BDS Level 2 Unit Certificate for the Harness Horse Groom. The council will consider alternative qualifications that are not to the equivalent standard. Any expense involved in producing such a certificate shall be met by the applicant or licence holder.

An application to renew a non-motorised hackney carriage driving licence may be submitted no earlier than 20 clear working days and no later than three clear working days before the day upon which it expires. A 'clear working day' is any day except Saturday, Sunday, Bank Holiday or the day upon which the licence expires.

16.2 Application procedure: proprietor

Non-motorised vehicles can only be issued with hackney carriage licences, and cannot be licenced for private hire due to the fact that a private hire vehicle is defined as a 'motor vehicle'. Before a non-motorised hackney carriage licence is granted, the authority must be satisfied that the vehicle is fit for purpose. In ascertaining whether the vehicle is fit, the proprietor will need to produce evidence of the following:

- (a) The roadworthiness of the carriage (via a certificate issued by an inspector approved by the council)
- (b) The serviceability of the ancillary equipment (via a certificate issued by an inspector approved by the council)
- (c) The fitness and appropriateness of the horse to be used (via a certificate issued by a veterinary surgeon approved by the council)
- (d) Horse passports for the horse to be used
- (e) An insurance policy appropriate for public hire and covering third party liability both in respect of physical injury or death in respect of damage to personal belongings. A minimum sum of £5 million is required
- (f)



16.3 Carriage specification

The basic requirements for a carriage are:

- Must be drawn by one or more horses
- Have two or four wheels
- A compartment for the passengers to be carried in
- Capable of carrying a minimum of four and up to six passengers (dependent upon construction)
- In the opinion of the council appointed Inspector, safe for the use as a hackney carriage vehicle on the road.

16.4 Signage

Every carriage must display a plate to the rear which indicates a licence number and licence expiry date.

16.5 Conditions

Conditions relating to horse drawn carriages can be found in Appendix R.

16.6 Tariffs

The tariff for a non-motorised hackney carriage shall be reviewed at the same time as the tariff is reviewed for a motorised hackney carriage.

Each non-motorised hackney carriage shall display a copy of the current tariff table in such a position that it can be read by a customer.

17. Non-motorised hackney carriages: Pedicab hackney carriages

17.1 General

These conditions apply exclusively to pedicabs.

A pedicab hackney carriage vehicle licence will only be issued on a six monthly basis.

All applications received which fall outside of this policy will be referred to Licensing Regulatory Sub-Committee for determination and any additional costs incurred to be borne by the applicant.



17.2 Drivers of pedicabs

The pedicabs must be operated by a competent cyclist, holding a full valid DVLA driving licence for at least one year, and who has been trained to cycle the specified route. Drivers must be the holder of a current pedicab hackney carriage drivers' licence which has been issued by South Lakeland District Council.

All drivers will undergo an enhanced Disclosure and Barring Service check and statutory declaration as required by this council. The policy on relevance of convictions will be used to assess whether an applicant is a fit and proper person to hold a hackney carriage drivers licence with this Authority.

Drivers will be required to meet DVLA group 2 medical standards.

17.3 Pedicab tariff

The tariff for a non-motorised hackney carriage shall be reviewed at the same time as the tariff is reviewed for a motorised hackney carriage.

Each non-motorised hackney carriage shall display a copy of the current tariff table in such a position that it can be read by a customer.

17.4 Seat belts

Separate seat belts shall be fitted to all seats in all licensed vehicles. They shall be readily accessible for use by all passengers and shall be maintained in good condition and a useable state of repair at all times.

The driver of a pedicab shall ensure that passengers are offered the safety/lap belt before commencing a journey. If the passenger is a child they must use the belt provided. All children under 11 years of age to be accompanied by an adult and all children must occupy a seat.

17.5 Alterations

No alterations to any equipment, dimensions or other specifications shall be undertaken without the prior consent of any authorised officer of the licensing authority.

For the avoidance of doubt alterations includes both additions to and the removal of any existing equipment in, or on, licensed vehicles.

17.6 Licence plates and badges

For all licensed vehicles the licence plate must be securely fixed to the rear of the pedicab. The internal hackney disc will be displayed within the seated area of the pedicab; however side plates are not required.

The licence plate/disc shall remain the property of the council and shall be returned to the



South Lakeland District Council's licensing section, if the proprietor no longer holds a licence issued by the council, which is in force in respect of the vehicle (whether by reason of expiry or revocation). After the expiry date on any hackney carriage or private hire licence, that licence is no longer valid and any badge or vehicle plate must be returned to the council immediately. All licence plates must be returned before a new plate is issued.

The loss of, damage to or illegibility of a plate or badge shall be reported to the council as soon as the loss, damage, or illegibility becomes known and a duplicate will be issued at the expense of the licence holder. The vehicle shall not be used for hire until the plate or badge has been replaced.

The holder of this licence is strictly prohibited from transferring or purporting to transfer any interest in the licensed vehicle (hiring or leasing the vehicle). If at any time during the period of the vehicle licence the proprietor for any reason does not wish to retain the vehicle licence they must immediately surrender and return the vehicle licence and the licence plates to the council. This condition shall not preclude the transfer of any interest in the licensed vehicle as part of the transfer/sale of the business to a new owner.

All applications received after the date of expiry will be treated as a grant and not a renewal, and the appropriate conditions and fees for a grant will then apply.

17.7 Advertising

Position and content of advertising must be inspected and written authorisation received from the licensing section before any advertising is placed on the vehicle.

The advertisements will be assessed against the following criteria:

- Non sexual
- Non discriminatory
- Not to cause public offence
- Not misleading
- Location does not distract from council vehicle signs
- Not to obscure vision of the driver

17.8 Vehicle damage/accidents

The proprietor of the vehicle shall report to the licensing section as soon as reasonably practicable, and in any case within seventy two hours of the occurrence thereof, any accident to the vehicle causing damage affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein. Until the damage is repaired to the satisfaction of the licensing authority or inspected by them, and written consent is received to continue to use the vehicle, the vehicle must not be used.

Accidents involving personal injury to passengers must be notified to the Police and



Licensing section as soon as possible but in any case within forty eight hours.

17.9 Insurance

Every pedicab shall be covered by an insurance policy for public hire and covering third party liability in respect of physical injury or death, or damage to personal belongings. A minimum sum of £5 million cover is required.

On the expiry of the Insurance, a cover note or Certificate of Insurance renewing cover must be produced to the licensing section prior to or on the day of expiry of the previous certificate. Photocopies of the original or electronic copies are acceptable.

The licence holder shall notify the council of any change of insurer or any change to the insurance particulars and shall provide full details thereof within two working days of such change.

17.10 Notifications

The proprietor of a licence shall produce details of the drivers permitted to drive by him to the licensing authority.

The proprietor shall notify the council of any change in the list of drivers within seven days of the change.

The licence holder shall, within seven days notify the council in writing of any change of address and produce the vehicle licence to the licensing section so that the new address may be endorsed there.

17.11 Pedicab safety, inspections and legislation

A pedicab hackney carriage Vehicle licence will only be issued on an annual basis.

A proprietor of a pedicab will ensure that the vehicle testing standards adopted by the council are completed prior to the grant or renewal of a pedicab vehicle licence.

A pedicab vehicle will be subjected to an annual service, which must be conducted by a cycle dealership who is members of the Association of Cycle Traders. The examiner must be qualified to the Cytech level 3 standard.

On completion of the annual service the proprietor of the pedicab must forward the council's test sheet (Appendix U) to the licensing authority signed and stamped by the examiner/dealership. The form should indicate whether the vehicle meets the required standards.

All costs in respect of the vehicle test will be borne by the proprietor of the vehicle.

Should a pedicab fail to pass an inspection, the pedicab examiner must inform the licensing authority immediately upon which an authorized officer of the council will notify the proprietor that the licence has been suspended in writing.



An authorised officer, an officer nominated by the council or any police constable shall have the power at all reasonable times to inspect and test any vehicle licensed by the council for the purpose of ascertaining its fitness.

The licence holder shall ensure that all pedicabs are maintained regularly and kept in a safe condition. A basic check must be carried out before each occasion it is used. The licence holder shall retain records of all maintenance work carried out on each pedicab.



Appendix A: Hackney carriage and private hire vehicle: vehicle conditions

1.0 General

- 1.1 This appendix sets out those conditions applicable for both Private Hire and Hackney Carriages. For specific additional conditions for hackney carriage please see Appendix K, and for private hire vehicles please see Appendix M.
- 1.2 The following vehicle conditions are made in addition to the requirements of the road traffic legislation, which relates to all motor vehicles. It is also recommended that vehicles with Euro NCAP star ratings of four or more should be considered when purchasing a vehicle.
- 1.3 Vehicle age limits: see section 3.5 of the policy
- 1.4 Left hand drive vehicles shall not be licensed without the express consent of the Licensing Regulatory Sub-Committee.
- 1.5 No 'Q' plated vehicles will be considered for licensing.
- 1.6 Any vehicle that has been classified as a category 'A', 'B' or 'S' on the V5 will not be licensed for Hackney Carriage or Private Hire use. An application for a vehicle which has been classified as category 'N' should be accompanied with evidence that it has been repaired professionally.

2.0 Door

- 2.1 All vehicles shall have at least three passenger doors in addition to the driver's door.
- 2.2 All doors shall be capable of being opened from the inside and outside.
- 2.3 Vehicles with a third row of seats must be constructed in such a way that the occupants of the third row of seats do not have to climb over any other part of the vehicle to gain access or egress e.g. by the provision of a folding seat or a gangway on the second row.

3.0 Interior dimensions

- 3.1 Height inside: there must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort.
- 3.2 Knee space: there must be sufficient space between the front and back seats to



safety accommodate the driver and passengers in reasonable comfort. The specification below is recommended.

4.0 Seats

- 4.1 Seating for each passenger must be not less than 400mm (16") with a minimum width, measured between the arm rests, or any other point that is protruding into passenger seating area, of 1220mm (48").
- 4.2 The minimum width between the back of the driver's seat and the front of the rear seating, measured when the driver's seat is fully pushed back, must be not less than 180mm (7").
- 4.3 The height, as measured between the rear seat and the height to the roof lining in a vertical plane, must be not less than 860mm (34").
- 4.4 No child under the age of ten years shall be carried in the front of the vehicle.

5.0 Seat belts

- 5.1 The following classes of people are exempt from wearing seat belts or other restraints:
 - (i) Driver of a hackney carriage while it is being used for seeking hire, or answering a call for hire, or carrying a passenger for hire, or
 - (ii) Driver of a private hire vehicle while it is being used to carry a passenger for hire;
 - (iii) Child up to three years old may travel unrestrained in the rear only if a suitable child seat is not available
 - (iv) person with medical exemption letter
- 5.2 All other classes of people MUST wear a seat belt.

6.0 Passenger capability

- 6.1 The carrying capacity of saloon and estate type vehicle will be at the discretion of the licensing authority having regard to manufacturer's specifications and compliance with dimensions referred to previously.
- 6.2 The number of persons licensed to be carried shall be exhibited outside the vehicle on the vehicle licence plate. This number of passengers carried must not exceed that number recorded on the vehicle's plate. For these purposes children (of any age) are counted as one person.



7.0 Fire extinguishers

- 7.1 A fire extinguisher must be located within reach of the driver's seat. It must be securely fixed to the vehicle. It must be either an ABC General Purpose Powder extinguisher or an AFFF Foam extinguisher and conform to BSEN3. The extinguisher should only be used to assist in the evacuation of the vehicle.
- 7.2 All extinguishers must be checked every 12 months, prior to vehicle testing or prior to change of vehicle test. Such a check shall be carried out in accordance with the requirements of BS5306 Part 3 and Part 8, by a registered competent company. The date of test and signatures must be clearly visible on a sticker attached to the extinguisher. The extinguisher must be marked with the vehicle registration number.

8.0 First aid kit

- 8.1 There shall be provided in such position as to be readily available at all times when the vehicle is used for hire, a suitable first aid kit containing appropriate dressings and appliances for immediate use in an emergency. The kit carried is to ensure compliance with The Health and Safety (First Aid) Regulations 1981 which requires employers to provide a first aid kit to enable employees to receive first aid if they become injured at work and self-employed persons to provide first aid to themselves whilst at work. Only those persons who hold a current recognised first aid certificate should use the kit on any person other than themselves and your attention is drawn to issues of liability if untrained persons administer first aid.

9.0 Ventilation

- 9.1 Rear passenger windows must be capable of being opened by passengers when seated unless air conditioning is available.

10.0 Luggage

- 10.1 All vehicles shall be capable of carrying 25 kg of luggage per passenger. A trailer may be used if necessary. See section 15 for further guidance on the use of trailers.
- 10.2 Exits must not be obstructed by luggage.
- 10.3 All luggage must be secured when carried in the vehicle.

11.0 Maintenance

- 11.1 Licensed vehicles must be kept in a safe, tidy and clean condition at all times.
- 11.2 Vehicles may be inspected and tested at any time. A notice may be issued for minor defects to be repaired. A prohibition notice shall be issued if the defects likely to



compromise public safety, or have already been subject of a defect notice and the defect(s) have not been addressed to a satisfactory standard. A notice shall be issued to both the driver and proprietor.

12.0 Accident reporting and inspection following accidents

- 12.1 If any licence vehicle that is involved in an accident when used in connection with business, must report the accident to the licensing authority as soon as reasonably practicable. In any case, within 72 hours of the occurrence of the accident. Accident reports may be made by telephone.
- 12.2 Where, following an accident or damage to a licensed vehicle, it is in the intention of the owner or operator to continue licensed used, the vehicle must be inspected by either the licensing officer and an authorised MOT inspector (at the owner's or operators expense) to determine its fitness for continued use. A licensing officer may suspend the use of a licensed vehicle until it is repaired.
- 12.3 A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be replaced by a hire vehicle provided:
- (i) The damage to, or defect in, the vehicle has been reported;
 - (ii) Application is made in the usual way for a change of vehicle (albeit temporarily);
 - (iii) The replacement vehicle meets the licensing criteria, as in this Appendix, and is suitable to be used for hire purposes;
 - (iv) The hiring of the hire vehicle is organised and paid for by the affected licensed owner or operator
- 12.4 The Licensing Authority must be informed of any vehicle which has been written off by the insurance company. VIC markers were discontinued in October 2015.

13.0 Modifications

- 13.1 No material alterations or change in the specification, design, seating capacity, condition or appearance of the vehicle may be made without first complying with road traffic and insurance legislation and secondly gaining the approval of the licensing team in writing, at any time while the licence is in force.
- 13.2 Secondary 'privacy' tinting is not permitted on any window.



- 13.3 The swept area of the windscreen shall be kept clear of all obstructions at all times. This means that mobile 'phones, navigation systems, stickers and the like, shall not intrude into the area of the windscreen that is swept by the windscreen wipers.

14.0 Dealing with disabilities

- 14.1 Assistance dogs must be carried when required, except where the driver has obtained a medical exemption from so doing.
- 14.2 In relation to wheelchair access, there is no current requirement for hackney carriages to be adapted for the purpose. Where, however, a hackney carriage may be utilised for wheelchair access, the following conditions shall apply:
- (i) A space for a wheelchair shall always be available in every wheelchair accessible hackney carriage e.g. a hackney carriage that is licensed to carry 8 passengers shall have not more than 7 fitted passenger seats and a space for a wheelchair.
 - (ii) Access to and egress from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
 - (iii) Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any exit.
 - (iv) A suitable restraint must be available for the occupant of a wheelchair.
 - (v) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
 - (vi) Ramps and lifts must be securely stored in the vehicle before it moves off.
- 14.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must be used and tested in accordance with the manufacturer's instructions.
- 14.4 Where a vehicle is designed or adapted to carry a wheelchair, the proprietor shall ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.

15.0 Trailers

- 15.1 The use of trailers is permitted, but only as additional luggage space and not as a substitute for not meeting the requirements of paragraph 10 of this Appendix.
- 15.2 The proprietor shall present the trailer for inspection by a Licensing Officer prior to its use and again at each inspection of the vehicle on which the trailer is to be towed.



- 15.3 The trailer must only be used on pre-booked journeys when excess luggage is to be carried and not for general use.
- 15.4 The trailer shall be in good condition and be no more than ten years old.
- 15.5 No adverting shall be permitted on the trailer.
- 15.6 The trailer shall be weather proof.
- 15.7 When a trailer is used with the vehicle an additional licence plate for the trailer will be required. This will be displayed on the back of the trailer.
- 15.8 The tow bar must be of a type approved by the manufacturer of the vehicle and fitted by an approved agent.
- 15.9 The vehicle must be insured to tow a trailer, and proof of this cover must be supplied.
- 15.10 A charge shall be made for the inspection of the trailer, and such charge being payable by the proprietor of the vehicle.
- 15.11 Every trailer must be equipped with a braking system.

16.0 Security measures

- 16.1 CCTV cameras may be fitted to hackney carriage and private hire vehicles.
- 16.2 Where CCTV is installed in a vehicle a sign must be displayed in a prominent position in the vehicle so that passengers are made aware of the presence of the camera.
- 16.3 All CCTV systems in hackney carriages and private hire vehicles should comply with guidance provided by the licensing team, which is available at: <http://www.southlakeland.gov.uk/licensing-and-permits/taxi-licensing/>

17.0 Vehicles Powered by Liquefied Petroleum Gas (LPG)/ Liquefied Natural Gas (LNG)

- 17.1 An applicant for a licence involving a vehicle that has been converted to run on LPG or LNG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice; and on that the vehicle is therefore considered safe. Such certification shall from part of



the vehicle licence renewal application.

- 17.2 If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle.

18.0 Insurance and M.O.T test

- 18.1 The proprietor of a hackney carriage or private hire vehicle shall produce to the District Council at their licensing office a new M.O.T test certificate, certificate of insurance or covering note within seven days of the expiry of the current M.O.T test certificate, certificate of insurance or covering note.
- 18.2 The proprietor of a hackney carriage vehicle shall notify the licensing team in writing within seven days of any change of insurance.

19.0 Licence plates

- 19.1 Every hackney carriage/private hire vehicle that is used on a road shall display;
- (a) A licence plate;
 - (b) A roof sign; (hackney carriage only)
 - (c) Two door signs;
 - (d) An identity disc, and;
 - (e) A table of fares (hackney carriage only)
- 19.2 The licence plate shall be firmly fixed to the rear of the vehicle, adjacent to, but not obscuring the rear registration plate. The licence plate shall include the registration number and seating capacity of the vehicle and the number and expiry date of the licence. It shall be positioned in such a way that both the registration plate and licence plate can be read from the same position. It shall be kept legible at all times.
- 19.3 The interior licence plate must be displayed on the windscreen on the left hand side, without obstructing the view of the driver.
- 19.4 The licence plate is the property of the council, to whom it shall be returned within seven days if the licence is suspended, revoked or not renewed for any reason. However, it shall be returned to the proprietor if the licence is reinstated.
- 19.5 The roof sign shall be firmly affixed to the roof of the vehicle and shall display the words 'taxi' or 'hackney carriage'. It may also display the operating name of a



company or proprietor or business and telephone number. The roof sign shall be illuminated when plying for hire and shall be extinguished once the taximeter when set to the "hired" or "stopped" mode. It shall stay extinguished until the completion of the journey, when the taximeter is reset to the "for hire" mode. No other switch or device for the lighting or extinguishing of the roof sign shall be permitted (hackney carriage only).

19.6 The door signs shall be displayed on the front doors of the vehicle. The signs will bear the serial number of the licence for the vehicle.

19.7 The current table of fares shall be exhibited inside the vehicle in a position that is clearly visible to passengers.

20.0 Replacement of licensed vehicle

20.1 Any licensed vehicle suffering major accident damage or requiring mechanical repair may be replaced by a hire vehicle provided:

- (i) The accident damage has been reported in accordance with the requirements of these conditions or the defect to the licensed vehicle has been similar reported.
- (ii) Application is made in the normal form for a change of vehicle (albeit temporary).
- (iii) The replacement vehicle is properly taxed, insured, and MOT tested to the requirements of the normal licensed vehicle.
- (iv) The replacement vehicle is of a suitable type to be used for hire purposes.

21.0 Inspections

21.1 The hackney carriage and any taximeter fitted to the vehicle may be inspected by an authorised officer of the council or police constable at any reasonable time. If the officer or constable is not satisfied as to the fitness of the vehicle or the accuracy of the taximeter, s/he may give written notice to the proprietor to make the hackney carriage or taximeter available for further inspection and testing, at such reasonable time and place as may be required. The vehicle licence may be suspended until the officer or constable is satisfied as to the vehicle's fitness or as to the accuracy of the taximeter. If the officer or constable is not so satisfied within two months from the initial inspection, the hackney Carriage licence shall be deemed to be revoked.

21.2 Notwithstanding the provisions of condition 21.1 above, the proprietor shall present the vehicle for inspection on receipt of a written request by an authorised officer of the council. The number of inspections shall not exceed three in any period of twelve months and the current fee for inspection shall be paid on presentation of the vehicle.



21.3 If at any time the council requires the vehicle to be tested at the address where it is kept, the proprietor shall provide the council with such facilities as are reasonably necessary to do so.

22.0 Spare tyres and wheels

Every vehicle shall be equipped with a spare tyre or an equivalent, such as a space saver tyre or repair kit, which is to be used in emergencies only.

23.0 Advertising

23.1 One sign advertising the proprietor's/operators' business details may be displayed on both rear doors of the vehicle. The sign shall not exceed 61cm x 31cm. A hackney carriage or private hire licensed to carry eight passengers may display one sign on both sides of the vehicle (i.e. not restricted to the rear doors). These signs shall not exceed 91cm x 31cm.

23.2 In addition to information regarding the proprietor's/operators' own business, signs displayed on the rear doors/sides of hackney carriage or private hire may also include advertising relating to another organisation or business. However the predominant feature of the sign must be advertising of the proprietors own business and any further advertising relating to any other business must be incidental to that.

23.3 Signs displayed on the rear doors/sides of hackney carriage or private hire vehicles may include details of fare scales charged by the proprietor/operator.

23.4 In addition to the above arrangements:

- (i) a hackney carriage licensed to carry eight passengers may also display one sign advertising the proprietor's business name and telephone number etc. on the rear tailgate of the vehicle. Such a sign shall not exceed 122cm x 31cm, or;
- (ii) a private hire vehicle licensed to carry fewer than eight passengers may also display one sign advertising the operator's business name and telephone number etc. on the rear tailgate of the vehicle. Such a sign shall not exceed 46cm x 31cm or 91cm x 15cm or;
- (iii) a private hire vehicle licensed to carry eight passengers may also display one sign advertising the operator's business name and telephone number etc. on the rear tailgate of the vehicle. Such a sign shall not exceed 122cm x 31cm.

23.5 As an alternative to the above, the proprietor may, if so desired display advertising wholly relating to a non-taxi business subject to the following conditions:



The advertisement shall not contain the following:

- (i) Political, ethnic, religious, sexual or controversial texts;
- (ii) Escort agencies, gaming establishments or massage parlours;
- (iii) Nude or semi-nude figures;
- (iv) Tobacco or alcohol;
- (v) Material likely to offend public taste (including material depicting bodily functions and genitalia and the use of obscene or distasteful language);
- (vi) Material which seeks to advertise more than one company/service or product;
- (vii) Any advertisement to be placed at a reasonable distance, so not to obscure or distract from the South Lakeland District hackney carriage sign.

24.0 Transfer of licences of change of details

- 24.1 Each licence is assigned to a specific vehicle. The licence shall not be transferred to a new vehicle, until the new vehicle has been inspected, tested and approved by the council. A fee will be charged for this.
- 24.2 The ownership of a licence may only be transferred to another person or persons with the written consent of the council. A fee will be charged for such a transfer.
- 24.3 The council shall be informed immediately in writing of any changes to the name and address of the licence holder or any of the details of the vehicle to which the licence has been issued.
- 24.4 If any of the particulars supplied in the proprietor's application change during the currency of the licence, details of the change(s) must be notified in writing to the licensing section immediately.

25.0 General

- 25.1 The council may alter any of these conditions as it sees fit, and will notify the proprietor of any changes to the conditions. The changes will come into effect as soon as the proprietor has been notified of them.
- 25.2 Any notice which the council has to serve under this licence or under any of the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 or the Local Byelaws shall be deemed to have been properly served if sent by post to or left at the last known address of the holder of this Licence
- 25.3 This licence will remain current for a period of one year unless it is suspended or revoked under any statutory or other provision.



Appendix C: Code of Good Conduct for licensed drivers

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the licensing authority has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirement set out in this document.

1.0 Responsibility to the trade

License holders shall endeavour to promote the image of the hackney carriage and private hire trade by:

- (a) Complying with this Code of Good Conduct
- (b) Complying with all the conditions of their licence and the councils hackney carriage and private hire licensing policy
- (c) Behaving in a civil, orderly and responsible manner at all times

2.0 Responsibility to clients

Licence holders shall:

- (i) Maintain their vehicles in a safe and satisfactory condition at all times
- (ii) Keep their vehicles clean and suitable for hire to the public at all times
- (iii) Attend punctually when undertaking pre-booked hiring
- (iv) Assist, where necessary, passengers into and out of vehicles
- (v) Offer passengers reasonable assistance with luggage
- (vi) Not without reasonable cause unnecessarily prolong in distance or in time a journey
- (vii) Not eat or drink whilst a vehicle is in motion or at any time when it is hired
- (viii) In car entertainment systems shall not be used without the express permission of the hirer

3.0 Responsibility to residents

To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- (a) Not sound the vehicle's horn illegally
- (b) In car entertainment systems shall not be used to the annoyance of any person
- (c) Take whatever additional action is necessary to avoid disturbance to residents



- (d) At taxi ranks and other places drivers shall adhere the byelaws contained in Appendix V
- (e) At private hire offices a licence holder shall:
 - (i) Not undertake servicing or repairs of vehicles
 - (ii) Not allow their radio/cassette players or VHF radios to cause disturbance to residents of the neighbourhood
 - (iii) Take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood, which might arise from the conduct of their business

4.0 General

Drivers shall:

- (i) Pay attention to personal hygiene and dress so as to present a professional image to the public
- (ii) Be polite, helpful and fair to passengers
- (iii) Ensure smoking does not take place in the vehicle at any time
- (iv) Carry their drivers badge at all times in a plainly visible position
- (v) Not act as a hackney carriage or private hire driver without the consent of the proprietor of the vehicle
- (vi) Not consume alcohol before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle
- (vii) Not drive while having misused legal or illegal drugs

Please note:

Any amount of alcohol or drugs can affect a driver's judgement. The council will take a very serious view of any driver being found to have had any alcohol or having misused any drugs whilst in charge of a licensed vehicle.

5.0 Notifications

- 5.1 Upon ceasing employment as a licensed driver, the licence-holder must notify the licensing team in writing, within seven days, and surrender the licence and badge issued by the council together with the plate when appropriate.
- 5.2 The driver must notify the licensing team in writing within seven days of, of any change of address.



- 5.3 The driver must notify the licensing team in writing, within a period of seven days, of any conviction or caution for an offence, any antisocial behaviour orders or criminal behaviour order, driving disqualification, for any period or any receipt of a fixed penalty, imposed on him/her whilst the licence is in force.

6.0 Lost property

- 6.1 Immediately after the termination of every hiring, drivers must carry out a search of their vehicle for property that may have inadvertently been left.
- 6.2 If any property accidentally left in a hackney carriage or private hire vehicle by any passenger, is found or handed to the driver, the driver shall leave it in the same condition in which it was found.
- 6.3 Drivers should notify the Licensing Authority of any found property as soon as is reasonably practicable and in any event within 48 hours. The driver will have fulfilled this obligation by reporting the found property;
- In person to the Licensing Office on Lowther Street, Kendal, or;
 - By telephone to 01539 793405 (voicemail out of hours), or;
 - By sending an email with a description and/or photograph of the property to:
taxis@southlakeland.gov.uk

7.0 Carriage of Animals

- 7.1 A driver must carry assistance dogs when necessary unless the driver is in possession of a medical exemption certificate.
- 7.2 A driver must not carry any animal in the vehicle unless the animal belongs to the hirer
- 7.3 Animals in the custody of passengers may be carried, at the drivers' discretion, provided they are restrained in a safe manner.
- 7.4 Any licensed driver with a medical condition, which may be exacerbated by dogs, may apply for exemptions from this condition. A certificate of exemption is supplied on production of suitable medical evidence.

8.0 Safeguarding

On occasions, drivers may become aware of, or have suspicions that, their passengers may be the victim of abuse, neglect or exploitation either sexual or otherwise, or at risk of



becoming a victim. In addition, drivers themselves may be accused of misconduct or inappropriate behaviour through their actions or conversation.

Therefore, South Lakeland District Council is proposing to introduce this **Code of Conduct** which is aimed at providing the best possible service by protecting both passengers and drivers. This ensures that concerns, suspicions of abuse, neglect or exploitation can be reported appropriately and minimise the risk of misunderstandings.

Drivers are expected to comply with this Code of Conduct. Failure to do so may result in the driver being referred to the Licensing Regulatory Sub- Committee to explain the circumstances surrounding any incident. In the event of a repeated and/or serious failure to comply, drivers can expect that consideration will be given to the suspension or revocation of their licence.

It should be noted that the code does not override any obligations that are enshrined in legislation, licence conditions or contractual obligations, such as County Council contracts.

Drivers should:

- Act in a professional manner at all times
- Treat passengers and other road users with respect
- Keep relationships with passengers on an appropriate, professional basis
- Respect all individuals: regardless of age, disability, gender, sexual orientation, gender reassignment, religion/belief, language spoken, race or ethnicity

And be aware of:

- Safety and wellbeing of passengers must be paramount
- The importance of the use of appropriate language
- Be aware of the vulnerability of children and adults
- Be aware of passengers with special needs
- Any instruction given about the care or first aid requirements of a passenger
- Personal beliefs and standards, including dress and religion
- Passengers misreading situations
- The use of social networking sites such as Facebook and Twitter. These are public websites and therefore passengers conveyed may access a Driver's site. Ensure you use the appropriate privacy settings to avoid passengers viewing your social media sites



Drivers should never:

- Become over friendly or unprofessional in any way with passengers or engage in any form of inappropriate relationship, infatuation or show favouritism
- Inappropriately touch a passenger, unless in an emergency situation, or if required to do so because of the additional needs of the passenger
- Administer medication unless a specific request has been made by the hirer
- Photograph or video passengers in your care unless used in compliance with data protection legislation and any relevant codes of practice issued by the Home Office or Information Commissioner's office
- Engage with passengers through social networking sites (such as Facebook and Twitter), instant messengers or any other online communication software such as mobile phone applications or video games (other than for clear and obvious business connections)
- Phone or send text messages to passengers other than directly concerning the hiring of your vehicle
- Swear, make personal/humiliating comments, or tell inappropriate jokes in person or by any other means e.g. social media
- Offer cigarettes or gifts of any sort
- Stop anywhere other than the specified pick up/drop off points unless requested by the hirer
- Show passengers videos or pictures on your mobile phone or any other electronic device

Safeguarding:

If a driver has concerns or suspects abuse, neglect or exploitation of a passenger then these should not be ignored. If there are any suspicions or concerns about the way someone is being treated it is important to report this. The safeguarding of children and vulnerable adults is everybody's responsibility. Remember that your information could help a vulnerable child or adult.

If a driver is working under a Cumbria County Council contract then their documents and guidance procedures should be followed alongside any training received by the driver.

Otherwise, the following procedures should be complied with in reporting any information or suspicions you may have of anyone being subject to abuse, neglect or exploitation:



Action to be taken if you have concerns:

- If your concerns are of an urgent matter or you believe that a crime has been committed and there is an immediate risk of danger, telephone the police on **999 or 112**
- If you are suspicious or are concerned that a child or an adult is suffering or is likely to suffer significant harm, including any form of mistreatment, abuse, neglect or exploitation but it is not of an urgent matter, please call South Lakeland District Council Licensing Team on 01539 733 333
- If you would prefer to speak to the police on a non-urgent matter then call them on **101** and follow the directions for Cumbria Constabulary

Appendix D: Dress code for licensed drivers

South Lakeland District Council is committed to encouraging the professional image of the hackney carriage and private hire trade, and considers that drivers of licenced vehicles are vocational drivers. The council considers, therefore, that all drivers should conform to a minimum standard of dress, as set out below, in order to raise the profile of the trade.

The licensing authority does not impose such standards by the way of conditions to any licence. It is expected, however, that such standards shall be maintained at all times.

Acceptable standards or dress

1) Tops

Shirts, blouses, t-shirts, or sweat tops should cover the shoulders and be capable of being worn inside trousers or shorts.

Shirts or blouses can be worn with or without a tie.

2) Trousers/shorts/skirts

Shorts should be tailored.

It is recommended that female drivers do not wear short skirts for personal safety reasons.

3) Footwear

Footwear should fit around the heel of the foot.



Safety shoes with protected toe-caps are recommended.

Footwear with pronounced heels is not recommended.

Unacceptable standards of dress

The following are unacceptable:

- Clothing or footwear which is unclean or damaged
- Clothing printed with words, logos or graphics, which might offend
- Studs or sharp-edged clothing
- Beach-type footwear (e.g. flip-flops)

Appendix E: Hackney carriage and private hire drivers' licences: application procedure

- 1.0 An application for a hackney carriage drivers' licences or private hire drivers' licence may be made at any time of the year. Applications are to be made on the prescribed application form.
- 2.0 Applicants must have held a full driving licence for a period of at least one year and passed those qualifications listed in Section 4.4. **The driving license must be valid for the duration of the Hackney Carriage/Private Hire license which they have applied for. The Licensing Authority may suspend the licence of any driver found to have an invalid DVLA issued driving license.**
- 3.0 Applicants are required to comply with those testing procedures outlined in Appendix F.
- 4.0 In support of completed application form, the applicant must provide the following, prior to the application being processed:
 - (i) A signed DVLA disclosure mandate; (non UK applicants must register their non UK licence with the DVLA: see section 4.4 of this policy)
 - (ii) Enhanced DBS application form, which shall be obtained through the licensing authority; (non UK applicants must also provide a "Certificate of Good Conduct": see section 4.6 of this policy)
 - (iii) The specified fee
 - (iv) A medical report form (see section 4.13 of this policy)



- (v) A passport sized photograph taken in the last three months
- (vi) All applicants must provide evidence of their right to work in the UK
- (vii) Local knowledge test certificate
- (viii) A driving assessment certificate that has been approved by the council
- (ix) **Mandatory disability and child sex exploitation new or refresher training**
- (x) **A HMRC Tax check code**

Failure to provide the above will result in the application not being processed.

Appendix F: Testing of applicants

1.0 Introduction

Applicant for hackney carriage and private hire drivers' licences will be required to undergo written tests as part of the process of satisfying the council that they are suitable persons to hold such a licence. In addition, the council needs to be satisfied as to the medical fitness of applicants seeking a licence.

2.0 Local Geography

Applicants will be tested on their knowledge of South Lakeland District Council geography, by recording the shortest routes between locations in the area. Private hire drivers are not required to undertake and pass a test with respect of local geography because journeys taken will always be pre-booked.

3.0 Highway code

Applicants will be asked to answer a number of questions as to driving skill, road information and etiquette as set out in the Highway Code.

4.0 District Council Policy

Applicants will be tested on their knowledge and understanding of the hackney carriage and private hire licensing policy document.

5.0 Numeracy

Applicants will be tested on their ability to carry out elementary mental arithmetic, as encountered in calculating the change to be paid to a potential customer who overpays a fare.



6.0 Disability awareness

All applicants will be tested on their knowledge on the carriage of assistance animals and interaction with disabled customers.

7.0 Safeguarding

Applicants will be tested on their understanding and awareness of safeguarding. Mandatory safeguarding training will be undertaken by all drivers

8.0 General

Questions covering vehicle maintenance, seat belts, smoking.

A maximum number of three attempts has been imposed for which applicants (for the grant of a hackney carriage/private hire drivers licence) are able to undertake the council's tests (numeracy, highway code, local geography and council Policy), after which there will be a minimum period of six months before any new testing may take place. Applicants will not be considered to be fit and proper to hold a licence unless or until they have achieved the requisite pass rate 75% in the test. If any safeguarding questions are failed, irrespective of overall pass rate, the test result will be a fail.

Appendix G: The consideration of applications

- 1.0 Upon receipt of completed application form, a licensing officer will consider the application, unless there are details which are missing from the application form, or the supporting documents are incomplete. Where the application is incomplete, it will not be considered until all of the missing details or documents are supplied.
- 2.0 Where the application fails to meet the requirements of this policy it will be referred to the Sub-Committee of the Licensing Regulatory Committee. The applicant will be advised of the date, time and venue of the Licensing Regulatory Sub-Committee.
- 3.0 At the Licensing Regulatory Sub-Committee meeting, the council members present will receive a report from the licensing officer, and will then hear representations from the applicant, and may ask any questions of the applicant, before deciding upon whether a licence should be granted. The applicant will be told of the outcome immediately, and this will be confirmed in writing within seven days.

Drivers

- 4.0 If satisfied, from the information available that the applicant is a fit and proper person to hold a hackney carriage and private hire drivers' licence, the Officer has delegated power to grant the application.



- 5.0 Successful applicants will be notified in writing, and issued, with the appropriate licence. Those who are granted drivers' licence will be issued with the drivers' badge, which will remain the property of the council and must be surrendered when the licence is suspended, revoked or has expired.
- 6.0 Unsuccessful applicants will be informed of their right to appeal against the decision to the magistrates' court within 21 days of being informed of the refusal of the application.

Vehicle

- 7.0 Unsuccessful applicants will be informed of their right to appeal against the decision to the magistrates' court within 21 days of being informed of the refusal of the application.

Appendix H: The relevance of convictions

The following guidelines are used to determine the relevance of the criminal convictions in relation to applications for hackney carriage and private hire drivers' licences. In so stating, this licensing authority has taken account of the guidelines set out in Statutory Taxi & private Hire Vehicles Standards as appropriate for its needs.

General policy

Formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

All convictions shall be considered on merit, having regard to paragraph 4.11 of Section 4 and will be weighed against the need to protect the public.

A person with current convictions for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free from conviction for a minimum of 7 years according to the circumstances before an application is entertained. Such discretion may be applied if the offence is isolated and there are mitigating circumstances. However the overriding consideration should be protection of the public.

The following examples afford a general guide to the action to be taken where convictions are admitted.

1.0 Minor traffic offences

- 1.1 Isolated convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc., should not normally prevent a person from being granted a licence.
- 1.2 If an applicant has accumulated excessive points i.e. more than three points, at any



one time the application will be reviewed by the principal officer. A decision will be made whether the application needs to be heard by the Licensing Regulatory Subcommittee.

- 1.3 Convictions relating to minor driving offences committed when the applicant was driving a hackney carriage or private hire vehicle will be considered in a more serious light.

2.0 Major traffic offences

- 2.1 More than one conviction for driving without due care and attention or similar offence etc., within the last two years will usually merit refusal and normally no further application will be entertained until a period of at least three years free from convictions has elapsed.
- 2.2 A conviction for more serious motoring offences such as causing death by dangerous, careless driving or manslaughter will be treated more seriously and a longer period free of conviction (normally a period of between **seven** and ten years) will be required before an application is entertained.
- 2.3 If an applicant has been disqualified from driving, a period of at least 12 months (after the restoration of the driving licence) should normally be required before an application is entertained.
- 2.4 A conviction committed when the applicant was driving a hackney carriage or private hire vehicle whilst engaged on licensed activities will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.
- 2.5 **Where an applicant has a conviction for using a hand-held 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 later.**

3.0 Drunkenness and drugs

3.1 With a motor vehicle

- 3.1.1 A serious view will be taken of convictions of driving or being in charge of a vehicle under the influence of drink or drugs. A conviction for these offences will raise grave doubts as to the applicant's fitness to hold a licence. A period of **seven** years (after restoration of the driving licence) would normally be required before a licence application is entertained.
- 3.1.2 If there is any suggestion that the applicant is an alcoholic or has a drug problem, a medical examination with a doctor nominated by the council will be arranged (the costs of which will be borne by the applicant) before an application is entertained. If



the applicant is found to be an alcoholic or a drug addict, normally a period of between **seven** to ten years will need to elapse after completion of treatment before a further licence application is entertained.

- 3.1.3 Convictions for offences relating to alcohol or drug abuse committed when the applicant was driving a Hackney Carriage or Private Hire will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.
- 3.1.4 In this instance confirmation may be sought from a doctor nominated by the council that the rehabilitation programme has been effective.

3.2 Not in a motor vehicle

- 3.2.1 An isolated conviction for drunkenness or drugs need not debar an applicant from gaining a licence, although further consideration of the application should be required having regard to the circumstances of the offence. However, a number of convictions would usually merit refusal and normally no further application will be entertained until a period of at least **7** years free from convictions has elapsed.

4.0 Indecency offences

- 4.1 As Hackney Carriage and Private Hire Vehicle drivers often carry unaccompanied passengers, applicants with convictions for sexual offences will normally be refused until they can show a substantial period free of such offences.
- 4.2 Applications will be refused in cases where the applicant remains on the Sex Offenders Register.
- 4.3 A conviction relating to offences of indecency committed when the applicant was driving a Hackney Carriage or Private Hire Vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

5.0 Violence and abusive behaviour

- 5.1 As Hackney Carriage and Private Hire Vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violent or abusive offences. This category includes public order offences and criminal damage.
- 5.2 At least **seven** years free of such convictions will normally be necessary before an application is entertained and even then a strict warning as to future conduct will be given.
- 5.3 A conviction for an offence relating to violence committed when the applicant was



driving a hackney carriage or private hire vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

- 5.4 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.
- 5.5 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.

6.0 Dishonesty

- 6.1 Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. Foreign visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver.
- 6.2 For these reasons a serious view will be taken of any conviction involving dishonesty.
- 6.3 A conviction for an offence relating to dishonesty committed when the applicant was driving a hackney carriage or private hire vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.
- 6.4 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, this is not an exhaustive list.
- 6.5 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.



7.0 Offences under the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Byelaws (Taxi legislation)

- 7.0 Offences under the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Carriage Byelaws (Taxi legislation).
- 7.1 One of the main purposes of the licensing regime set out in the taxi legislation is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under the legislation, particularly offences of illegal plying for hire, when deciding if a person is a fit and proper person to hold a licence.
- 7.2 In particular, an application will normally be refused where an applicant has more than one conviction for an offence under the taxi legislation in the **seven** years preceding the date of the application.
- 7.3 A conviction for an offence relating to the taxi legislation committed while licensed as a hackney carriage or private hire driver, proprietor or operator will be considered in a more serious light and a revocation of the appropriate licences may be instigated.



Principles of the Rehabilitation of Offenders Act 1974

- (1) Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.
- (2) The possibility of rehabilitation and the length of time before rehabilitation and the length of time before rehabilitation occurs depend on the sentence imposed, and not the offence committed.
- (3) Where a person is sentenced to imprisonment for a period exceeding 30 months, the conviction can never become spent.
- (4) Despite the above, the principles of the Act do not apply to applications for hackney carriage and private hire drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked to the suitability of individuals to be granted a licence.
- (5) Although the act does not prevent judicial authorities (inclusive of the licensing authority) from taking spent convictions into account; such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.
- (6) The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
- (7) The rehabilitation periods to which reference is most commonly made are set out below. For detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to specialist text book on the act.



Sentence	Rehabilitation Period
A custodial sentence of more than 30 months and up to, or consisting of, 48 months	The end of the period of 7 years beginning with the day on which the sentence (including any licence period) is completed.
A custodial sentence of more than 6 months and up to, or consisting of, 30 month	The end of the period of 48 months beginning with the day on which the sentence (including any licence period) is completed
A custodial sentence of 6 month or less	The end of the period of 24 months beginning with the day on which the sentence (including any licence period) is completed
Removal from Her Majesty's service	The end of the period 12 months beginning with the date of the conviction in respect of which the sentence is imposed
A sentence of service detention	The end of the period of 12 months beginning with the day in which the sentence is completed.
A fine	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed
A compensation order	The date on which the payment is made in full
A community or youth rehabilitation order	The end of the period of 12 months beginning with the day provided for by or under the order as the last day on which the order is to have effect
A relevant order	The day provided for by or under the order as the last day on which the order is to have effect

Appendix I: Hearings

Introduction

Meetings of Licensing Regulatory Sub-Committee will be convened, as and when necessary, to consider appropriate disciplinary measures involving proprietors, operators and drivers, wherever they have been convicted of offences before the courts, where the offence or offences are imprisonable, endorsable, or specifically relate to the use of a hackney carriage or private hire vehicle, or where action has been taken as a result of breaches of policy, conditions imposed under a licence, bylaws or legislation. The purpose of such meetings shall be for the Licensing Regulatory Sub-Committee to consider which, if any, of the options available should be implemented.

The options available

The Licensing Regulatory Sub-Committee, after the details of the referral have been outlined, and the licence holder has been given the opportunity to address the hearing, may order one of the following:

- Suspension of the licence
- Revocation of the licence
- A refusal to renew the licence
- The imposition of further conditions
- Referral to enhanced drivers' course
- No further action to be taken

The Licensing Regulatory Sub-Committee may also recommend that the licensing officer considers prosecution of licence holders, in circumstances where there are persistent or serious breaches of conditions, which have not been dealt with otherwise.

Where a licence holder appears before a Licensing Regulatory Sub-Committee having been convicted of an offence in a category referred to in Appendix H, the sub-committee will adopt an approach similar to the one which it would adopt in relation to a new applicant as regard the offence or offences recorded.



Appendix J: Offences for hackney carriage and private hire vehicles and drivers

Introduction

Two statutes principally create offences relating to Hackney Carriage and Private Hire Vehicles:

- (i) Town Police Clauses Act 1847
- (ii) Local Government (Miscellaneous Provisions) Act 1976

The offences are set out below.

In relation to the maximum penalties specified, the levels of fine are currently as follows:

Town Polices Clauses Act 1847

Section	Offence	Maximum Penalty
40	Giving false information on application for HC proprietor's licence	Level 1
44	Failure to notify change of address of HC proprietor	Level 1
45	Plying for hire without HC proprietor's licence	Level 4
47	Driving a HC without a HC drivers licence	Level 3
47	Lending or parting with a HC drivers licence	Level 3
48	Failure by HC proprietor to hold HC drivers licence	Level 1
48	Failure by HC proprietor to produce a HC drivers licence	Level 1
52	Failure to display HC plate	Level 1
53	Refusal to take a fare	Level 2
54	Charging more than the agreed fare	Level 1
55	Obtaining more than the legal fare	Level 3 and one month's imprisonment until the excess is refunded
56	Travelling less than the lawful distance for an agreed fare	Level 1
57	Failing to wait after the deposit to wait has been paid	Level 1
58	Charging more than the legal fare	Level 3
59	Carrying other person than the hirer without consent	Level 1
60	Driving HC without proprietor's consent	Level 1
60	Person allowing another to drive HC without proprietors consent	Level 1
61	Drunken driving of HC	Level 1
61	Wanton or furious driving or wilful misconduct leading to injury or danger	Level 1
62	Driver leaving HC unattended	Level 1
64	HC driver obstructing other HC's	Level 1



Local Government (Miscellaneous Provision) Act 1976

Section	Offence	Maximum Penalty
49	Failure to notify the transfer of a HC proprietor's licence	Level 3 (by virtue of S76)
50(1)	Failure to present a HC for inspection, as required	Level 3 (by virtue of S76)
50(2)	Failure to inform the Licensing Authority where the HC is stored, if requested	Level 3 (by virtue of S76)
50(3)	Failure to report an accident to the Licensing Authority	Level 3 (by virtue of S76)
50(4)	Failure to produce the HC proprietor's licence and insurance certificate	Level 3 (by virtue of S76)
53(3)	Failure to produce the HC drivers' licence	Level 3 (by virtue of s76)
57	Making a false statement or withholding information to obtain a HC drivers' licence	Level 3 (by virtue of s76)
58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence	Level 3 (plus daily fine of £10)
61(2)	Failure to surrender a drivers' licence after suspension, revocation or refusal to renew	Level 3 (by virtue of S76)
64	Permitting any vehicle other than a HC to wait on a HC stand	Level 3 (by virtue of S76)
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement	Level 3 (by virtue of S76)
67	Charging more than the meter fare when HC used as private hire vehicle	Level 3 (by virtue of S76)
69	Unnecessarily prolonged a journey	Level 3 (by virtue of S76)
71	Interfering with a taxi meter	Level 3 (by virtue of S76)
73(1)(a)	Obstructing an Authorised Officer or Constable	Level 3 (by virtue of S76)
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Constable	Level 3 (by virtue of S76)
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Constable	Level 3 (by virtue of S76)
46(1)(a)	Using an unlicensed PH vehicle	Level 3 (by virtue of S76)
46(1)(b)	Driving a PH vehicle without a PH drivers' licence	Level 3 (by virtue of S76)
46(1)c	Proprietor of a PH vehicle using an unlicensed driver	Level 3 (by virtue of S76)
46(1)d	Operating of PH vehicle without a PH operators' licence	Level 3 (by virtue of S76)



Section	Offence	Maximum Penalty
46(1)(e)	Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle	Level 3 (by virtue of S76)
46(1)(e)	Operating a vehicle as a PH when the driver is not licensed as a PH driver	Level 3 (by virtue of S76)
48(6)	Failure to display a PH vehicle plate	Level 3 (by virtue of S76)
49	Failure to notify transfer of a PH vehicle licence	Level 3 (by virtue of S76)
50(1)	Failure to present PH vehicle for an inspection, as required	Level 3 (by virtue of S76)
50(2)	Failure to inform the Licensing Authority where the PH vehicle is stored, if requested	Level 3 (by virtue of S76)
50(3)	Failure to report an accident to the Licensing Authority	Level 3 (by virtue of S76)
50(4)	Failure to produce a PH vehicle licence and an insurance certificate	Level 3 (by virtue of S76)
53(3)	Failure to produce a PH drivers' licence	Level 3 (by virtue of S76)
54(2)	Failure to wear a PH drive's badge	Level 3 (by virtue of S76)
56(2)	Failure by a PH operator to keep records of bookings	Level 3 (by virtue of S76)
56(3)	Failure by a PH operator to keep records of PH vehicles operated by him	Level 3 (by virtue of S76)
56(4)	Failure to produce a PH operators' licence on request	Level 3 (by virtue of S76)
57	Making false statement or withholding information to obtain a PH driver or operators' licence	Level 3 (by virtue of S76)
58(2)	Failure to return plate after notice given following expiry, revocation or suspension of a PH vehicle licence	Level 3 plus daily fine of £10
61(2)	Failure to surrender a drivers' licence after suspension, revocation, or refusal to renewal	Level 3 (by virtue of S76)
67	Charging more than the meter fare when the HC used as a PH vehicle	Level 3 (by virtue of S76)
69	Unnecessarily prolonging a journey	Level 3 (by virtue of S76)
71	Interfering with a taximeter	Level 3 (by virtue of S76)
73(1)(a)	Obstruction of an Authorised Officer or Constable	Level 3 (by virtue of S76)
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Constable	Level 3 (by virtue of S76)
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Constable	Level 3 (by virtue of S76)



Transport Act 1980

Section	Offence	Maximum Penalty
64(2)(a)	Driving a PH vehicle with a roof sign, which contravenes s64(1)	Level 3
64(2)(b)	Causing or permitting a PH vehicle to be driven with a roof sign which contravenes s64(1)	Level 3

Disability Discrimination Act 1995 (as amended)

Section	Offence	Maximum Penalty
36	Driver of HC refusing to carry a passenger in a wheelchair (unless exempted to do so)	Level 3
37	Driver of HC refusing to carry an assistance dog (guide/hearing dog) (unless exempted to do so) or making an additional charge for a dog	Level 3
37A	PH Vehicle Operator refusing to accept a booking for a private hire vehicle for a disable person or for a person with an assistance dog (unless exempted to do so)	Level 3
37A	PH Vehicle Driver refusing to accept a booking for a private hire vehicle for a disable person or for a person with an assistance dog (unless exempted to do so)	Level 3

Appendix K: Hackney Carriages vehicle conditions

- 1.0 Please note that general vehicle conditions for hackney carriage and private hire vehicles are found within Appendix A. The following conditions are solely for hackney carriages. Those conditions solely for private hire vehicles are found within Appendix M.

2.0 Meters

- 2.1 The proprietor of a hackney carriage shall not use, cause, or permit the use of a vehicle as a hackney carriage until it has been fitted with a taximeter and authorisation has been given by the council to use the vehicle as a hackney carriage.
- 2.2 The proprietor shall ensure that the taximeter is located in the vehicle in a position where it can be clearly and readily seen by the hirer of that vehicle. It shall be sufficiently illuminated for this purpose. The taximeter shall be maintained in a sound, mechanical condition at all times.
- 2.3 The proprietor shall immediately inform an authorised officer of the council if the taximeter seal is broken or damaged and shall also notify an authorised officer if the



taximeter becomes faulty in operation and obtain authorisation to continue to use the vehicle.

- 2.4 A taximeter shall not be replaced without notifying the council of the details of the taximeter specification, together with the date of installation, which shall be given, in writing, to the council within seven days of the date of installation.
- 2.5 The proprietor of the vehicle shall at any reasonable time, on the request of an authorized officer of the council, make the said vehicle available for the taximeter to be tested, inspected and (if needs be) sealed by an authorised officer of the council.

3.0 Use the hackney carriage vehicle on pre-booked journeys

- 3.1 The hackney carriage may be used for pre-booking arrangements provided that:
 - (a) The rate charged for the use of the vehicle in this way does not exceed the current table of fares for hackney carriages;
 - (b) Provided that the fare or charge is only calculated from the point where the hirer begins his journey; and
 - (c) The taximeter shall be in the 'hired' position during the transport of any pre-booked fare(s)

Appendix L: Taxi stands

Windermere

Location	Hours of Operation	Car Provision
Main Road, Windermere	6pm to 8am	4 Car Provision
Ellerthwaite Square	24hrs	2 Car Provision
Windermere Railway Station	24hrs	Contract only
Bowness (opposite Royalty)	24hrs	1 Car Provision
Church Street, Bowness	10pm to 6am	6 Car Provision
Bowness Promenade	24hrs	4 Car Provision

Ambleside

Location	Hours of Operation	Car Provision
North Road	N/A	4 Car Provision
Market Square	N/A	3 Car Provision
King Street	N/A	3 Car Provision
Waterhead (opposite Lake Cruises)	N/A	1 Car Provision

Kendal

Location	Hours of Operation	Car Provision
Highgate Shakespeare	24hrs	2 Car Provision
Highgate (outside Boyes)	6pm to 8am	4 Car Provision
Stramongate (outside Giannis)	24hrs	1 Car Provision
Stricklandgate (outside Greggs)	24hrs	3 Car Provision
Bus stop opposite McDonald's	24hrs	3 Car Provision
Bus Station (Blackhall road)	N/A	2 Car Provision
Oxenholme Railway Station	24hrs	Contract only

Ulverston

Location	Hours of Operation	Car Provision
Cross Street	24hrs	2 Car Provision
Market Place	Mon, Tues, Wed, Fri Sat, Sun 10am to 6am Thurs and Fri 8pm to 6am	3 Car Provision

Appendix M: Private hire licensing private hire vehicle conditions

1.0 For general conditions with regard private hire vehicles please see Appendix A.

2.0 Meters

2.1 A private hire vehicle may be fitted with a fare meter.

2.2 The private hire operator shall make their own agreement with the hirer as to the fare for a particular journey.



2.3 If a meter is fitted, it shall be positioned and illuminated so that the face is plainly visible at all times to the person being conveyed.

2.4 If a meter is fitted, it shall be tested and approved by the council.

3.0 Vehicle marking

3.1 Roof signs shall not be fitted to any Private hire vehicles.

4.0 Advertising

4.1 See Appendix A, paragraph 23.0.

4.2 The word “hackney carriage” or variation of this word must not be used.

5.0 Vehicles plying for hire

See Appendix P for further details.

Appendix N: Private hire licensing novelty vehicles

1.0 Definition

1.1 For the purpose of this policy, a novelty vehicle is defined as:

“A motor vehicle that has been substantially altered from its original condition, or is imported from outside of the EU, or is a vehicle that was not originally constructed as a passenger carrying vehicle”

2.0 Conditions

2.1 Unless specifically stated otherwise below the requirements this Appendix shall apply.

2.2 The conditions below are additional requirements specifically for novelty vehicles licensed as private hire vehicles.

2.3 Bearing factors of public safety in mind, the council will only consider licensing novelty vehicles as private hire vehicles where:

- A valid IVI (Individual Vehicle Inspection) certificate, issued by DVSA, must be provided for the vehicle



- Every passenger carrying seat and the driver's seat must be provided with a seat belt
- Not more than eight passenger seats shall be used
- Passenger(s) under the age of 14 years must be accompanied by an adult, who is not the driver and is over 18 years of age
- Passengers must remain seated while the vehicle is in motion
- Passengers must not be carried in the front seat(s) of the vehicle
- Alcohol shall not be supplied in the vehicle
- The provision of regulated entertainment in the vehicle must be made in accordance with the Licensing Act 2003

(*DVSA – Driver Vehicle Standards Agency – formerly VOSA and DSA)

Appendix O: Private Hire licensing executive hire

The following conditions will be attached to the licence:

- On application a business plan will be submitted by the applicant outlining the intentions of the applicant in respect of any executive car hire business. The business plan will provide a description of the type of work to be undertaken with details of any contracts agreed. The number of vehicles deemed to be for executive hire use together with vehicle specification will also be submitted with the business plan on application
- Only vehicles which are used solely for executive hire may be granted exemption. The vehicle will need to be used 100% for executive hiring's.
- Vehicles which are granted exemption from the need to display any recognisable licensed signage, may not undertake any 'normal' (non-executive hire) private hire work where the absence of identification features might cause problems
- The granting of an exemption will mean that the vehicle and driver are exempt from the requirement to display identifying signage on the vehicle and the driver will not have to wear his drivers' badge
- All other private hire conditions will apply to both the vehicle and the driver whilst he is undertaking executive hire



- Private hire Vehicles which are granted executive hire exemption will be subject to the application of six additional conditions as detailed below
- An exemption certificate will be granted to those vehicles where through delegated arrangements or were the Licensing Sub Committee is satisfied that the criteria for exemption are met
- The external licence plate must be affixed inside the boot-lid
- The Internal licence plate must be affixed inside the glove-box
- When the booking is made, the operator must provide the hirer with the registration number of the vehicle and the name of the driver
- Any time that the vehicle is found to be used outside of the permissions granted for the exemption from displaying plates, will result in the permanent removal of the exemption for the vehicle
- Saloon and hatchback vehicles to be licensed for four passengers only plus the driver
- Male drivers are required to wear a suit or jacket and trousers plus a shirt and tie at all times. Female drivers must follow an equivalent dress code but will not be required to wear a tie. This dress code must be followed at all times the vehicle is being used to undertake a booking. Jackets may be removed for the comfort of the driver or where weather conditions require it
- The driver shall at all times when hired have his drivers badge available to identify himself to the hirer

Appendix P: Private hire licensing drivers' conditions

The holder of a private hire vehicle drivers' licence shall observe and perform all the following terms and conditions which shall be attached to and form part of his/her private hire vehicle drivers' licence.

- 1 This licence is personal to the licensee named herein and the licensee may not in any circumstances assign it or in any way part with the benefit thereof to any other person.
- 2 The licensee shall at all times when acting as a driver of a private hire vehicle wear the drivers' badge issued by the council in such a position and manner as to be plainly and distinctly visible.



- 3 The drivers' badge issued by the council remains the property of the council and shall be returned to the council within seven days of the date of the suspension or revocation of or refusal or failure to renew this licence.
- 4 A fee will be payable on the replacement of lost drivers badges (see Licensing Fees and Charges list).
- 5 The licensee shall not, whilst driving or in charge of a vehicle licensed for private hire:
 - (a) Stand on any place provided as a stand for hackney carriage vehicles;
 - (b) Change to hackney stand or ply for hire or solicit any person to hire or to be carried for hire or reward on any road or in any public place or in any place readily accessible and visible from a road;
 - (c) Cause or procure any person to tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle or offer that vehicle for immediate hire while the licensee or that vehicle is on a road or other public place
 - (d) Accept an offer for the hire of the vehicle whilst the licensee or that vehicle is on a road or other public place except where such offer is first communicated to the licensee by a telephone or by wireless telegraphy apparatus fitted to that vehicle
- 6 The licensee shall not permit or cause or offer to be carried in any vehicle licensed for private hire a greater number of persons than that specified in the licence for that vehicle.
- 7 The licensee, if he is not the operator of the vehicle, shall report to the operator of any vehicle licensed for private hire as soon as practicable, and in any case within 24 hours of its occurrence, details of any accident in which such vehicle is involved.
- 8 The driver of a private hire vehicle which has been hired to be in attendance at an appropriate time and place shall, unless delayed or prevented by some sufficient cause, punctually attend at the appointed time and place.
- 9 The licensee shall, when requested by the hirer, convey a reasonable quantity of luggage and afford reasonable assistance in loading and unloading, including assistance in removing to and from the entrance of any house or other place where he collects or sets down his passengers.



- 10 The driver is required to carry a guide, hearing or other assistance dog belonging to a passenger, free of charge, unless the driver has been granted exemption by the council on medical grounds, and the notice of exemption is displayed in the vehicle.
- 11 At the end of each hiring and before the commencement of the next hiring, the driver shall search the vehicle for any property that may have been accidentally left by the last hirer. The driver should notify the vehicle operator and the Licensing Authority of any found property as soon as is reasonably practicable and in any event within 48 hours. The driver will have fulfilled this obligation by reporting the found property:
- a) To the licensed private hire operator and;
 - b) To the Licensing Authority;
 - (i) In person to the Licensing Office on Lowther Street, Kendal, or;
 - (ii) By telephone to 01539 793405 (voicemail out of hours), or;
 - (iii) By sending an email with a description and/or photograph of the property to: licensing@southlakeland.gov.uk.
- 12 The driver shall immediately inform the council of any illness or worsening of any health condition likely to cause him/her to be a source of danger to the public when driving.
- 13 The licensee shall, at the request of any authorised officer or any police constable produce for inspection his drivers' licence either or before the expiration of five days beginning with the day following the date of the request:
- (a) In the case of a request of an authorised officer of the council at the offices
 - (b) In the case of a request of a police constable at any police station within the council's area which is nominated by the driver when the request is made
- 14 This licence may be suspended, revoked or not renewed by the council:
- (a) If the licensee commits an offence or otherwise fails to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) If the licensee has been convicted of an offence involving dishonesty, indecency or violence;
 - (c) If the licensee becomes disqualified from driving under any of the Road Traffic Acts in which case the licence shall be automatically revoked.



- (d) On any other reasonable grounds.
- 15 If any of the particulars supplied in the drivers' application change during the currency of the licence, details of the change(s) must be notified in writing to the licensing group immediately.
 - 16 The council may at any time add to, delete or alter any of the foregoing conditions and upon notice thereof having been served upon the licensee such additions, deletions or alterations shall, as from the date of such service, be deemed to be incorporated herein.
 - 17 Any notice required to be served by the council under this licence or under any of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 shall be deemed to have been properly served if sent by it by prepaid post to, or left at, the last known address of the holder of the licence.
 - 18 The driving licence shall be in force for three years, unless it is suspended or revoked, or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.

Appendix Q: Private hire licensing operators' licence conditions

The operator of a private hire vehicle shall observe and perform all the following terms and conditions which shall be attached to and form part of his private hire vehicle operators' licence:

- 1 Every contract for the hire of a private hire vehicle shall be deemed to be made with the Operator who accepted the booking even if he himself does not provide the vehicle
- 2 The licence is personal to the person(s) named in it who may not assign it or part with its benefit to any other person(s).
- 3 The licensee shall keep at all times at the premises from which he operates, a permanent book or register, which shall clearly show by daily entry, particulars of every booking of a private hire vehicle invited or accepted by him. Whether by accepting the same from the hirer or by undertaking it at the request of another operator. Such particulars shall be entered before the commencement of each journey and shall show in respect of that journey:
 - (a) Whether the request for the hiring was made by the hirer or another operator



- (b) The name of the hirer;
 - (c) The date, time and place of the commencement of the journey;
 - (d) The number of passengers to be carried, if known;
 - (e) The name and/or licence number of the driver and the registration number and/or private hire vehicle licence number of the vehicle used;
- 4 The Licensee shall keep at all times at the premises from which he operates, a permanent register which shall set out in respect of each private hire vehicle operated by him:
- (a) The make, model, colour and registration number;
 - (b) The year of its manufacture and the date of its first registration
 - (c) The number of passengers which that vehicle is authorised to carry;
 - (d) The number and date of the current private hire vehicle licence
 - (e) The name and address of the proprietor of the vehicle;
- 5 This licence and any book, register or record required to be kept under the terms of this Licence shall be produced on request to any authorised officer of the District Council and to any police constable for inspection.
- 6 The operator shall produce his/her operators' licence on request to any authorised officer of the council or to any police constable
- 7 The council shall have power to suspend, revoke or refuse to renew any operators' licence for any reasonable cause including:
- (a) Any offence under or non-compliance with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) Any conduct on the part of the operator which appears to the council to render him unfit to hold an operators' licence;
 - (c) Where there has been a material change in circumstances of the operator on the basis of which the licence was granted;
 - (d) Any other reasonable cause



- 8 The operator must notify the council in writing immediately of any change in the particulars contained in the application.
- 9 The operator shall disclose in writing to the licensing section within seven days, details of any conviction or police caution imposed on him/her.
- 10 The council may alter any of the conditions attached to the operators' licence as it seems fit and will serve notice on the operator of these alterations. The alterations will come into effect as soon as the operator has been notified of them.
- 11 Any notice which the council has to serve under the Local Government (Miscellaneous Provisions) Act 1976 in respect of this licence will be considered to have been correctly served if sent by prepaid post to, or left at, the last known address of the operator.
- 12 The operator's licence shall be in force for five years, unless it is suspended or revoked, or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.
- 13 The operator is required to keep and maintain a register of all staff that will take bookings or dispatch vehicles, including evidencing staff are basic DBS checked.

Appendix R: Non-motorised vehicles: horse drawn carriages: driver and vehicle conditions

All horse drawn hackney carriage licence will be issued subject to the following conditions:

- 1 Non-motorised hackney carriages are exempted from requirement contained in Appendix K, Section 2.0 and 3.0.
- 2 The driver shall comply with the competency standard specified in 15.1 and 15.2 of this policy.
- 3 The driver shall comply with the standards detailed in Appendices C and D of this policy.
- 4 Those persons granted a licence to solely drive a non-motorised hackney carriage are issued a joint hackney carriage and private hire drivers' licence, a specified condition of which is that the driver may only drive a non-motorised vehicle (i.e. a horse drawn carriage) and no other type of licensed vehicle.



- 5 The licence holder shall be responsible for the safe handling and proper care of the horses employed in the operation of the licensed vehicle.
- 6 The licence holder shall be responsible, when in charge of the vehicle, for the collection and satisfactory hygienic disposal of horse excrement, as soon as reasonably practicable after the horse excrement has been deposited.
- 7 Any change in the physical condition of the horse must be notified in writing to the licensing team.
- 8 The licence holder shall not while standing, plying or driving for hire, drive or allow to be driven, or harness or allow to be harnessed to the carriage any animal in such condition so as to expose any person conveyed or being in such carriage, or any person traversing any street, to risk or injury.
- 9 The licence holder shall ensure that every part of the harness of the horse or horses is kept in order, so that the horse or horses are properly and securely attached to the carriage and under control.
- 10 Licence holders shall examine the horse/s harness and carriage carefully at the start of each day's work and assure themselves that everything is in good condition and in proper order.
- 11 License holders shall not, in any street, feed or allow to be fed any horse harnessed or otherwise attached to such carriage, except with food contained in a proper bag other receptacle suspended for the head of such horse, or from the centre pole of the carriage, or with food from the hand of the person feeding the horse.
- 12 Drivers of horse drawn carriages must produce evidence to the authority that they are competent to drive horses in harness. Certificate to British Driving Society (BDS) level 3 Road Driving Safety Qualification for Pairs and Singles is required. For grooms the standard is BDS Level 2 Unit Certificates for the Harness Horse Groom. The council will consider alternative qualifications that are to be the equivalent standard. Any expense involved in producing each certificate shall be met by the applicant or licence holder.
- 13 No horse shall be harnessed to, or used in connection with the vehicle hereby licensed unless, within the preceding twelve months, an approved Royal College Veterinary Surgeon has examined the horse and issued a certificate of fitness. Horse passports and veterinary certificates for those horses to be used must be provided on application for a licence, and for any additional horses certificates shall be delivered to the licensing authority immediately.
- 14 No horse shall be in harness for more than seven hours in any one-day and if in harness for seven consecutive hours, shall during that period have a break of not less than one hour and shall be fed and watered.



- 15 A horse in which in any one day is harnessed to, or used in connection with a licensed hackney carriage shall not be used at any time during that day for any other purpose.
- 16 Veterinary paper relating to the horse in harness should be available for inspection on request by an authorised officer.
- 17 The proprietor shall at all times comply with the requirements of Department of Transport's Code of Practice for Horse Drawn Vehicles.
- 18 No horse under six years of age, mare in foal or within three months of foaling shall be used for the purpose of a hackney carriage.

Licences and Livery

- 19 A horse drawn hackney carriage licence shall be valid for 12 months from the date of issue.
- 20 The hackney carriage licence, licence plate and internal hackney disc shall be issued upon the grant of a licence.
- 21 The licence plate must be securely fixed to the rear of the horse drawn carriage. It must be fixed in such a position that it is clearly visible to road users.
- 22 The licence plate/disc shall remain the property of the council.
- 23 The licence plate shall be returned to the licensing authority when the licence:
 - (i) Expires, or;
 - (ii) Is suspended, or;
 - (iii) Is revoked
- 24 The licence plate must be returned to the licensing authority before a new licence plate is issued.
- 25 An expired licence cannot be renewed. An application for the grant of a new licence must be submitted.
- 26 The internal hackney disc shall be displayed within the seated area of the carriage.
- 27 Every lost, damaged or illegible licence plate or badge shall be reported to the Council immediately. A duplicate licence plate or badge will be issued at the expense of the licence holder. The vehicle shall not be used for hire until the licence plate or badge has been replaced.



- 28 The licence holder shall not transfer or intend to transfer any interest in the licenced vehicle (hiring or leasing the vehicle). If the proprietor does not wish to retain the vehicle licence they must immediately surrender and return the vehicle licence and the licence plates to the council. This condition shall not preclude the transfer of any interest in the licenced vehicle as part of the transfer/sale of the business to a new owner.
- 29 An application for renewal cannot be made after a licence has expired. In this instance a full application must be made.



Appendix S: Non-motorised vehicles – horse drawn carriages: inspection forms



Veterinary Inspection of Horse Involved in Horse Drawn carriage Operation

Approved Veterinary Surgeon's Name:

Address:

.....

Description of Horse:

Freeze Mark/Microchip number	
Name	
Colour	
Height	
Breed or Type	
Sex	
Age	
Photographs required showing side view and front view of horse	



Markings Head	
Limbs: Lower Fore	
Limbs: Right Fore	
Limbs: Lower Hind	
Limbs: Right Hind	
Body	
Acquired Marks	

At the request of
 (Owner's Name)

I have inspected the horse described overleaf and it appears to be in good health and physically fit. The horse is, in my opinion, suitable to pull a horse drawn hackney carriage.

Any other comments:

.....

Time and date of inspection:

.....

Signed:

Official stamp

Note: Horse drawn hackney carriages vary in size and weight. These vehicles, depending on their size, can be licensed to carry up to eight adult passengers in addition to the driver and groom. They can be used in varying weather conditions during the day and night. The Department of the Environment, Transport and Regions Code of Practice recommends that any horse which is used for the carriage of passengers should be at least six years old and therefore this recommendation has been encompassed as part of the Licensing Authority's policy.





Horse Drawn Hackney Carriage – Inspection of Carriage and Ancillary Equipment

Report Guidance

Please select your assessment of the condition of the item that is being assessed using the 5 point scale where;

- 1 is fail**
- 2 is poor condition
- 3 is average condition
- 4 is good condition
- 5 is exceptional condition**

If a score of 1 or 5 is awarded, the reason for the score must be explained in detail in the 'Reason' column. You may continue the 'Reason' explanation on the back of the sheet if necessary. Please cross-reference the item number if you do.

NB: '>' means more than;
'<' means less than;
OE means Original Equipment.

Proprietor's Name							
Address							
Plate number (if							
Interior	Guidance	1	2	3	4	5	Reason
Front wheel	Check each wheel for general wear, tear or damage. (wheels may be wooden or metal, and may have solid rubber tyres or metal tyres – pneumatic tyres are not normally suitable for commercial work Check there is no excessive amount of play. Check for any cracks around felloes, hub cap, spokes, wheel nuts are secure. Tyres are solid and secure in channel and joint.						
Front Axle	Check for signs of general wear, tear and damage. Check for cracks, rust and damage; check lubrication, washer and seals.						
Shafts (where used)	May be wooden or metal. Securely fixed to the vehicle; no signs of cracks, wear, tear or damage throughout length; not warped, able to be raised and lowered easily (for putting to/taking out); breeching dees securely fitted and correctly placed for intended horse; tug stops secularly fitted and correctly placed for intended horse; correct length for intended horse; correct height from the ground for intended horse; shafts must						



	be strong enough for intended use.						
Suspension	Check for cracks, wear, tear or damage, signs of corrosion and collapse; check U bolts for wear, tear or damage, looseness or missing components. Stripped or worn thread on nuts, leatherwork and tension brackets on C springs – check for wear, tear or damage. Damper unit (where fitted) – securely fitted, corrosion, fluid leakage.						
Canopy	Hoods and folding Check for moveable safety – no risk of public trapping hands, items of clothing etc. No sharp edges, secure, no wear, tear or damage						
Steps	(mounting/dismounting steps for Driver, Groom(s) and passengers) check for signs of general wear, tear or damage. Secure to the body of the vehicle; will support weight of adult; not slipper; passenger steps must be suitable to allow ease of mounting/dismounting by adults, children and the elderly.						
Seats	(Drivers' seat; Passenger seats) check for signs of general wear, tear or damage. Securely fixed to the vehicle; not slippery; passenger seats must be wide and high enough to accommodate adults and children; where seat cushions are used, provision should be made to ensure these do not blow off the vehicle when it is empty.						
Doors/Latches	Securely fixed to the vehicle; no sharp or rough areas to damage hands; must be suitable for adults, children and the elderly.						
Rear wheel	Check each wheel for general wear, tear or damage. (wheels may be wooden or metal, and may have solid rubber tyres or metal tyres – pneumatic tyres are not normally suitable for commercial work Check there is no excessive amount of play. Check for any cracks around felloes, hub cap, spokes, wheel nuts are secure. Tyres are solid and secure in channel and joint.						
Rear Axle	Check for signs of general wear, tear and damage. Check for cracks, rust and damage; check lubrication, washer and seals.						
Brakes	(Where fitted – brakes are not compulsory on horse drawn vehicles) check for signs of general wear, tear or						

	<p>damage. In working order; excessive play or wear to linkage. Traditional – worn, damaged or insecure blocks. Modern/hydraulic – low fluid level, fluid leakage, worn pads.</p>						
Harness and ancillary equipment	<p>All parts of the harness and must have been washed , clean of any dirt, grease, sweat etc., and saddle-soap or other suitable dressing applied as appropriate. No rust on any metal part and not verdigrise (encrusted green deposit) on brass fittings. No signs of wear tear or damage. No cracks, splits or stretching in leather (especially around holes), broken, worn or frayed stitching, and signs of damage or wear to metal parts. Each item of harness should be checked over on both sides.</p>						
General Condition	<p>Overall check. Woodwork – check for damage, cracks, splits, rot, looseness, missing screws/nails/other fixings Metal work – check for damage, rust, cracks, splits, missing screws/bolts/other fixings, check welds for signs of fatigue or cracks.</p>						

- (i) I certify that for the reasons shown above carriage has FAILED to comply with statutory requirements*/DETER Code of Practice for Horse Drawn Vehicles*/South Lakeland District Council's Hackney Carriage and Private Hire Licensing Policy*

Signed Name.....
Date.....

Position and Organisation

- (ii) I certify that the above carriage has met with statutory requirements, the DETER Code of Practice for Horse Drawn Vehicles and South Lakeland District Councils Hackney Carriage and Private Hire Licensing Policy

Signed Name..... Date.....

Position and Organisation

*delete as appropriate



Appendix T: Non-motorised vehicles: pedicabs driver and vehicle conditions

General conditions

1. Safety helmets must be made available to all passengers at all times
2. The pedicab must be fitted with an audible warning system
3. The proprietor of a licensed vehicle shall not convey or permit to be convey in such vehicle any greater number of persons than the number specified the license issued to that particular vehicle.
4. All vehicle proprietors must maintain a reasonable standard of behaviour in their dealings with the general public, other licensed operators, proprietors, and drivers of licensed vehicles and Authorised officers of the council.
5. The proprietor or driver of such vehicle licensed by the council shall furnish the authorised officers, such information relating to either the drivers or vehicles as is necessary to enable them to undertake their duties.
6. The proprietor or driver of a vehicle licensed by the council shall provide assistance necessary for carrying out the functions of the appropriate legislation to an authorised office any person accompanying the authorised officer.
7. The authorised officer will show their authorisation if required.
8. The council's pedicab test sheet is attached to Appendix U.

Appendix U: Non-motorised vehicles – pedicabs: inspection forms

Pedicabs

Testing standard – appearance / safety / comfort / compliance with licence conditions
Six monthly safety / service to be completed by authorised cycle dealership to BS 6102 standard:

Cycle Dealership: -		ACT M/ship number -	
Make:	Model:	Year of Manufacture:	PlateNo.HCV [Renewals Only]
Test Date:	Time:	Examiner	Cytech level 3: - Y/N
Name & Address of Proprietor: Telephone No:			
Result of Test: *PASS		*FAIL	
In the event of failure, please indicate reasons.			

PASS/FAIL
(√) (x)

1	Seat Belts	All seat belts must be securely fitted to the frame and be operational. Separate seat belts must be available for each passenger.	
2	Vehicle framework	The frame must not have any cracks or show signs of excessive corrosion. It shall be free from damage.	
3	Mirrors	All mirrors must be securely mounted and not cracked, broken or corroded so as to distort any view to the rear. Where a mirror is intended to be adjustable it must be capable of being adjusted.	
4	Road Test	The vehicle must be capable of manoeuvring safely and 'handles' correctly without any undue drift or pull etc	
5	Other	Any item, defect or fault which in the opinion of the mechanical tester which renders the vehicle in their opinion, to be unfit for use as a hackney carriage or private hire vehicle will be noted as a fail.	

Additional checks to be completed on behalf of of South Lakeland District Council

1	External Bodywork	The paintwork shall be clean, consistent and uniform over the whole vehicle. The paintwork shall be of a professional standard. All fitments shall be intact and free from any damage, stains or corrosion of any kind.	
2	Seats and Upholstery	All seats, upholstery, trim must be clean and free from stains, holes, tears and damage of any form. There must be no sharp edges, which would be likely to cause injury or damage. Seat coverings must be sound, intact, fitted snugly to seats and be clean.	
3	Floor	The floor must be sound. If furnished with rubber mats they must be in a clean and undamaged condition. The floor coverings must not be so worn as to cause danger to passengers.	
4	Hood	The hood shall be intact, clean and free from holes, tears, stains or any other damage.	
5	Warning system	The pedicab must be fitted with an efficient audible warning system (bell or horn).	
6	General	Any item, defect or fault which in the opinion of the tester which renders the vehicle in their opinion, to be unfit for use as a hackney carriage or private hire vehicle will be noted as a fail.	
7	Internal Plate Sticker *	The internal plate sticker shall be displayed in such a position as to be easily seen by the passengers. (*Renewal only)	
8	Exterior Plate*	The external identification plate issued by the Council shall be securely fixed to the vehicle in such a position as to be clearly visible from the rear of the vehicle, or, centrally on the rear of the vehicle, where a bracket behind the registration number plate is used. (*Renewal only)	
9	Pass	Fail	Accredited cycle shop stamp Signature of examiner

Immediately upon completion of the vehicle inspection, a copy of the report should be faxed to SLDC's Licensing Office (01539 740300). The original copy of this form should be forwarded by post to the Licensing Group, South Lakeland House, Lowther Street, Kendal, Cumbria, LA9 4DQ.



Appendix V: Byelaws for hackney carriages licensed in South Lakeland

Byelaws

Made under

Section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act 1875, by the council of South Lakeland District Council with respect to hackney carriages in South Lakeland.

Interpretation

1. Throughout these byelaws “the council” means South Lakeland District Council and “the district” means South Lakeland.

Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed.

2.
 - (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
 - (b) A proprietor or driver of a hackney carriage shall:
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire; and
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting marking or plate so defaced that any figure or material particular is illegible

Provisions regulating how hackney carriages are to be furnished or provided.

3. The proprietor of a hackney carriage shall:
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver
 - (b) cause the roof or covering to be kept water-tight



- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached and maintained as to comply with the following requirements, that is to say:
- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter
 - (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures, a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the council;
 - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon
 - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage,



and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and

- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.

- 5. The driver of a hackney carriage provided with a taximeter shall:
 - (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter
 - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
 - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half an hour after sunset and half an hour before sunrise, and also at any other time at the request of the hirer
- 6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
- 7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:
 - (a) proceed with reasonable speed to one of the stands appointed by the council
 - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and



- (d) from time to time, when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward
8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
 9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
 10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
 11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
 12. If a badge has been provided by the council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
 13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading; and
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person

Provisions fixing the rates or fares to be paid for hackney carriages within the district and securing the due publication of such fares.

14.
 - (i) The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the council, the rate or fare being calculated by a combination of distance and time unless the hirer express at the commencement of the hiring his desire to engage by time.



- (ii) Where a hackney carriage furnished with a taximeter is hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the taximeter, save for any extra charges authorised by the council which it may not be possible to record on the face of the taximeter.
- 15.
- (i) The proprietor of a hackney carriage shall cause a statement of the fares fixed by council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
 - (ii) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and redelivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring, or as soon as practicable thereafter, carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:
- (a) carry it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
 - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station in the district, whichever be the greater) but not more than five pounds.

Penalties

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction.



Repeal of Byelaws

19. The byelaws relating to hackney carriages which were made by South Lakeland District Council on the 17 day of August 1979 and which were confirmed by Alan Winstanley, Secretary and Legal Services Officer of South Lakeland District Council on the 8 day of October, 1979 are hereby repealed.

Appendix W: Private hire licensing: 'Tuk tuk conditions

Conditions specific to the licensing of the 'Tuk tuk'

1. The vehicle be required to satisfy the issue of Department of Transport National Type Approval Certificate (Single Vehicle Approval);
2. All rear facing seats to be fitted with seat belts; such installation to be carried out prior to the issue of Single Vehicle Approval;
3. The vehicle be limited to travel at speeds not more than 30 miles per hour;
4. No more than four passengers be carried in the rear of the vehicle at any one time;
5. Children under eleven years of age not be permitted to travel in the vehicle unless accompanied by an adult

Appendix X: Intended use and licensing of hackney carriages

1.0 Reasons for Policy

- 1.1 The Licensing Authority wishes to ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].

2.0 Applications for the grant of a new hackney carriage licence

- 2.1 Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within the administrative area of South Lakeland District Council under the terms of the licence for which application is being made.



- 2.2 There will be a presumption that applicants who do not intend to a material extent to ply for hire within the administrative area of South Lakeland District Council will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its individual merits.
- 2.3 Even where the applicant intends to ply for hire to a material extent in the administrative area of South Lakeland Council, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

3.0 Applications for the renewal of a hackney carriage licence

- 3.1 Applicants for renewals of licences will be required to inform the council whether they have a bona fide intention to ply for hire within the administrative area of South Lakeland Council under the terms of the licence for which application is being made.
- 3.2 There will be a presumption that applicants who do not intend to a material extent to ply for hire within the administrative area of South Lakeland District Council will not be granted a hackney carriage licence authorising them to do so. Section 60 of Local Government Miscellaneous Provisions Act 1976 gives the council a broad discretion to refuse to renew a licence for any reasonable cause. Each application will be decided on its merits.
- 3.3 Even where the applicant intends to ply for hire to a material extent in the administrative area of South Lakeland Council, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

4.0 Transfer of ownership: when a licensed vehicle is transferred from one person to another

- 4.1 Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 requires that the proprietor of the licensed vehicle who transfers his interest to another must, within 14 days of the transfer, give written notice to the council of the name and address of the transferee of the hackney carriage. The council has no power to refuse to register the new proprietor: see *R v Weymouth Borough Council, exp Teletax (Weymouth) Ltd* [1947] KB 583.
- 4.2 Provided requisite notice has been given in accordance with section 49 of the Local Government (Miscellaneous Provisions) Act 1976 the council will register the transferee of a licensed hackney carriage as the new proprietor. This is a legal requirement.



- 4.3 The transferee of a licensed hackney carriage will be asked to inform the council whether he has a bona fide intention to use the vehicle to ply for hire within the administrative area of South Lakeland Council. In addition, where the transferee resides outside the administrative area of South Lakeland Council, the transferee will be required to keep records of all pickups on the South Lakeland District Council approved record sheets and these records shall be made available for inspection upon request. Transferees should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation.

Where there is a failure to provide the requested information or to keep the records, the council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73

- 4.4 Transferees of existing licences will be expected to have a bona fide intention to ply for hire within the administrative area of South Lakeland District Council under the terms of the licence in respect of the vehicle being transferred.
- 4.5 Where the transferee of a licensed hackney carriage is found to have no intention to ply for hire to a material extent within the administrative area of South Lakeland District Council and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the 1976 Act. Where the transferee proposes to operate remotely from the administrative area of South Lakeland District Council there will be a presumption that his licence will be revoked. Each case will be decided on its merits.
- 4.6 The council is required to register the name of the new proprietor of a vehicle. It seems to the council also to open up an obvious route to circumvent the decision of the High Court referred to in paragraph 1.0 above, unless precautionary steps are taken. The paragraphs in this section are intended to put the council in a position to respond responsibly to the transfer of a South Lakeland hackney carriage into the name of someone who operates outside the administrative area of South Lakeland District Council or remotely from it.
- 4.7 Unless there has been a change in the proprietor's intentions with regard to plying for hire within the administrative area of South Lakeland Council, there should be no reason why he should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained his first licence on the expressed intention of plying for hire to a material extent within the administrative area of South Lakeland Council,



and who on application to replace that vehicle with another discloses that he no longer so intends, effectively engages the presumption against grant that is mentioned earlier.

5.0 Change of vehicle: when a proprietor replaces a licensed vehicle

- 5.1 Applicants seeking the grant of hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire to a material extent within the administrative area of South Lakeland District Council will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire to a material extent in the administrative area of South Lakeland, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

6.0 Revocation of licence

- 6.1 Where a licence has been granted under the terms that the applicant intends to ply for hire to a material extent within the administrative area of South Lakeland District Council but is subsequently found not to be plying for hire to a material extent in the administrative area of South Lakeland District Council and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) there will be a presumption that the licence will be revoked.

7.0 Exceptional circumstances

- 7.1 Each application will be decided on its merits. However the presumptions that intended use is to ply for hire to a material extent within the administrative area of South Lakeland Council will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the council that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.



Appendix Y

List A

List of acceptable documents for right to a licence:

1. A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland
3. A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland
4. A Permanent Residence Card issued by the Home Office to the family member of a national a European Economic Area country or Switzerland
5. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK
6. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK
7. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. An example of an Immigration Status Document may be found [here](#)
8. A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer



10. A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer

List B

Immigration restrictions on the right to a licence in the UK

A licence may be issued (subject to statutory limitations) up to the expiry date of the permission to work in the UK. The applicant's immigration status will need to be checked each time they make an application to renew or extend their licence.

1. A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List C

Other documents

1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit. The licence may be granted for six months from the date of the Certificate of Application.
2. A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding. The licence may be issued for six months from the date of the licence decision.





Department
for Transport

Appendix 2

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

"It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride."

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

"Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction."

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 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. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 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.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all 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 a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

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.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

South Lakeland District Council Licensing Regulatory Committee

Monday, 4 July 2022

The Gambling Act 2005 - Review Statement of Gambling Licensing Policy

Portfolio:	Economy, Culture and Leisure Portfolio Holder
Report from:	Director of Customer and Commercial Services
Report Author:	Sean Hall – Principal Specialist (Health & Environment)
Wards:	(All Wards);
Forward Plan:	Budget and Policy Framework Decision included in the Forward Plan as published on 15 th March 2022

Links to Council Plan Priorities: The revision to the existing policy is prescribed by The Gambling Act 2005. It also links to the following priorities -

Working across boundaries – This is ensuring national standards are adopted by all local authorities to provide safeguards to our communities.

A fairer South Lakeland – This policy seeks to ensure a consistent standard of application of gambling licensing controls to meet the objectives. The review of this policy sets out the expectations on each of the licensing objectives which may have an impact on the health of a resident.

1.0 Expected Outcome and Measures of Success

- 1.1 A revision of the Council's Statement of Gambling Licensing Policy has been completed. The revised policy has undertaken a formal consultation process in line with Regulation 7 of The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2005. The Overview and Scrutiny Committee have also been consulted on the revised Policy at their meeting on 4th March 2022. If Members are minded to approve the revised draft policy, the matter should then progress to Full Council for approval in advance of the policy becoming the new licensing framework for stakeholders within South Lakeland District.
- 1.2 The revision to this policy has sought to support and strengthen the three Gambling Licensing Objectives namely:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way;
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.3 It was approved by the Licensing Regulatory Committee on 7 February 2022 that the revised policy could proceed to public consultation. It was also approved at The Overview and Scrutiny Committee on 4 March 2022 that they recommend to The

Licensing Regulatory Committee and Full Council that the revised Statement of Gambling Licensing Policy (Appendix 1) be adopted following the public consultation, and consideration of any comments received.

2.0 Recommendation

2.1 It is recommended that The Licensing Regulatory committee:-

(1) Note the recommendation from The Overview and Scrutiny Committee that the revised Statement of Gambling Licensing Policy be adopted following the public consultation, and consideration of any comments received;

(2) Note that no comments were received during the public consultation for members to consider; and

(3) Recommend to Full Council that the Statement of Gambling Licensing Policy (Appendix 1) be adopted.

3.0 Background and Proposals

3.1 This report is presented to explain the proposed arrangements for carrying out a review of the Council's Statement of Gambling Licensing Policy in accordance with the updated Gambling Commission Local Authority Guidance. The revised policy is intended to provide the licensing framework for stakeholders within the administrative area of South Lakeland District Council.

3.2 Section 349 of the Gambling Act 2005 (the 'Act') requires licensing authorities before each successive period of three years to;

(a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period; and

(b) publish the statement of policy.

3.3 The current statement sets out the basis on which decisions under the Gambling Act 2005 will be made. It strives to achieve a local balance between the commercial interest of the licensed trade alongside the communities they serve and affect. The current statement is to cover the period 2019 to 2022.

3.4 Gambling Commission Guidance to Licensing Authorities makes it clear that it is down to the individual licensing authority to develop their own consultation process when revising gambling policy.

3.5 Regulation 7 of the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 covers the procedure to be followed in preparing or publishing a statement or revision –

7.—(1) Before a statement or revision comes into effect, the authority that prepared it must—

(a) publish the statement or revision in accordance with paragraph (2); and (b) advertise the publication of the statement or revision by publishing a notice in accordance with paragraphs (3) and (4).

(2) The statement or revision must be published by being made available for a period of at least 4 weeks before the date on which it will come into effect—

(a) on the authority's internet website; and

(b) for inspection by the public at reasonable times in one or both of the following places—

(i) one or more public libraries situated in the area covered by the statement or revision;

- (ii) other premises situated in that area.*
- (3) The notice referred to in paragraph (1) (b) shall specify—*
 - (a) the date on which the statement or revision will be published;*
 - (b) the date on which the statement or revision will come into effect;*
 - (c) the internet address where the statement or revision will be published in accordance with paragraph (2) (a); and*
 - (d) the address of the library or other premises at which the statement or revision may be inspected in accordance with paragraph (2) (b).*
- (4) That notice shall be published no later than the first day on which the statement or revision is published in accordance with paragraph (2)—*
 - (a) on the authority's internet website, and*
 - (b) in or on one or more of the following places— (i) a local newspaper circulating in the area covered by the statement;*
 - (ii) a local newsletter, circular, or similar document circulating in the area covered by the statement;*
 - (iii) a public notice board in or near the principal office of the authority;*
 - (iv) a public notice board on the premises of public libraries in the area covered by the statement.*

- 3.6 The Statement of Gambling Licensing Policy is part of the Corporate Budget and Policy Framework and will therefore require approval by Full Council. No further comments have been received during the public consultation period. If approved by the Licensing Regulatory committee, the Statement of Gambling Licensing Policy (Appendix 1) will be considered the final version and submitted to Full Council for adoption.
- 3.7 The revised policy (Appendix 1) has been updated to reflect changes in the national guidance and feedback from the Gambling Commission. It is intended that the revised policy will underpin the licensing framework for matters of this type during the period 2022-2025.
- 3.8 Local Government Reorganisation within Cumbria introduce a structural change to the existing arrangements of Local Government organisation. The outcome, determined by the Secretary of State, is that two unitary authorities are created, Cumberland and Westmorland and Furness Councils. The new Westmorland and Furness authority will be formed by the existing authorities of South Lakeland District Council, Barrow Borough Council, Eden District Council and Cumbria County Council. This change is likely to result in a combined approach to the gambling licensing strategy across the revised area and therefore require fresh revision to policy well within the three year period.

4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Revised Statement of Gambling Licensing Policy 2022 - 2025
2	Health and Sustainability Impact Assessment
3	Equality and Diversity Assessment

5.0 Consultation

- 5.1 This Authority is required to, and has, consulted with a number of statutory consultees namely:-

- (a) the chief officer of police for the area;
- (b) one or more persons who appear to the authority to represent the interests of persons carrying out gambling businesses in the area; and
- (c) 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 Act.

5.2 However, an Authority may consult more widely if it so wishes and would look towards the below organisations.

- The Council's Children Services and Adult Social Care Services
- Trade associations
- Businesses or their representatives involved in gambling
- Ward Councillors and local Members of Parliament
- Faith groups • Residents Associations
- Voluntary and Community Organisations working with children and vulnerable adults
- Advocacy Groups (e.g. Citizens Advice and Trade Unions)
- Responsible Authorities
- Organisations working with people who are problem gamblers
- The Gambling Commission
- Local planning authority
- Environmental Services in its capacity as the body responsible for the prevention of pollution to the environment and protection of public health
- HM Revenue and Custom

5.3 The specifics relating to the consultation period have been outlined at 3.4 and 3.5 of this report.

6.0 Alternative Options

6.1 There are no alternative options. The Council has a statutory duty to review its Statement of Gambling Licensing Policy and publish the revised policy before the expiration of the current one.

7.0 Implications

Financial, Resources and Procurement

7.1 There are no direct financial impacts associated with this report. Established revenue budgets have accommodated the costs of undertaking the consultation process.

Human Resources

7.2 There are no staffing implications; however any training and development needs will be identified through the appraisal and one to one process. Any training and development needs will be actioned.

Legal

7.3 Section 349 of the Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. The statement of

Gambling Licensing Policy can be reviewed and revised by the Licensing Authority at any time.

- 7.4 When determining and publishing a statement of its Policy and licensing function, Local authorities must have regard to ‘Gambling Commission: Guidance to licensing authorities [April 2021 Update]’. Where revisions to the Guidance are made by the Secretary of State, it will be for South Lakeland District Council to determine whether revisions to its own Gambling Licensing Statement are appropriate, following the consultation as outlined in section 5 of this report.
- 7.5 As detailed in 3.8 above, consideration will be required as part of the Local Government Reorganisation within Cumbria as to when a further review of the Statement of Gambling Licensing Policy will be required to ensure the new authority, commencing on the 1st April 2023, is compliant with the requirements of Section 349 of the Gambling Act 2005 and associated regulations.

Health and Sustainability Impact Assessment

- 7.4 Have you completed a Health and Sustainability Impact Assessment? Yes (attached at Appendix 2)
- 7.5 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		X		
	Air Quality		X		
	Biodiversity		X		
	Impacts of Climate Change		X		
	Reduced or zero requirement for energy, building space, materials or travel		X		
	Active Travel		X		
Economy and Culture	Inclusive and sustainable development		X		
	Jobs and levels of pay		X		
	Healthier high streets		X		
	Culture, creativity and heritage		X		
Housing and Communities	Standard of housing		X		
	Access to housing		X		
	Crime	X			
	Social connectedness		X		

Equality and Diversity

- 7.6 Have you completed an Equality Impact Analysis? Yes (attached at Appendix 3)

7.7 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"					
Age	P	X	0		N
Disability	P		0	X	N
Gender reassignment (transgender)	P		0	X	N
Marriage & civil partnership	P		0	X	N
Pregnancy & maternity	P		0	X	N
Race/ethnicity	P		0	X	N
Religion or belief	P		0	X	N
Sex/gender	P		0	X	N
Sexual orientation	P		0	X	N
Armed forces families	P		0	X	N
Rurality	P		0	X	N
Socio-economic disadvantage	P	X	0		N

Risk Management	Consequence	Controls required
Failure to review and publish a revised Statement of Gambling Licensing Policy would constitute a contravention of the Gambling Act 2005.	In such circumstances, the Council would be unable to properly fulfil its statutory licensing responsibilities.	Procedures in place to ensure that the Statement of Gambling Licensing Policy is reviewed and subsequently published in accordance with the statutory timetable.

Contact Officers

Sean Hall, Principal Specialist (Health & Environment)

s.hall@southlakeland.gov.uk Tel – 01539 793411

Background Documents Available

Name of Background document	Where it is available
Local Authority Guidance from The Gambling Commission	Gambling Commission Guidance
Current SLDC Gambling Policy	Existing SLDC Gambling Policy
The Gambling Act 2005	The Gambling Act 2005
The Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales)	Policy Statement Regulations

Name of Background document	Where it is available
Regulations 2006	

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	17/06/22	23/06/2022
Monitoring Officer	17/06/22	24/06/22
Director of Customer and Commercial Services	17/06/22	21/06/22

Circulated to	Date sent
Lead Specialist	NA
Human Resources Lead Specialist	NA
Communications Team	NA
Leader	NA
Committee Chairman	NA
Portfolio Holder	NA
Ward Councillor(s)	NA
Committee	NA
Executive (Cabinet)	NA
Council	NA

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Statement of Gambling Licensing Policy (2022-2025) – Gambling act 2005

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Consultation and Declaration

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

This statement of principles was prepared in 2021 and following consultation was agreed by the Council on the XX 2022. This revised statement of principles was published on XXX 2022 and has effect from XXX 2022.

South Lakeland District Council consulted widely upon this statement before finalising and publishing. A list of those persons this authority consulted is provided at Appendix 1.

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005

All references to the "Guidance" refers to the Gambling Commission's Guidance to Local Authorities Version 5 published on 1st April 2021 and further amended on 13th May 2021

Should you have any queries regarding this policy statement please send them via e-mail or letter to the following contact:

Name: Principal Licensing Officer

Address: South Lakeland District Council, South Lakeland House, Lowther Street, Kendal, LA9 4UD

E-mail: licensing@southlakeland.gov.uk Tel: 01539-733333

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 according to the statutory requirements of the Gambling Act 2005.

Foreword

Welcome to South Lakeland District Council Statement of Principles under the Gambling Act 2005.

South Lakeland District Council has been responsible for licensing gambling premises since 2007 and this is the xxx edition of our Gambling Policy. In our role as the licensing authority for South Lakeland, we work in partnership with the Gambling Commission and other agencies to regulate gambling in the district. The Commission tends to focus on gambling operators and issues of national or regional importance and we are responsible for regulating gambling premises, permits, notices and registrations in South Lakeland District.

Gambling is a legitimate regulated activity that is enjoyed by a large sector of the population. However, there are a number of people within our society who are at risk of gambling related harm. The Council, as the Licensing Authority under the Gambling Act 2005 has a duty to consider applications which would permit gambling operations in the district to ensure that they meet the fundamental principles of the Act. In doing so the authority must balance the needs of business to profit and grow with the potential impact on those who are vulnerable to being exploited or susceptible to gambling related harm.

The Licensing Authority, in carrying out its functions under the Act 2005 will aim to permit the use of premises for gambling in so far as it thinks it:

- (a) in accordance with any relevant code of practice under section 24
- (b) in accordance with any relevant guidance issued by the Gambling Commission under section 25
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above), and
- (d) in accordance with this statement of principles for gambling (subject to (a) to (c) above)

The aim to permit principle provides wide scope for the authority to impose conditions on a premises licence, reject, review, or revoke premises licences where there is a potential conflict with the relevant codes of practice, relevant Commission Guidance and this policy statement.

The Council's statement of principles is intended to be reasonably consistent with the three licensing objectives set out in the Act. These objectives are:

- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- (b) Ensuring that gambling is conducted in a fair and open way;

- (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Licensing Authority must have regard to these licensing objectives in carrying out its licensing functions under the Gambling Act 2005. They embody concerns that the council acknowledged in exercising its licensing powers under previous legislation.

It has had regard to Gambling Commissions Guidance to Licensing Authorities, dated April 2021 in drawing up this statement of principles for gambling.

The Licensing Authority will always consider the merits of each application.

It may make exceptions to its own policies where it is appropriate to do so in order to promote the licensing objectives and it will give reasons for doing this.

This statement of principles, alongside the Council's commitment to everyone sets out how the Council, as a Licensing Authority, will undertake its duty to promote the licensing objectives and carry out its licensing functions under the Gambling Act 2005.

Part A. Purpose.

A1.1 This Statement of Gambling Principles is for the use of applicants, residents, businesses and responsible authorities. Applicants need to have regard to the policies within this statement when considering and preparing their application. Residents and businesses should review the Licensing Authority's policies when considering an application that is near to them. Responsible Authorities should use the policy along with their expertise and any evidence must be considered whether an application is likely to impact on the Licensing Objectives and whether it meets the requirements of the policies within this statement. No matter whether you are an applicant, responsible authority, resident, or other interested party the policies within this statement that apply to the application should be considered.

A1.2 The Functions of the Licensing Authority 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 (premises licensed to sell/supply Alcohol for consumption on the licensed premises, under the Licensing Act 2003) for the use of two or fewer gaming machines
- issue Licensed Premises Gaming Machine Permits for alcohol licensed premises (premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003) where there are more than two machines
- register small society lotteries below the prescribed thresholds
- issue Prize Gaming Permits
- receive and endorse Temporary Use Notices
- receive Occasional Use Notices for betting at tracks
- provide information to the Gambling Commission regarding details of licences, permits and other permissions issued
- maintain registers of the permits and Licences that are issued under these functions

A1.3 We do not have any powers to deal with the following gambling-related activities: ¹²³

- (a) remote (online gambling)
- (b) the National Lottery
- (c) operating licences
- (d) personal functional licences
- (e) personal management licences
- (f) gambling software
- (g) football pools
- (h) gaming machine manufacturers
- (i) gaming machine suppliers
- (j) gambling advertisements on television or other media
- (k) the number of gaming machines that can be used on premises
- (l) the value of the stakes or prizes allowed on gaming machines

¹ [Licence activities - Gambling Commission](#)

² [Personal Management Licence \(PML\) - Gambling Commission](#)

³ [Personal functional licence \(PFL\) - Gambling Commission](#)

Part B. South Lakeland District Council

B1.1 The Council recognises that good management of its gambling industry, including its impact on residents, amenities, and the local environment, is essential to the continued success of the entire district. The council expects licensed operators to demonstrate best practice by being responsible, open, inclusive and equal operators. It also recognises that there are some people in the district who are vulnerable to gambling-related harm.

B1.2 Overall, the council's approach to gambling and the industry in the district of South Lakeland must strike a delicate balance, advocating for responsible licensed premises and the visitor economy, while also mitigating the possible adverse effects of gambling such as crime and disorder, or the exploitation of vulnerable people. The following policy aims to achieve such a balance.

District Demographics

B1.3 South Lakeland District Council is situated in the County of Cumbria, which contains six District Councils in total. The Council area has a population of approximately 104,905 and covers 600 square miles (1,534 square kilometres). The population profile percentage for residents in 2020 is illustrated below.⁴

Age distribution 2020:

Age range	Number of people
0 to 9 years	8,794
10 to 19 years	10,833
20 to 29 years	9,029
30 to 39 years	9,469
40 to 49 years	11,793
50 to 59 years	16,785
60 to 69 years	15,494
70 to 79 years	14,250
More than 80 years	8,429

Male, female distribution in 2020:

Sex	Number of people	Percentage of population
Male	51,436	49%
Female	53,469	51%

⁴ [South Lakeland \(District, United Kingdom\) - Population Statistics, Charts, Map and Location \(citypopulation.de\)](https://www.citypopulation.de/en/uk/cumbria/south-lakeland/)

Part C. Gambling Risk Assessment Policy

C1.1 The Gambling Risk Assessment Policy applies to all applications. From time to time licence holders will have to review their risk assessment either because of a change in their operation or to ensure it is up to date. This section lays out the expectations of applicants and licence holders to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks.

The Licensing Objective Policies (D1, D2 and D3) apply to all applications. Applicants must be able to demonstrate that they will be reasonably consistent with the licensing objectives. The relevant considerations and criteria that the Licensing Authority will take into account are listed within these policies. Each application will be considered on its own merits having regard to this policy and the Gambling Commission's (which may be issued from time to time).

C1.2 The gambling risk assessment within the application should be used to set out how the proposed premises will operate or what the variation to the licence will do to the current operation of the premises. Applicants should include as much detail as possible in their risk assessment to enable responsible authorities and other parties to understand the operation of the premises. The information provided within the risk assessment should consider the policy requirements contained within this statement. The applicant should demonstrate how the applicant and the operation of the premises will promote the licensing objectives. Similar information should be provided by Applicants for reviews and other types of permissions.

C1.3 Residents, businesses and responsible authorities will have regard to the information contained within the risk assessment and therefore it is important to provide as much information upon application as possible. Applicants that do not provide enough information are more likely to receive representations from residents, businesses or responsible authorities. As well as the specific policies, applicants should pay particular attention to the appendices attached to this gambling policy.

C1.4 Applicants should also take into account reasons for specific policies and the unique characteristics surrounding the area in which the venue is located to draft a risk assessment that would address the concerns of responsible authorities and other parties. Specific reference should be made to issues raised in the Local Area Profile.(Appendix xxx)

C1.5 Applicants may also wish to provide supporting documents to the risk assessment. If additional documentation is to be provided, then it should be submitted when the application is made. Applicants should engage with the local community as much as possible on the proposed application before submitting it to the Licensing Authority.

In some cases, pre-engagement with local residents, businesses and responsible authorities can significantly reduce representations to the application and therefore could prevent the need for the application to be determined at a public hearing of the Licensing Authority.

C1.6 Applications for provisional statements or new gambling premises or to vary an existing licence must be accompanied by a suitable and sufficient gambling risk assessment.

C1.7 The gambling risk assessment referred to in C1.6 must include;

1. An assessment of the local area risks, identified by the gambling operator and those identified within the Local Authority's area.
2. An Assessment of the gambling operational risks associated with the new premises or the proposed variation of an existing licence.
3. An Assessment of the premises design risks associated with the proposed or existing interior and exterior layout and design of the premises and;
4. An assessment of the relevant control measures based on systems, design and physical measures that will eliminate or mitigate the risk to one or more of the licensing objectives.

Reasons for Policy C1

C1.8 The Gambling Commission (the Commission) introduced provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives, posed by the provision of gambling facilities at each of their premises, and to have policies, procedures, and control measures to mitigate those risks. This change in national policy was intended to provide a well-evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.

C1.9 Ordinary code provision 10.1.2. Sharing local risk Assessments, states licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request.

C1.10 The risk-based approach provides a better understanding of, and enables a proportionate response to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case, it is the risk of the impact on the licensing objectives.

C1.11 Since the introduction of these code provisions within the LCCP, this Licensing Authority has found a significant variation in the detail and sufficiency of the risk assessments that were submitted along with applications for new or variation applications. Applicants appeared to be treating the requirement for risk assessments as a tick box exercise. Gambling risk assessments are often generic and lacking in relevant local considerations. This approach has meant that risk assessments are often not suitable or sufficient to establish how the applicant has taken account of their operation, design of the premises and the location where the premises are located. Therefore, the Licensing Authority has included its expectations for the risk assessment process within this policy.

Applicants will be expected to meet the requirements of the Gambling Risk Assessment Policy when submitting applications.

C1.12 The Licensing Authority's policy approach within this Statement of Principles is the gambling risk assessment will be the key document that the authority will scrutinize when determining an application. Therefore, applicants must ensure that their risk assessment considers the key elements of the policies within this statement and how it will operate, having regard to the location where the premises will be or is situated. Applicants that provide an inadequate risk assessment are likely to receive representations from the Licensing Authority and other responsible authorities.

Part D. Licensing Objectives and Risk Factors.

I. Preventing Gambling from Being a Source of Crime or Disorder, Being Associated with Crime or Disorder or Being Used to Support Crime.

D1.1 This Licensing Authority will not grant an application for a provisional statement or new gambling premises licence or vary an existing licence that is not reasonably consistent with the objective of preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

D1.2 When considering *D1.1*, the Licensing Authority will examine the below criteria and take into account any relevant considerations. As set out below in addition to other relevant policies within this statement

D1.3 Criteria:

1. Whether the premises make or will make a contribution to the levels of crime and disorder in the area.
2. Whether the premises will operate in such a way that will be reasonably consistent with the crime and disorder objective.
3. Whether the applicant has met the requirements of policy C1 and provided a suitable and sufficient gambling risk assessment demonstrating how they will implement sufficient mitigation to prevent gambling from being a source of and/or associated with crime or disorder or being used to support crime if the application is granted.

D1.4 Considerations

1. The levels of crime and disorder in and around the venue.
2. The proposed operation of the premises and the types of gambling activities that will be provided.

3. The staffing levels that will be provided during the time when the premises provide facilities for gambling
4. Whether there is a history of crime and disorder associated with the premises, the operator or similar gambling premises uses.
5. Whether the premises operator or similar gambling premises uses have been used by those involved in crime to associate, carryout other criminal activities or dispose of the proceeds of crime.
6. Whether the premises have been designed and considered so as to minimize opportunities for crime and disorder.
7. Whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
8. Whether the Gambling Commission Codes of Practise have been complied with.

Reasons for Policy D1.

D1.5 Applicants for premises licences will have to hold an operator's licence from the Commission (except occupiers of tracks who do not propose to offer gambling themselves). Generally, the licensing authority will not (unless evidence to the contrary comes to light) have to ascertain if the applicant is suitable to hold a premises licence. A gambling operator must meet the Commission's requirements to obtain and hold an operator's licence, whilst the Licensing Authority's concerns are focused on the premises and how the operation of the premises will affect the licensing objectives.

D1.6 This Licensing Authority will have to be satisfied that the premises will not adversely affect the licensing objectives and is compliant with the Commission's guidance, codes of practice and this statement of principles

D1.7 The licensing authority will expect the applicant to consider the measures that they feel are necessary to ensure that the operation of their gambling premises is reasonably consistent with the licensing objective of preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

D1.8 The Gambling Commission's guidance does envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. If an application is made in an area known to have high levels of crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there, considering such factors as, levels of recorded crime; the type of that crime and levels of anti-social behaviour-related complaints

D1.9 Applicants must have an understanding of the local area in which they either operate, or intend to operate, gambling premises. The applicant will have to provide evidence that they meet the criteria set out in this policy and demonstrate that in operating the premises they will be reasonably consistent with this objective. Operators need to be aware of how

the operation of their premises may impact on this objective. The council will expect the applicants to provide details as to their crime prevention measures within their gambling risk assessment.

D1.10 Gambling premises can become a source of crime or disorder. This may not necessarily mean that there are significant numbers of incidents or crime reported within the premises. The presence of gambling premises can provide a location for people to gather who may be involved in criminality in or around that premises or congregate with associates who then perpetrate criminal activity away from the premises.

D1.11 The Licensing Authority, when considering any applications that have been identified by the police as having a problems with criminality, gangs, prostitution, or anti-social behaviour, particularly involving groups who loiter will expect applicants or licensees to demonstrate that they have sufficient measures in place to prevent or deter people involved in unlawful activities from using their premises to support crime or to avoid apprehension. In some locations within the district, the preventative measures put forward by applicants or existing operators may not be sufficient in meeting the licensing objectives because of the risk associated with the premises adding to or being associated with crime and disorder. In those circumstances the Licensing Authority, having had regard to the applicants' submissions and any evidence or views from the police may impose restrictions above that put forward by the applicant or refuse the application.

D1.12 If a licensed premises becomes associated with crime or disorder or supports crime it is likely that action will be taken against the licensee if they are not taking the appropriate action to prevent crime and disorder at the premises. If criminality or disorder takes place inside or outside the premises, either because it is being used by criminals to commit crime in the area or crime is taking place within the premises the Licensing Authority and Police are likely to take immediate steps to address those problems.

D1.13 Depending on the severity of the association with crime and disorder or crime taking place on or around the premises the Police and/or Licensing Authority may seek to review the premises licence which could result in the imposition of additional conditions and/or the modification of existing conditions.

D1.14 There is a distinction between disorder and nuisance. In order to make the distinction, whether a disturbance was serious enough to constitute disorder, the Licensing Authority will consider factors such as whether police assistance was required, how threatening the behaviour was to those who could see or hear it, how frequently it is reported, prevalence of persons loitering outside, the times of day when disorder is reported and the impact on residents.

II. Ensuring that Gambling is Conducted in a Fair and Open Way.

D2.1 This Licensing Authority will not grant an application for a provisional statement or new gambling premises licences or vary an existing licence that is not reasonably consistent with the objective of ensuring that gambling is conducted in a fair and open way.

D2.2 When considering Clause *D2.1*, the Licensing Authority will apply the criteria and take into account any relevant considerations as set out below in addition to other relevant policies within this policy.

D2.3 Criteria:

1. Whether the premises will operate in such a way that will be reasonably consistent with the fair and open licensing objective.
2. Whether the applicant has met the requirements of Policy C1 and provided a suitable and sufficient gambling risk assessment demonstrating how they will implement sufficient mitigation to ensure that gambling is conducted in a fair and open way.

D2.4 Considerations:

1. Whether the premises have been designed so as to ensure gambling is conducted in a fair and open way.
2. Whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
3. Whether the management and operation of the premises is open and transparent.
4. Whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
5. Whether the Gambling Commissions Codes of Practice have been complied with.

Reasons for Policy D2

D2.5 To achieve the aim of this licensing objective there is a direct link with the successful achievement of the crime and disorder objective. The intention of the Act and the Crime and Disorder objective is to restrict and prohibit criminals from gambling premises and providing facilities for gambling. Reducing or eliminating the risk of cheating, fraud and oppressive behavior will have support the extent of the achievement of this licensing objective.

D2.6 The Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of ensuring that gambling is conducted in a fair and open way. The Gambling Commission is the body primarily concerned with ensuring that each operator conducts gambling activities in a fair and open way, however, the Licensing Authority will scrutinize the venues operation, design, layout and location to ensure that the application meets this objective

D2.7 The approach taken by the Gambling Commission to ensure gambling is conducted in a fair and open way is that:

1. it expects that not only is gambling fair in the way it is played but that the rules are transparent to players and they know what to expect.
2. it will ensure that the rules are fair, and that easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning and the rules and conditions on which business is conducted;
3. it will ensure that operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
4. it will ensure that appropriate advertising codes continue to be in place to prevent consumers from being misled;
5. it will ensure that the licences it issues, together with the licence conditions it imposes and the codes of practice it publishes, set appropriate standards of conduct for licence holders (for example, in respect of terms on which gambling is offered and the transparency of such terms) and appropriate technical standards for gaming machines and other equipment used in connection with any licensed activity;
6. in the event of non-compliance, it will ensure that sanctions are imposed, or other appropriate steps taken, which among other things, deter future non-compliance on the part of the relevant licence holder and other licence holders more generally;
7. it will ensure that the investigation and prosecution of offences under the Act – including the offence of cheating under section 42 of the Act – are prioritised by reference to the level of risk posed to the Licensing objectives.

D2.8 The Licensing Authority fully supports the Gambling Commissions approach associated with ensuring gambling is conducted in a fair and open way. The Licensing Authority will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules

D2.9 Where there are allegations or suspected unfair practices and un-transparent gambling practices are being conducted the Licensing Authority, along with the Gambling Commission will investigate and take the appropriate action necessary to ensure compliance with this Licensing objective.

D2.10 Applicants must ensure that the relevant rules and terms and conditions of play are readily available. This can be either on the premises, with posters or leaflets or via the operator's website. Staff must be conversant with the relevant rules and gameplay associated with the gambling products that are offered. A mechanism for grievances or complaints should be provided to all customers who feel that a gambling product or game is unfair or un-transparent.

D2.11 The Licensing Authority will consider each application on its own merits and will look closely at applications for types of premises that can be run by an operator where there is no requirement to hold an operator's licence. Track owners do not necessarily require an operator's licence and any application made by such an unlicensed operator will be scrutinised to ensure that this objective is met. In these circumstances, the applicant would be expected to address how they intend to ensure that gambling will be conducted fairly and openly. In the case of premises that do not hold an operating licence, such as tracks, additional conditions may be required dependent on the risks outlined in the application.

III. Protecting Children and Other Vulnerable Persons from Being Harmed or Exploited.

D3.1 This Licensing Authority will not grant an application for a provisional statement or new gambling premises licences or vary an existing licence that is not reasonably consistent with the objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.

D3.2 When considering clause *D3.1* the Licensing Authority will consider the following criteria associated with protecting children from being harmed or exploited by gambling, taking into account any relevant considerations.

D3.3 Protection of vulnerable persons are set out at D3.10 to D3.16. In addition to other relevant policies within this statement:

D3.4 Criteria (General):

1. Whether the premises will operate in such a way that will be reasonably consistent with the protection of children and other vulnerable persons from being harmed or exploited licensing objective.
2. Whether the applicant has met the requirements of Policy C1 and provided a suitable and sufficient gambling risk assessment demonstrating how they will implement sufficient mitigation to protect children and other vulnerable persons from being harmed or exploited by gambling.

D3.5 Considerations;

1. Has the operator a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to be reasonably consistent with this objective to exclude them from the premises or parts of the premises.
2. If the premises intend to or already operates as an adult only environment has the operator taken effective measures to implement an appropriate proof of age scheme to ensure that no one under the age of 18 is admitted to the premises or restricted areas.

3. Whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling.
4. Whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.
5. Whether any promotional material associated with the premises could encourage the use of the premises by children or young people.

Child/Young Person Safe Guarding

D3.6 The Licensing Authority will expect applicants to demonstrate that they will have systems and processes in place to adequately safeguard children as set out within the criteria below:

D3.7 Criteria (safeguarding of children)

1. Whether the applicant has met the requirements of Policy C1 and provided a suitable and sufficient gambling risk assessment demonstrating how they will implement sufficient mitigation to protect children from being harmed or exploited by gambling.

D3.8 In operating and managing a licensed gambling premises the applicant has designated one or more senior staff members within the organisation with the following responsibilities in relation to safeguarding children and protecting them from harm.

1. Ensuring safeguarding children, including child sexual exploitation (CSE) training is provided to all staff.
2. Monitoring and recording whether all staff have received the minimum (initial and refresher) safeguarding children training.
3. Ensuring all staff have read and know where to find the organisations safeguarding of children policy and where they can access additional information on safeguarding from, e.g. Government Guidance "What to do if you're worried a child is being abused".
4. Provide advice and support to staff when they have a concern about safeguarding a child.
5. Have a system in place to record all concerns and actions taken associated with the safeguarding of children by staff.
6. Be the contact person for the council's Children's Services Department and the police in relation to all incidents or concerns related to the safeguarding of children on or linked to the operation of the gambling premises
7. Ensure all staff are made aware that if the person who they suspect may be harming children is senior to them in the organization hierarchy that they can contact the council's Children services, or Police.

D3.9 The applicant has or intends to implement safeguarding training to ensure that their staff have a basic awareness of child protection issues. This includes:

1. Being alert to the possibility of child abuse, CSE and neglect.
2. A knowledge of the signs of an abusive or potentially abusive event or set of circumstance
3. Knowing who in the organisation to raise safeguarding concerns.
4. Being competent in taking the appropriate immediate or emergency action to protect a child where there are safeguarding concerns.
5. Knowing how to refer a safeguarding concern to the council's Children's Services Department and/or police.

Other Vulnerable Persons (Adult)

D3.10 This Licensing Authority will consider the following criteria when assessing the proposed and existing measures associated with protecting other vulnerable persons (adults) from being harmed or exploited by gambling.

D3.11 Criteria (Other Vulnerable Persons (Adults))

1. Whether the applicant has provided a suitable and sufficient gambling risk assessment as required by policy C1 to reduce or eliminate the risk to other vulnerable persons from being harmed or exploited by gambling.
2. The applicant has sufficient policies, procedures and mitigation associated with the following risks to other vulnerable persons being harmed or exploited by gambling:
 - i. The cognitive capacity of the person to make informed decisions relating to their gambling
 - ii. Establishing the means to which a person can afford to gamble to the extent and frequency of their gambling activity
 - iii. The approach to active and passive intervention for customers who show signs of at-risk behaviour, gambling beyond their means or are likely to be problem gamblers.
 - iv. The approach to managing and helping customers who appear to have addictive gambling tendencies and/or has self-excluded themselves from gambling from the premises or gambling operator and continues to attempt to gamble.
 - v. How vulnerable people can gain access to support, information on appropriate gambling treatment

D3.12 The applicant has or intends to implement training to ensure that all staff, who interact with customers are aware and can demonstrate their understanding of the relevant organisational policies and procedures.

D3.13 The Licensing Authority will expect applicants to demonstrate that they will have systems and processes in place to adequately safeguard other vulnerable persons (adults) as set out within the criteria below:

D3.14 Considerations (Other Vulnerable Persons (Adults))

1. Whether the applicant has met the requirements of Policy C1 and provided a suitable and sufficient gambling risk assessment demonstrating how they will implement sufficient mitigation to safeguard other vulnerable persons (Adults) from being harmed or exploited by gambling.
2. In operating and managing a licensed gambling premises the applicant has designated one or more senior staff members within the organisation with the following responsibilities in relation to safeguarding vulnerable adults and protecting them from harm.
3. The applicant has or intends to implement safeguarding training to ensure that their staff have a basic awareness of protecting vulnerable persons. This includes:
 - I. Ensuring safeguarding of adults training is provided to all staff
 - II. Monitoring and recording whether all staff have received the minimum (initial and refresher) safeguarding adults training.
 - III. Ensuring all staff have read and know where to find the organisations safeguarding of adult's policy and where they can access additional information on safeguarding adults from, e.g. Government or other agency, charity guidance.
 - IV. Provide advice and support to staff when they have a concern about safeguarding a at risk adults
 - V. Have a system in place to record all concerns and actions taken associated with the safeguarding of adults by staff
 - VI. Be the contact person for the council's Adult Services Department, the police or other agency in relation to all incidents or concerns related to the safeguarding of at-risk adults on or linked to the operation of the gambling premises.
 - VII. Ensure all staff are made aware that if the person who they suspect may be harming a vulnerable adult is senior to them in the organisation hierarchy that they can contact the council's Adult's Services Department and the police directly.

D3.15 For the purposes of this policy any reference to “children” or “child” will include any person who meets the definition of a child and young person within section 45 of the Gambling Act 2005, therefore such references will apply to anyone under the age of 18.

Reasons for Policy

D3.16 This Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.

D3.17 The Licensing Authority believes that this licensing policy places a significant responsibility on the applicant when apply for a licence and then operating their gambling premises. Whilst gambling operators will focus on the obvious protections associated with this licensing objective, such as restricting access to gambling by children or providing information to customers who may be problem gamblers the Licensing Authority believes that operators must consider other risks to children and vulnerable adults associated with their operation or their customers.

D3.18 It is noted that the Act and Commissions Guidance does not define the term vulnerable persons. The Commission states, “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 is the definition of vulnerable persons the council will use in its consideration of applications.

D3.19 The Licensing Authority have approached this policy in two parts. The first part relates to protecting children from harm or being exploited by gambling. The second part focuses on adults and the risk of harm or exploitation that they may face associated with gambling. The Licensing Authority has indicated within in its Local Area Profile (LAP) and within other policies within this statement that some locations and gambling operations may generate a greater risk of gambling harm due to the resident populations, age, social and economic backgrounds, etc. These are key factors when considering the local risks associated with the application.

D3.20 This Licensing Authority will expect applications to take on their statutory duty within the Act to be reasonably consistent with this licensing objective. However, operators also have a wider moral duty to protect and support their customers or those in the community that may interact with their premises or staff.

Risk of Vulnerability to Gambling Related Harm.

Young people.

D3.21 Rates of problem gambling among young people who gamble are higher than older adults and youth gambling behaviours are consistent with impacts of harm. These age

groups are less likely to gamble generally but those that do are more likely to experience difficulties with their behaviour.

Unemployed and constrained economic circumstance

D3.22 Generally, those of lower income are less likely to gamble but those that do spend a higher proportion of their income on gambling. This is highlighted as a concern given the lesser ability of lower income households to protect themselves from financial instability.

D3.23 There is evidence that those in debt and those using money lenders and/or pawnbrokers are more likely to be problem or at risk gamblers. The relationship between constrained economic circumstances and gambling problems is likely to be complex and multi-faceted. It may be mediated by other economic opportunities and personal feelings about how well off you are compared with others. Despite this complexity, there is a consistent body of evidence showing that, for whatever reason, those who are unemployed and who gamble are more likely to experience adverse outcomes from their gambling than those in paid employment.

Homeless

D3.24 The rates of problem gambling are higher among those who are homeless than those who are not. Although studies are small, they show that there is a significant relationship with gambling preceding homelessness. Little is known about why rates of problem gambling among homeless population groups is higher than the general population but given associations with other mental health conditions, homeless people should be considered a vulnerable group.

Mental ill health.

D3.25 There is a strong association between mental ill health and problem gambling. Associations were found between problem gambling and general anxiety disorder, phobia, obsessive compulsive disorder, panic disorders, eating disorders, probably psychosis, attention deficit, hyperactivity disorder, post-traumatic stress disorder harmful and hazardous levels of alcohol consumption and drug addiction. Overall, three quarters of problems gamblers seeking treatment also experience co-morbid mental health disorders.

D3.26 Being a problem or at-risk gambler is associated with latter onset of major depressive disorder, alcohol use and dependence, drug use and experience of any mental disorder. Illegal drug use and experience of any mental disorder is also associated with the subsequent onset of at risk and problem gambling. These findings seem to confirm the conclusion that the relationship between problem gambling and mental ill health may be cyclical.

Substance abuse/misuse.

D3.27 The evidence base relating to the relationship between substance abuse/misuse and experience of problem gambling broadly measures that of mental ill health. Evidence from British based surveys have shown that rates of problem gambling were higher among those with alcohol dependence (3.4%) or drug dependence (4.4%) than the general population (0.74%). A systemic review of those seeking treatment for gambling problems showed that 15% also experience alcohol dependence and 7% have other substance abuse disorders. There is strong evidence that alcohol and substance misuse are associated with problem gambling. As with other mental health conditions, these conditions can occur at the same time.

Personality Traits/cognitive distortions.

D3.28 There is a strong body of evidence highlighting the relationship between various personality traits, such as cognitive distortions or impulsivity, with problem gambling. Cognitive distortions such as erroneous perceptions of gambling and illusion of control are well established risk factors for problem gambling. However little research has been conducted to explore the complex interaction of personality traits with other factors and their combined influence on the experience of broader gambling harms. Certain personality traits and/or cognitive distortions are just one potential aspect of vulnerability which is likely to be affected by a range of other factors.

Protecting (Safeguarding) Children.

D3.29 A child and young person are defined as any person who is less than 16 years old and a young person is defined as a person who is not a child but who is less than 18 years old. For the purposes of this policy and the interpretation of this licensing objective the Licensing Authority, when referring to a child or children will mean anyone under the age of 18 years of age.

D3.30 The location of the premises may be a significant factor if for example the premises are located near a school, hostel or other sensitive premises. Other policies specifically deal with location although the applicant will have to demonstrate that there are suitable control measures to be reasonably consistent with this objective.

D3.31 Persons under 18 cannot be admitted to many types of gambling premises. New gambling premises or variations to existing premises that are in close proximity to schools or main routes to schools will expect the applicant to have carefully considered their operation and any potential for exposing children and young people to gambling. Operators should demonstrate policies and procedures that will prevent children and young people from entering premises or partaking in gambling activities.

D3.32 Whilst some gambling premises may restrict access to children, other types of premises can permit access to children. Bingo premises and Family Entertainment Centres

are gambling premises which permit access to the premises by children. However, some areas within these premises may have restricted access to children, such as where adult only gaming machines are located. Applicants and licensees must ensure that children do not gain access to these areas and age verification is conducted to ensure compliance.

D3.33 The Licensing Authority views underage access to age-restricted areas extremely seriously and the onus is placed firmly on the licence holder to ensure that appropriate checks are in place to prevent and deter opportunities for children and young people to gain access to category B or C gaming machine areas. Underage access to category B or C gaming machine areas in licensed Bingo and Family Entertainment Centres is an offence and the display of notices prohibiting underage access is a requirement of the mandatory conditions attached to all licences.

D3.34 It is the Licensing Authority's view that preventing underage access should be a major consideration for any applicant or operator and effective measures such as age verification checks are a simple solution to this issue. Therefore, failure to implement effective measures and enforce this requirement by operators will be dealt with strictly by the Licensing Authority. Operators can expect serious or repeated breaches of these requirements to be dealt with by review proceedings.

D3.35 Gambling operators can use procedures, processes, and control measures to monitor and prevent children accesses adult gambling content in premises. These may include:

1. challenge/think 21 schemes, with limitations on the types of recognised proof of age accepted which are operated at the door of the premises, at the entrance points to age restricted areas within the premises and in any bars within the premises selling alcohol products.
2. security and CCTV is operated at the door or within the premises to identify and prevent access by children amongst the other role of detecting and preventing crime.
3. signage prominently displayed regarding the prohibition of under 18s at the entrance points to the premises, adult only areas, and bars within the premises and on age restricted gambling products, such as gaming machines.

Protecting (Safeguarding) Vulnerable Adults

D3.36 The Care Act 2014 imposes a requirement on the Authority to "make enquiries if it has reasonable cause to suspect that an adult in its area, whether or not ordinarily resident there, has needs for care and support, is experiencing, or is at risk of, abuse or neglect, and as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it".

D3.37 The Authority must make whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or

otherwise) and, if so, what and by whom. “Abuse” includes financial abuse; and for that purpose, “financial abuse” includes having money or other property stolen, being defrauded, being put under pressure in relation to money or other property, and having money or other property misused.

D3.38 All adults have the right to be protected from abuse and poor practice. This is regardless of their:

- age
- ability or disability
- gender
- race
- religion
- ethnic origin
- sexual orientation
- marital status
- transgender status

D3.39 It is the Licensing Authority’s view that best practice in safeguarding means committing to both a legal and moral responsibility to all staff and customers.

D3.40 When looking at the risks of harm to vulnerable adults in and around the gambling environment it is important that gambling operators consider the wider harms that may be identifiable in their customers and staff. These may include one, more or a combination of the following:

Self-neglect

This covers a wide range of behaviour, but it can be broadly defined as neglecting to care for one’s personal hygiene, health, or surroundings. An example of self-neglect is behaviour such as hoarding.

Modern Slavery

This encompasses slavery, human trafficking, forced labour, and domestic servitude.

Domestic Abuse

This includes psychological, physical, sexual, financial, and emotional abuse perpetrated by anyone within a person’s family. It also includes so-called “honour” based violence.

Discriminatory

Discrimination is abuse that centre on a difference or perceived difference, particularly with respect to race, gender, disability, or any of the protected characteristics of the Equality Act.

Physical

This includes hitting, slapping, pushing, kicking, restraint, and misuse of medication. It can also include inappropriate sanctions.

Sexual

This includes rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault, or sexual acts to which the adult has not consented or was pressured into consenting.

Financial or Material

This includes theft, fraud, internet scamming, and coercion in relation to an adult's financial affairs or arrangements, including in connection with wills, property, inheritance, or financial transactions. It can also include the misuse or misappropriation of property, possessions, or benefits.

Neglect and Acts of Omission

This includes ignoring medical or physical care needs and failing to provide access to appropriate health social care or educational services. It also includes the withdrawing of the necessities of life, including medication, adequate nutrition, and heating.

Emotional or Psychological

This includes threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation, or withdrawal from services or supportive networks.

Mate Crime

A 'mate crime' is when vulnerable people are befriended by members of the community who go on to exploit and take advantage of them. A mate crime is carried out by someone the adult knows, and it often happens in private. In recent years there have been a number of Serious Care Reviews relating to people with a learning disability who were seriously harmed, or even murdered, by people who purported to be their friend.

Radicalisation

The aim of radicalisation is to inspire new recruits, embed extreme views and persuade vulnerable individuals to the legitimacy of a cause. This may be direct through a relationship, or through social media.

Gambling Operators Duty

D3.41 The Licensing Authority believes that gambling operators have a responsibility to protect adults who may or may not be partaking in a gambling activity provided at the premises. Staff working in gambling premises, on the door providing security, taking bets in a betting shop, floor walker or croupier in a casino need to be able to identify adults who are vulnerable.

D3.42 Gambling operators have a duty of care to protect (safeguard) children and other vulnerable people under the Act. Individuals who work for the gambling operator need to be informed to a sufficient level to ensure that complaints and concerns about children and adults at risk are properly identified and acted upon. Gambling operators that fail to assess the risk and implement poor and ineffective processes in this area are likely to fail to meet this policy, the licensing objective under the Act and their wider social responsibility and duty of care, which at worst could leave adults or children at risk to harm.

D3.43 Gambling operators are expected to review the risk and at the very least implement a Safeguarding Adults Policy and Procedure document that should be separate from any Safeguarding Children Policy and Procedure document. The Safeguarding Adults Policy and Procedure Document should be focused on ensuring that processes are put in place to keep adults safe. An appropriate referral model should be developed that offers direction to staff on how to respond, what they should record, and when they should report internally and externally to statutory agencies.

D3.44 As part of the Safeguarding Adults Policy and Procedures put in place by a gambling operator; they will also need to ensure that staff are suitably trained and that someone in the organisation can act as the point of contact for staff concerns on adult safeguarding.

D3.45 Several organisations provide training and advice to businesses on how to safeguard adults. A directory of organisations and useful contacts for support and information on safeguarding adults is available at Appendix xxxx.

GamCare Accreditation

D3.46 GamCare is a charity and leading provider of free information, advice, and support for anyone affected by problem gambling. Part of their goal is to work with the gambling industry to support customers and prevent people from experiencing gambling – related harm.

D3.47 GamCare has established the Safer Gambling Standard. This is an independent quality standard that assesses the measures gambling businesses have put in place to protect people from experiencing gambling-related harm. The Standard offers four levels of award from Base Level to Advanced Level 3.

D3.48 Businesses are required to meet 10 areas which are the foundation to building a

safer gambling approach. The assessment looks at 73 criteria, 52 of which are expected of businesses to meet the Base Level Standard, with the remaining Advanced Level criteria measuring the degree to which businesses exceed the Base Level. Three of the Advanced Level criteria are mandatory for any businesses wishing to achieve Advanced Levels. The 10 areas are:

1. Corporate Governance and Risk Management
2. Collaboration and Sharing Best Practice
3. Safer Gambling Spend and Contribution to RET
4. Protection of Children, Young Adults and Vulnerable Customers
5. Customer Information, Profiling, and Interaction
6. Production Design and Innovation in Safer Gambling Tools
7. Self-Exclusion
8. Advertising and Promotion
9. Staff Training and Development
10. Addressing Problem Gambling Amongst Staff

D3.49 Please visit the GamCare website to find out more about the GamCare Safer Gambling Standard - <https://www.gamcare.org.uk/>

Part E. Premises Licenses and plans.

E1.1 Where an individual or company uses premises, or causes or permits premises to be used, to offer gambling, they will need to apply for a premises licence.

E1.2 persons may only make an application for a premises licence (which includes companies or partnerships):

- who are aged 18 or over and
- who have the right to occupy the premises and
- who have an operating licence which allows them to carry out the proposed activity.
- who have applied for an operating licence to allow them to carry out the proposed activity. The premises licence cannot be determined until an operating licence has been issued.

E1.3 In accordance with s.150 of the Act, premises licences can authorise the provision of facilities for;

- casino premises,
- bingo premises,
- betting premises including tracks and premises used by betting intermediaries,
- adult gaming centre premises, or
- family entertainment centre premises.

E1.4 By distinguishing between premises types, the act makes it clear that the gambling activity of the premises should be linked to the premises described. The Act does not permit premises to be licensed for more than one of the above activities.

Meaning of premises

E1.5 In the Act, 'premises' are defined as including 'any place'. S.152 therefore prevents more than one premises licence applying to any place. However there is no reason in principle why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises.

E1.6 In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.

Plans

E1.7 Regulation 4 of The Gambling Act 2005⁵ requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Authority to plan future premises inspection activity. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. Provisional statements are covered at point N1.1

E1.8 The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 states that a plan should detail.

- The extent of the boundary or perimeter of the premises
- Where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- Where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises
- Where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises
- The location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.

E1.9 It is the Licensing Authority's policy that it will expect applicants for new premises licences and variations to provide a plan showing the indicative layout of the plan. The

⁵ [Gambling Act 2005 \(Premises Licences and Provisional Statements\) Regulation 2007](#)

Gambling Commission whilst not prescriptive on premises plans themselves, advice that 'The plan must show the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'

E1.10 The Licensing Authority will consider proposed premises plans to be appropriate, in conjunction with the premises' Gambling Risk Assessment, to effectively assess the provision of gambling facilities at the premises. Where this information is not provided, it is more likely that a representation will be made in order to enable the Licensing Authority to accurately assess the likely effect of granting the application relative to the Licence conditions and Gambling Commissions Licence Conditions and Code of Practice and licensing objectives.

E1.11 The premises plan in itself is only one means by which this Licensing Authority may seek reassurance that the requirements will be met. An additional factor to the proposed plan may be the conditions attached to the premises licence application regarding lines of sight between the counter and the gaming machines, staffing arrangements or security devices.

Vessels

E1.12 The Act permits premises licences to be granted for passenger vessels. Separate application forms are prescribed for vessels under the Premises Licences and Provisional Statements Regulations (SI 2007/459 or SSI 2007/196). The definition of a vessel in s.353(1) of the Act is:

- Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water
- A hovercraft
- Anything, or part of any place, situated on or in water.

E1.13 The Act allows pleasure boats to apply for premises licences. As with multi-purpose buildings, the part of the vessel where gambling takes place will be licensed and the usual restrictions on access for children will apply. The Act applies in relation to a vessel that is not permanently moored or berthed, as if it were premises situated in a place where it is usually moored or berthed. The licensing authority will consider an application for a premises licence in respect of a vessel where it is usually moored or berthed.

Vehicles

E1.14 Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming will be unlawful in a vehicle in Great Britain.

Premises Access Detail.

<i>Type of premises</i>	<i>Access provision</i>
Casinos	<ul style="list-style-type: none"> The principal entrance to the premises must be from a 'Street' No entrance to a casino must be from premises that are wholly or mainly accessible by children and/or young persons No entrance must be able to enter a casino directly from any other premises which holds a gambling premises licence.
AGC's	<ul style="list-style-type: none"> No customer must be able to access the premises directly from any other licensed gambling premises
Betting Shops	<ul style="list-style-type: none"> Access must be from a street or from other premises with a betting licence No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.
Tracks	<ul style="list-style-type: none"> No customer must be able to access the premises directly from a casino or AGC
Bingo Premises	<ul style="list-style-type: none"> No customer must be able to access the premises directly from a casino an AGC or a betting premises other than a track.
FEC's	<ul style="list-style-type: none"> No customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track

Multiple activity premises – layout and access

E1.16 With the exception of bingo clubs, tracks on race-days and licensed FECs, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites.

E1.17 The Licensing authorities will take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following:

1. The third licensing objective seeks to protect children from being harmed or exploited by gambling and premises should be configured so that children are prohibited from participating in gambling, such that they are not invited to participate in, have accidental access to, or closely observe gambling.
2. Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
3. Customers should be able to participate in the activity named on the premises licence.

Single and combined Licenses

E1.18 Only one premises licence may be issued for any particular premises at any time although, in some circumstances, the licence may authorise more than one type of gambling. For example, a bingo licence will also authorise the provision of gaming machines. Details of the gambling permissible under each type of licence are set out in the Act and in the premises specific parts of this guidance.

E1.19 The exception to this relates to tracks, that is a horse racing course, dog track or other premises where races or sporting events take place, which may be subject to more than one premises licence, provided each licence relates to a specified area of the track.

Premises Licence conditions

E1.20 Conditions on premises licences should relate only to gambling, as considered appropriate in the light of the principles to be applied by licensing authorities under S.153. Accordingly, if the Commission's Licence conditions and codes of practice (LCCP) or other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it would not be appropriate to impose the same conditions on a premises licence.

E1.21 Conditions will sometimes be general in nature attaching to all licences or all licences of a particular class, or they may be specific to a particular licence.

Display of rules

E1.22 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks.

Application for premises Variation S.187: Material Change.

E1.23 Guidance from the Commission has been that an application for a variation will only be required where there are material changes to the layout of the premises. What constitutes a material change will be a matter for the Licensing Authority to decide on a case by case basis, however a common sense approach will be adopted, when considering an application for variations, the Licensing Authority will have regard to the principles to be applied as set out in s.153 of the Act.

Notice of application

E1.24 The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 require the applicant to publish a notice of their application and to notify responsible authorities and other persons about the application. These also apply, with one

or two modifications, in relation to applications for provisional statements and applications that can be made in relation to a premises licences.

- The Notice must be served in three ways:
- A notice placed outside the premises for 28 consecutive days in a place where it can be read conveniently
- In a newspaper or newsletter of local relevance, on at least one occasion within ten days of the application being made
- To all responsible authorities, which includes the Commission, within seven days of the application being made.

A licence application, and any licence subsequently issued, is not valid if the relevant notifications have not been made.

Representations to an application

E1.25 In dealing with an application, the Licensing Authorities is obliged to consider representations from two categories of person, referred to in the Act as 'responsible authorities' and 'interested parties'. Representations from other parties are inadmissible.

E1.26 Having determined that the representation is admissible, the Licensing Authority must consider its relevance. Only representations that relate to the licensing objectives, or that raise issues under this licensing policy statement, or the Commission's guidance or codes of practice, are likely to be relevant.

E1.27 The Licensing Authority will not take into account representations that are:

- repetitive, vexatious or frivolous
- from a rival gambling business highlighting unwanted competition
- moral objections to gambling
- concerned with expected demand for gambling,
- anonymous

E1.28 Details of applications and representations referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available and placed on the Council's website in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details will however be removed from representations in the final website version of reports.

E1.29 Names and addresses of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the Licensing Authority is specifically asked to do so.

Responsible Authorities

E1.30 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The

principles are:

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

E1.31 This authority has consulted with both the Cumbria Safeguarding Children Board and Cumbria County Council Children's Services. This Authority considers that Cumbria County Council Children's Services is best able to fulfil the role of advising the Authority about the protection of children from harm for the purposes of Section 157(b) of the Act.

E1.32 The Responsible Authorities are:

- The Council's Licensing Service (as licensing authority)
- The Gambling Commission
- The Chief Officer of Police
- The Fire & Rescue authority
- The Council's Planning Department (as planning authority)
- The Council's Environmental Health Consultation Team (as the authority minimising or preventing the risk of environmental pollution and/or harm to human health)
- H.M. Revenue and Customs.

E1.33 The Secretary of State has not prescribed any further Responsible Authorities.

E1.34 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.southlakeland.gov.uk

Interested Parties

E1.35 Interested parties can make representations about licence applications, or apply for a review of an existing licence.

E1.36 These parties are defined under S.158 Gambling Act 2005 as follows: "For the purposes of this part a person is an interested party in relation to a premises licence or 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.

- lives sufficiently close to the premises to be likely to be affected by the authorised activities
- has business interests that might be affected by the authorised activities, or
- represents persons who satisfy paragraph (a) or (b)"

E1.37 When determining whether a person is an interested party for the purposes of the act the Licensing Authority will not apply rigid rules but will apply the principle that 'each case will be decided upon its merits.

E1.38 In determining whether a person or organisation "has business interests" the Licensing Authority will adopt the widest possible interpretation and include residents' and tenants' associations, trade associations, trades unions, partnerships, charities, faith groups and medical practices, as appropriate.

E1.39 The Licensing Authority will regard bodies such as trade associations, trade unions, residents' and tenants' associations, and professional advisors such as solicitors, barristers and consultants, as capable of representing interested parties where they are satisfied that the interested party has asked for representation. The Licensing Authority will only regard representative bodies as interested parties in their own right if they have a member who can be classed as an interested person under the terms of the Act.

E1.40 In principle, the Licensing Authority will allow any person to represent an interested party, but we may seek to have it confirmed that the person genuinely represents the interested party. The Licensing Authority will generally require evidence that a person/body (e.g. an advocate or relative) 'represents' someone. If persons representing interested parties are Councillors or Members of Parliament, then no specific evidence of being asked to represent an interested person will be required as long as they represent the area likely to be affected.

E1.41 If individuals wish to approach their Ward Councillor to ask them to represent their views, then those Councillors shall not sit on a Licensing Sub-Committee that meets to determine the licence application. If there are any doubts, then either interested parties or Councillors should contact the Licensing Service for advice.

Person living close to the premises

E1.42 There are a number of factors that licensing authorities should take into account when determining whether a person 'lives sufficiently close to the premises'. These might include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises

Exchange of Information

E1.43 The Licensing Authority are required to set out the principles we will apply when exchanging information with the Gambling Commission and other organisations.

E1.44 The Commission can require the council to provide specific information if it forms part of our licensing register or if we hold it in connection with our licensing functions under the 2005 Act. Currently the Commission requires the authority to submit a return at the end of each financial year, which is subsequently included in the Department for Communities and Local Government Single Data List. We will therefore continue to provide the following details to the Commission:

- a) permits issued
- b) temporary use notices issued
- c) occasional use notices issued
- d) premises inspections conducted
- e) reasons for and outcomes of reviews

E1.45 When the Licensing Authority exchange information with the Commission and other persons or bodies, the Licensing Authority will act in accordance with the provisions of the 2005 Act and the Data Protection Act 1998. The Licensing Authority will also have regard to any guidance issued by the Commission or Information Commissioner, in addition to any relevant regulations issued by the Secretary of State under powers provided in the 2005 Act.

E1.46 The Licensing Authority may also exchange information with other persons or bodies listed below for use in the exercise of functions under the 2005 Act.

- a) a constable or police force
- b) an enforcement officer
- c) a licensing authority
- d) HMRC
- e) the First Tier Tribunal
- f) the Secretary of State

E1.47 If the Licensing Authority establish protocols with any of these bodies relating to the exchange of information, we will make them available on our website.

Inspection and Criminal Proceedings

E1.48 One of the main concerns for the Licensing Authority is to ensure compliance with the venue premises licence and other permissions which the council grants. The Gambling Commission will be the enforcement body for operating licences and personal licences.

However the Licensing Authority will be alert to the way premises are operated and will notify the Gambling Commission if it becomes aware of matters of concern in the operation of the premises. (Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority.) The Licensing Authority will approach the Commission with a view to taking a multi-agency approach.

E1.49 The Licensing Authority will achieve compliance through encouraging a sense of community, improved communication and proactive work with licensee's and businesses. Such proactive work may include training, giving advice and information, and initiatives that

educate, inform and encourage partners and stakeholders to work together efficiently and effectively.

E1.50 The Licensing Authority operates a risk-based approach to compliance. In carrying out its inspection function. The Licensing Authority will operate within the principles of natural justice and take into account the Human Rights Act 1998.

It will have regard to the Commissions Guidance and will endeavour to avoid unnecessary duplication with other regulatory regimes as far as possible and 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,
- Targeted: regulation should be focused on the problem, and minimise side effects.

E1.51 As per the Gambling Commission's Guidance to Licensing Authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible. This council has adopted and implemented a risk-based inspection programme, based on,

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36.6
- The principles set out in this statement of licensing policy

E1.52 This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, this licensing authority must undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

E1.53 The principles to be applied by the council in exercising its functions are under Part 15 of the Act with respect to the inspection of premises; and under section 346 of the Act to institute criminal proceedings. The council will also consider its powers under the Licensing Act 2003 to review Club and Premises licences, which gives the council the ability to suspend, amend or revoke either licence in circumstances where it sees fit.

Powers of entry

E1.54 The Gambling Act 2005 states that authorized persons constables and enforcement officers may enter premises if they reasonably suspect that facilities for gambling are being, are about to be, or have been provided on the premises. This would include a private club but does not apply if the suspected gambling is private or non-commercial gaming or betting.

Licence Fees.

E1.55 We will calculate and collect fees from gambling operators to meet the costs of carrying out our licensing functions under the 2005 Act. The intention of the government is that fees will cover our costs for administration (including hearings and appeals), inspection and enforcement of the licensing regime. The current fees are detailed on our website.

Review of a premises Licence

E1.56 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Licensing Authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

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

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

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

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

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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

- Add, remove or amend a licence condition imposed by the licensing authority;
- Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in s153 of the Act, as well as any relevant representations.

In particular, the licensing authority may initiate a review of the premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them. Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

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

In determining what action, if any, we should take following a review, we will have regard to any relevant representations and the 'Aim to Permit' principle.

Part F. Adult Gaming Centres

F1.1 Persons operating an Adult Gaming Centre (AGC) must hold a gaming machines general operating licence (Adult Gaming Centre) from the Commission and must seek a premises licence from the licensing authority. A premises licence for an Adult Gaming Centre enables the holder to make an unlimited number of gaming machines available for use. Of the total number, up to 20% of the gaming machines can be category B3 or B4 gaming machines and the remainder are limited to category C or D gaming machines. If the premises held an Adult Gaming Centre premises licence prior to 13 July 2011, the holder

can provide either up to four B3 or B4 gaming machines or up to 20% of the total number of gaming machines, whichever number is greater.

F1.2 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. The location, layout and management of gaming machines is also of high significance. Operators should consider appropriate locations of the following when designing the layout of the premises to minimise the opportunity for under 18's to gain access.

- All Entrances
- ATM machines located on the premises
- Entry control points
- Higher category gaming machines
- Cashier points
- CCTV
- Security personal

F1.3 Applications for Adult Gaming Centres must provide the minimum requirements as set out in the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007. Application forms only allow for a limited amount of information to be provided. The Licensing Authority would recommend, where appropriate, that applications include the following additional information:

- (a) policies and procedures
- (b) operating manual
- (c) staff training measures
- (d) security provisions
- (e) Gambling risk assessment
- (f) proof of age scheme
- (g) CCTV measures including the location of CCTV coverage on plans
- (h) details of entry control systems
- (i) supervision of entrances and machine areas
- (j) location of entrances
- (k) any notices and signage to be displayed

(l) self-exclusion schemes

(m) provision of information leaflets / helpline numbers for Organisations, (e.g. GamCare)

F1.4 Adult Gaming Centres are subject to the Licence Conditions and Codes of Practice which is set by the Gambling Commission. As such, these are issues that the Licensing Authority will not need to consider in determining applications and, in the interests of avoiding duplication of regulation, will focus on premises specific issues.

F1.5 Adult Gaming Centres are the subject of mandatory and default conditions under the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.

Variation of a licence

F1.6 The Licensing Authority recommends that any application to vary an Adult Gaming Centre premises licence includes a full and detailed description of the proposed variation:

(a) where an application is made to vary the layout of the premises, a detailed description of the proposed changes;

(b) where an application is made to add, change or remove a condition on the premises licence, an explanation as to why the amendment is required and appropriate;

(c) where the application can have a bearing on the licensing objectives, the Licensing Authority will expect a revised risk assessment to be provided with the application detailing what measures are in place to mitigate any potential risks.

Advertising of AGC

F1.7 Applicants will be expected to assess the associated risk with advertising the Adult Gaming Centre, the entertainment and/or any gambling activities that are visible from the exterior of the premises, advertised in the local area or advertised to a wider geographical area beyond or the local area. The operator must ensure that advertisements are not placed on or near locations such as schools, community centres, religious or places of worship, homelessness hostels or addiction clinics.

Alcohol Consumption

F1.8 The consumption of alcohol in AGCs is prohibited at any time during which facilities for gambling are being provided on the premises.

Part G. (Licensed) Family Entertainment Centres

G1.1 The Act creates two classes of Family Entertainment Centres (FEC). This section of the policy concerns licenced FECs. Persons operating a licensed FEC must hold a gaming machine general operating licence (Family Entertainment Centre) from the Commission and must seek a premises licence from the Licensing Authority. They will be able to make

category C and D gaming machines available to their customers. Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits (see Section N of this policy).

G1.2 This Licensing Authority will specifically have regard to the need to protect children and young persons. Children and young persons will be permitted to enter an FEC and may play on the category D machines. They are not permitted to play on a category C machines, and it is a requirement that there must be clear segregation between the two types of machines, so that children do not have access to category C machines.

G1.3 This licensing authority will refer to the Gambling Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. It will normally impose conditions on granting licences which accord with the above. This licensing authority will also make itself aware of and impose any mandatory or default conditions on these premises licences.

G1.4 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV – this should be of sufficient quality that it will be of use in evidence
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes– these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises

G1.5 Licensed Family Entertainment Centres are also the subject of Mandatory Conditions under the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.

Part H. Casino Premises

H1.1 Under the Act, licensing authorities in England and Wales have the role of issuing premises licences for casinos and monitoring those licences. Casino's as with all gambling premises, are subject of dual regulation by the gambling commission, via personal and operating licences and the Licensing Authority, via premises licences. Casinos are subject to the Licence Conditions and Codes of Practice (LCCP) which are set by the gambling commission.

H1.2 New casino premises licences issued under the Act will fall into one of two categories namely large casino premises licence or small casino premises licence. These are subject to separate regulations, involving a two-stage application process, detailed below.

H1.3 There is a third category of casino that is permitted through transitional arrangements under Schedule 18 of the Act, which may be referred to as 1968 Act converted casinos. Most of these casinos fall below the size thresholds of the other two categories. Such casinos may operate as card clubs without offering casino games.

H1.4 The gaming machines permitted to be made available in new casinos are related to the number of gaming tables available for use (SI 2009/1970 The Gambling Act 2005 (Gaming Tables in Casinos) (Definitions) Regulations 2009).

- no more than eight large casino premises licences will be permitted. Large casinos will have a minimum total customer area of 1,500m². This category of casino will be able to offer casino games, bingo and/or betting and up to 150 gaming machines in any combination of categories B1 to D (except B3A lottery machines) provided that a maximum ratio of 5:1 gaming machines to gaming tables is met.
- no more than eight small casino premises licences will be permitted. Small casinos will have a minimum total customer area of 750m². A small casino will be able to offer casino games, betting and up to 80 gaming machines in any combination of categories B1 to D (except B3A lottery machines) provided that a maximum ratio of 2:1 gaming machines to gaming tables is met.

H1.5 Section 7(1) of the Act states that 'a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games'. Casinos games are defined by the Act to mean a game of chance, which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favorable to all participants.

Protection of children and young persons

H1.6 No-one under the age of 18 is permitted to enter a casino and operators are required to display notices to this effect at all entrances to a casino. Children and young persons are not allowed to be employed at premises with a casino premises licence.

No Casino resolution

H1.7 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. Any such decision will be made by the Full Council.

Casino Premises Licence Applications.

H1.8 The Licensing Authority does not qualify to issue new Casino Premises Licences and does not have any existing venues. The Secretary of State decided the Local Authority areas to be licensed in January 2007 following a lengthy consultation with the Casino Advisory Panel. The final report can be examined here [Casino Advisory Panel](#).

H1.9 Should this Licensing Authority be authorized by the Secretary of State to issue a Casino Premises Licence we may invite applications for a premises licence. The governance of inviting applications is set out at ; [The Gambling \(Inviting Competing Applications for Large and Small Casino Premises Licences\) Regulations 2008](#). The applications may be in the form of an application for a full grant or for the application of a provisional statement. An application for a provisional statement will be treated in the same way as an application for a casino premises licence and may be included in a two stage determination process. If an application for a provisional statement is successful in the process, then it is not necessary for a further two-stage licensing process to be held when a casino premises licence application is eventually made by the operator to whom the statement has been issued.

H1.10 If the Local Authority were to receive more applications than available licences, the act lays down a framework for a two-stage process for considering applications.

Stage one

H1.11 If more applications are received than the number of available licences, this Licensing authority will determine each application on an unlimited availability basis. Each application must be considered separately and no reference made to the other applications received. During this first process each of the other applicants will be classed as an 'Interested Party' and may make representations

H1.12 Stage one will be completed by the provisional grant of the premises licence, which will be disclosed to the applicant and any other parties who made any representations. The provisional decision of the licensing Authority may be appealed.

Stage two

H1.13 Stage two will only apply when the number of provisional grants made under stage one exceeds the number of available casino premises licences. If this is the case the

Licensing authority will grant the applications which in our opinion offers the greatest benefit to the area. There is no right of appeal at stage two.

H1.13 There are mandatory conditions relating to small casinos, large casinos, and converted casinos premises licence which are detailed in section 17 of the guidance.

H1.14 The council in considering any applications would consider whether any potential application would meet the Licensing Objectives policies and any other relevant guidance within this policy.

Part I. Bingo Premises.

I1.1 There are two types of 'Bingo' which have no statutory definition in the act.

- Cash Bingo - Linked directly to the stakes paid in
- Prize Bingo – Various prizes not linked to stakes paid in.

I1.2 Cash Bingo is the main type of bingo played in commercial premises with Bingo as a whole classed as equal chance gaming.

I1.3 Bingo premises, as with all gambling premises, is the subject of dual regulation by the Gambling Commission, via personal and operating licences, and the Licensing Authority, via premises licences. The Gambling Commission, in considering, issuing and maintaining personal and operating licences, considers the operator's suitability and ensures the operator has policies and procedures in place to cover various issues such as anti-money laundering and reporting procedures. Bingo premises are subject to the Licence Conditions and Codes of Practice which are set by the Gambling Commission. As such, these are issues that this Licensing Authority will not need to consider in determining applications and, in the interests of avoiding duplication of regulation, will focus on premises specific issues.

Prize Bingo

I1.4 As well as commercial bingo premises, bingo can be found in other gambling premises. Prize bingo is traditionally a game played in arcades, especially seaside amusement arcades. Operators wishing to offer prize Bingo will be subject to allowances for prize gaming in the act regarding participation fees and prizes. Adult Gaming Centres, licensed and unlicensed Family Entertainment Centres, travelling fairs, (or any premises with a prize gaming permit) are able to offer prize gaming, which includes prize bingo.

I1.5 In this form of gaming, the nature of the prize must not be determined by reference to the number of people playing the game and the nature or the size of the prize must not be determined by reference to the amount paid for or raised by the gaming.

Gaming Machines at Bingo Premises

11.6 A Bingo premises licence permits the holder to make an unlimited number of gaming machines available for use. Of the total number, up to 20% of the gaming machines can be category B3 or B4 gaming machines and the remainder are limited to category C or D gaming machines. If the premises held a Bingo premises licence prior to 13 July 2011, the holder can provide either up to eight B3 or B4 gaming machines or up to 20% of the total number of gaming machines, whichever number is greater.

11.7 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstances that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licenced premises) is not permissible for all the gaming machines to which each of the licence brings an entitlement to be grouped together within one of the licensed premises.

Control of where gaming machines may be played (Bingo)

11.8 Unless a bingo premises operator offers substantive facilities for non-remote Bingo it should not make gaming machines available for use on the premises. The current regulations prescribes that all category B gaming machines may only be made available in licensed gambling premises and not in locations which may prompt more ambient gambling such as pubs. Clear gambling venue identity allows individuals to make a clear choice if they wish to enter.

11.9 This Licensing Authority will take a high regard to the relevant codes of practice on 'controlling where gaming machines may be played under section 153 of the Gambling Act 2005. We will not operate a 'one size fits all' when regarding how a Bingo premises should look and function, ensuring the premises licensed for Bingo is actually functioning as such and not illegally offering higher stake and prize gaming machines.

Protection of children and young persons.

11.10 Bingo premises can employ 16 and 17 year olds at the premises provided their duties are not connected with the gaming or gaming machines. Operators will need to demonstrate in any application how they will adhere to the third licensing objective of protecting children from gambling-related harm. Such measures should form part of the risk assessment.

11.11 Children can access bingo premises but are not permitted to participate in bingo games or access areas containing category B or C gaming machines. Operators will need to demonstrate policies and procedures at the premises which ensure that the operation will not impact upon the third licensing objective of protecting children from being harmed or exploited by gambling.

Age Verification

i1.12 Premises licence applicants at a minimum must demonstrate that they have an age verification policy in place for the premises, that meets the Licensing Objective and any guidance in this policy. Operators should consider age verifications schemes and methods of recording any refusals.

Default Conditions.

I1.13 Bingo premises are also the subject of mandatory and default conditions under the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.

Bingo facilities in Bingo premises may not be offered between the hours of midnight and 09:00hours. However, there are no hourly restrictions on access to gaming machines in Bingo premises. Default conditions can be removed and or varied

Bingo in clubs and alcohol-licensed premises

I1.14 As mentioned Bingo is a classed as equal chance gaming permitted on alcohol-licensed premises, clubs, miners and welfare institutes, under the allowances for exempt gaming in Part 12 of the Act, there are regulations setting controls on this form of gaming, to ensure that it remains low stakes and prize activity.

I1.15 Where the level of bingo played in these premises reaches £2,000 in any seven day period either in money or prizes awarded in an annual period, there is a legal duty on the Licensee or club to inform the Commission as soon as is reasonably practicable. Stakes or prizes above that limit will require bingo operators' licence and corresponding personal and premises licence. The aim of these provisions is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.

Part J. Betting Premises

J1.1 The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing. Betting Premises allow for gambling which can take place other than at a race track. (Please note there are betting offices on tracks which will have a separate licence to the track.)

J1.2 The Act also permits betting intermediaries to operate from premises. S.13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. A betting intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room.

Gaming Machines

J1.3 Betting premises will be able to provide up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines.

Self-service betting terminals, SSBT's.

J1.4 S.235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

J1.5 However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine is a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

J1.6 The Gambling Commission's current view is that SSBT's is a form of remote communication and that an operator will have to apply for a remote licence, if SSBT's are used to facilitate the making or accepting of bets by others.

J1.7 Applicants should be aware of section 181 of the act which contains an express power for any licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence.

Controlling where gaming machines may be played.

J1.8 Gambling Operators should be mindful of the following,

- non-remote gambling should be confined to dedicated gambling premises
- the distinctions between different types of licensed gambling premises are maintained
- gambling activities are supervised appropriately
- within casino, bingo and betting premises, gaming machines are only made available in combination with the named non-remote activity of the operating licence

J1.9 Category B gaming machines may only be made available in licensed gambling premises and not in locations which may prompt more ambient gambling such as pubs.

Protection of children and young persons

J1.10 Children and young persons are not permitted to enter premises with a betting premises licence, although exemptions apply to tracks.

Default conditions attached to betting premises licence:

The full set of conditions are contained within parts 1 and 2 of Schedule 5 of the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007.

Part K. Tracks

K1.1 S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

K1.2 Applications for a provisional statement or new betting track premises licence or to vary an existing betting track licence will generally be granted subject to:

- The application and proposed operation meeting the requirements of the Gambling Commissions Licence Conditions and Codes of Practice and Guidance to Licensing Authorities.
- Premises plan to a scale with sufficient detail. (discussed at point E1.7)
- The application and proposed operation meet the criteria and considerations within this policy at points D1, D2 and D3.
- The applicant having undertaken an assessment of the local area risks as defined within Risk Assessment Policy C1..
- The applicant meeting the requirements of the other relevant policies within this section.

K1.3 Only one premises licence can be issued for any particular premises at any time unless the premises are a 'track'. A track is a site or venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities.

Examples of a track include:

- A horse racecourse (racecourses)
- A greyhound track
- A point-to-point horserace meeting
- Football, cricket and rugby grounds
- An athletics stadium
- A golf course
- Venues hosting darts, bowls, or snooker tournaments
- A premises staging boxing matches
- A section of river hosting a fishing competition
- A motor racing event

K1.4 The list is not exhaustive as in theory, betting could take place at any venue where a sporting or competitive event is occurring. While many of these venues are not commonly understood to be 'tracks', they fall within the definition of 'track' in the Act.

K1.5 All tracks will require a primary 'general betting premises licence' that the track operator will hold. It should be noted that track operators do not require an operating licence from the Gambling Commission although they may apply for one. This is because the various other gambling operators offering betting at the track will each hold an operating licence.

K1.6 Tracks may also be subject to one or more premises licences, provided each licence relates to a specified area of the track.

K1.7 A track premises licence permits the premises to be used for the provision of facilities for betting, but does not permit the licence holder to provide casino, bingo or other types of gambling on tracks, as these activities must be the subject of separate premises licences.

On-course betting

K1.8 The on-course betting operator is one who comes onto the track, temporarily, while races or sporting events are taking place. On-course betting operators tend to offer betting only on the events taking place on the track, that day.

Off-course betting

K1.9 Off-course betting operators are typically those who provide betting facilities from betting premises such as those found on the high street. In addition to such premises, betting operators may operate self-contained betting premises or designated areas such as a row of betting kiosks within the track premises.

Gaming Machines

K1.10 A track premises licence does not of itself entitle the holder to provide gaming machines, as this type of premises licence can be held without any corresponding operating licence.

K1.11 However, by virtue of s.172(9) of the Act, track owners holding both a track premises licence and a pool betting operating licence issued by the Commission (currently only greyhound tracks), may site up to four gaming machines within categories B2 to D on the track.

K1.12 The provision of off-course betting facilities is generally conducted in reliance on the track premises licence held by the occupier of the track and consequently the off-course operator is prohibited from making any gaming machines available for use unless they hold a separate betting premises licence in relation to part of the track.

K1.13 Some tracks will also hold an alcohol licence and as such they will be automatically entitled under s.282 of the Act to two gaming machines of category C or D. This permission is activated by notifying the licensing authority and paying the required fee

K1.14 Applications for licensed premises gaming machine permits to allow more than two gaming machines are not permitted where the gambling premises are, or are part of, premises already covered by a premises licence including a betting premises licence in respect of a track

K1.15 Children and young persons can play category D gaming machines on a track, but are not allowed to play other categories of machine.

Protection of children and young people

K1.16 Persons under 18 years old are not permitted to enter premises when betting facilities are being provided, other than at tracks. This dispensation allows families to attend premises such as greyhound tracks or racecourses on event days, and children to be permitted into areas where betting facilities are provided, such as the 'betting ring', where betting takes place.

K1.17 The exemption allowing children access to betting areas on tracks does not extend to areas within a track where category C or above machines are provided, or other premises to which under 18 year olds are specifically not permitted access.

K1.18 As under-18s are permitted to enter betting areas on track event days, The Commission has attached a condition to all pool betting operating licences that the operator must:

- Have and put into effect policies and procedures designed to prevent underage gambling
- Monitor the effectiveness of these.

K1.19 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. This licensing Authority will place an emphasis on the third Licensing Objective '*The Protection of Children and Vulnerable Persons from being Harmed or Exploited*'.

K1.20 This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons

Display of rules

K1.21 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks. The rules should be made available at suitable central locations. The track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in.

K1.22 This authority appreciates it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on the track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan (See Guidance, para 20.46).

Part L. Travelling Fairs

L1.1 This licensing authority is responsible for deciding 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.

L1.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair:

For the purposes of this Act –

“fair” means a fair consisting wholly or principally of the provision of amusements, and

a fair held on a day in a calendar year is a “travelling fair” if provided - wholly or principally by persons who travel from place to place for the purpose of providing fairs, and

At a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year. It is noted that the 27-day statutory maximum for the land being used as a fair, applies on a calendar year basis, 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.

Part M. Small Society Lottery Licences,

M1.1 Any raffles where the tickets are sold on the same day and the same event where the draw is made would be considered to be incidental non-commercial lotteries and exempt from this process.

Operating a Lottery

M1.2 The purpose of a small society lottery is to raise money for causes that are non-commercial. These causes must be related to the purpose of the charity.

M1.3 The Gambling Act 2005 (the Act) requires that a minimum proportion of the money raised by the lottery is channeled to the goals of the society that promoted the lottery. The limits placed on small society lotteries are as follows:

- a) 20% of the proceeds must go to the purposes of the society.
- b) The maximum prize is £25,000.
- c) The proceeds of each lottery are under £20,000
- d) The aggregate of the proceeds each calendar year is under £250,000.
- e) Rollovers are only permitted where every lottery affected is a small society lottery promoted by the same society and the maximum single prize is £25,000.

Tickets

M1.4 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being nonphysical, such as an email or a text). When a person purchases a ticket, he must also receive a document which:

- (a) Clearly identifies the promoting society;
- (b) states the price of the ticket;
- (c) states the name and address of the promoter, or external lottery manager; and
- (d) either states the date of the draw, or enable the date of the draw to be determined.

M1.5 This information could be printed on the ticket, or the rear of the ticket, or sent electronically in such a way as the person can save the information or print it out.

M1.6 The price payable for each ticket must be the same and must be paid to the promoter before the person is given the ticket. Membership into a small lottery must not be dependent on making any payment other than the price of the ticket. There is no limit on the price of the ticket.

M1.7 The Act Requires that lottery tickets may only be sold by persons that are aged 16 years or over to another person who must also be over the age of 16 years of age.

M1.8 Lottery tickets must not be sold to another person in the street. Tickets may however be sold in the street from a solid structure such as a kiosk. Tickets may be sold door to door.

Prizes

M1.9 Prizes can be awarded as cash or as a non-monetary fund.

Refusal of an application

M1.10 An application for a Small society Lottery Licence maybe refused for any of the following reasons'

- An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years.
- The society in question cannot be deemed non-commercial.
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in Schedule 7 of the Act.
- Information provided in or with the application for registration is found to be false or misleading.

M1.11 In the event of an application being rejected, the applicant will be invited to make representations within 28 days from the date the notice was issued. The Licensing Authority will also give notice to the gambling commission inviting them to make representation within 14 days from the date the notice was given. If representations are received all parties will be invited to attend a Licensing Sub-Committee hearing.

Revocation.

M1.12 This Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. The Society will be allowed to make representations.

Appeals to the decision.

M1.13 Following the conclusion of any hearings and receipt of representations, paragraph 51 of Schedule 11 of the Act then requires this authority to notify the applicant or the society as soon as possible if their registration is still to be revoked, or if their application for registration has still been rejected.

M1.14 The applicant or society may decide to make an appeal against the decision, and has 21 days following receipt of the notice of the decision to lodge an appeal, which must be made directly to the local Magistrates.

Part N. Permits/Temporary & Occasional Use Notice

Unlicensed Family Entertainment Centre Gaming Machine Permits.

N1.1 Family Entertainment Centres (FECs) are commonly located at seaside resorts, in airports and motorway service stations, and cater for families, including unaccompanied children and young persons. The machines must be in a designated area.

N1.2 Unlicensed FECs are able to offer only category D machines in reliance on gaming machine permit. Any number of category D machines can be made available with such permit subject to other considerations, such as fire regulations and health and safety. Permits cannot be issued in respect of vessels or vehicles.

N1.3 If the operator of a Family Entertainment Centre wants to make category C machines available in addition to category D machines, the operator will need to apply for a gaming machine general operating licence (Family Entertainment Centre) from the Commission and a premises licence from the Licensing Authority.

N1.4 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 (s238 of the Act).

N1.5 The Act 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 24. The Gambling Commission's Guidance also states "In its statement of policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications of permits. In particular it may want to set out the matters that will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group." (para, 24.6). A plan for unlicensed FEC's will be submitted.

N1.6 The Guidance 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 FEC, and if the chief officer of police has been consulted on the application. Licensing Authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- That staff are trained to have a full understanding of the maximum stakes and prizes.

N1.7 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

N1.8 This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

N1.9 This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (Schedule. 7 of the Act) and that staff are trained to have a full understanding of the maximum stakes and prizes.

(Alcohol) Licensed Premises Gaming Machine Permits.

N1.10 Automatic entitlement: up to 2 machines - 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 operator of the premises merely needs to notify the Licensing Authority and pay the prescribed fee. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

N1.11 Permit: 3 or more machines - If the operator of alcohol licensed premises wishes to have more than 2 machines, then an application must be made for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any

guidance and code of practice issued by the Gambling Commission issued under Section 24 & 25 of the Gambling Act 2005, and “such matters as they think relevant.”

N1.12 This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be a help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

N1.13 This Licensing Authority recognises that some operators of alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

N1.14 The Licensing Authority may 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.

N1.15 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

Prize Gaming Permits.

N1.16 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 proposes to consider in determining the suitability of the applicant for a permit”.

N1.17 This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law;
- Clear policies that outline the steps to be taken to protect children from harm.

N1.18 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in Adult Gaming Centres and licensed Family Entertainment Centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, providing that none of the gambling facilities at the fair

amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.

N1.19 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 (Schedule. 14 para. 8(3) of the Act).

N1.20 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.

Club Gaming and Club Machines Permits.

N1.21 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance.

N1.22 Members Clubs and Miner's Welfare Institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine Permit will enable the premises to provide gaming machines (up to 3 machines of categories B, C or D). N.B. Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

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

25.44 The licensing authority has to satisfy itself that the club meets the requirements of the Act to obtain a Club Gaming Permit. In doing so it will take account of a number of matters outlined in sections 25.45-25.47 of the Gambling Commission's guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members. 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 club must be conducted 'wholly or mainly' for the purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

N1.23 The Guidance also states that licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Gambling Commission or the police.

N1.24 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule. 12 paragraph 10). 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 grounds upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled".

N1.25 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

Temporary Use Notices (TUN)

N1.26 The Gambling Act 2005 enables the holder of an operating licence to give a Temporary Use Notice in respect of premises to a Local Authority. They are often used to run poker tournaments for example. The TUN authorises the premises to lawfully be used for short periods to provide facilities for gambling without the appropriate premises licence, normally expected.

Restrictions.

N1.27 The Act under sets out restrictions on the type of gambling to be offered under a TUN. These restrictions are:

- It can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both
- Gambling under a TUN may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises
- It can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner
- Gaming machines may not be made available under a TUN.

Procedure

N1.28 The holder of the operating licence must give notice to the Licensing Authority in whose area the premises are situated. The Secretary of State has prescribed the form of the notice which must specify information including:

- The type of gaming to be carried on
- The premises where it will take place
- The dates and times the gaming will take place
- Any periods during the previous 12 months that a TUN has had effect for the same premises.
- The date on which the notice is given
- The nature of the event itself.

N1.29 A TUN must be lodged with the Licensing Authority not less than three months and one day before the day on which the gambling event will begin. The application, fee and counter- notices are specified by the Secretary of State. The application must be copied to:

- The Commission
- The Police
- HM Commissioners for Revenue and Customs
- If applicable, any other Licensing Authority in whose area the premises are situated.

Objections.

N1.30 If no objections are made within 14 days of the date of the notice, the Licensing Authority must endorse the notice as valid and return it to the person who gave it. If the endorsed copy of the notice is lost, stolen or damaged, the person who gave the notice may request a new endorsed copy from the Licensing Authority, subject to a payment of a fee.

N1.31 The Licensing Authority and other responsible authorities must have regard to the Licensing objectives and if they consider that the gambling should not take place, or if only with modifications, they must give notice of an objection to the person who applied for the TUN. Such a notice must be copied to the Licensing Authority (unless it is given by the Licensing Authority).

N1.32 The Licensing Authority will give a notice of objection within 14 days of the date of the TUN. This Licensing Authority will adhere to the Gambling Act procedures to ensure that such notices are considered without delay so that, where appropriate, the opportunity to lodge an objection is not missed.

N1.33 Where the Licensing Authority receives an objection notice, it must send a written acknowledgement as soon as reasonably practicable to the applicant. A written acknowledgement may include one sent by electronic mail.

N1.34 An objection may be withdrawn by giving written notice to those to whom the notice of objection was sent and copied.

N1.35 Where the premises are situated in the area covered by more than one authority, the person giving an objection notice must send the notice to one authority and copy to the other(s).

N1.36 As notices may be given by different operators in respect of the same premises, the Licensing Authority will always check whether a counter-notice is appropriate.

Counter notices.

N1.37 If the premises have been the subject of one or more TUN for more than a total of 21 days in the past 12 months, the Licensing Authority will issue a counter-notice that has the effect of stopping the TUN coming into effect. Failure to comply with the counter-notice will be an offence. The Licensing Authority may issue a counter-notice which limits the number of days that the TUN comes into effect, bringing it within the 21-day limit. Such counter-notices require consultation with the applicant to ensure that the restrictions they impose do not result in an unworkable event.

N1.38 If the Licensing Authority gives a counter-notice, it must give reasons for doing so and must copy the counter-notice to all those who receive copies of the TUN.

N1.39 If the Licensing Authority decides not to issue a counter-notice, the TUN will take effect. The Authority must give notice of its decision to the person who gave the TUN and others to whom it was copied.

Modification

N1.40 Those who raise objections may offer modifications to the notice that will alleviate their concerns. Remedies may include a reduction in the number of days when gambling occurs or a restriction on the type of gambling is permitted. If the modifications are accepted by the applicant, a new TUN must be prepared and the original notice withdrawn. The three-month time limit and fee will not apply to the new notice. The person who made the original objection and proposed the modification may not object to the new notice, but others whom it is copied may object. If there are no new objections, there will be no need for a hearing.

Where a Temporary User Notice May be Held.

N1.41 The same set of premises may not be the subject of a TUN for more than 21 days in any 12 month period, but may be the subject of several notices provided that the total does not exceed 21 days.

N1.42 A notice may not be given in respect of a vehicle. A notice may be given in respect of a vessel, but only if it is a passenger vessel or a vessel that is situated at a fixed place. A vessel at a fixed place would include a structure on water that is not intended to be able to move (such as an oil rig, or an artificially constructed island in the middle of a lake).

N1.43 It is an offence not to produce the notice endorsed by the authority when request to do so by a constable, an officer of HM Revenue and Customs, an enforcement officer, or an authorised local authority officer.

Hearings to determine.

N1.44 If objections are received, the Licensing Authority must hold a hearing to listen to representations from the person who gave the TUN, all the objectors and any person who was entitled to receive a copy of the notice. If all the participants agree that a hearing is unnecessary, it may be dispensed with.

N1.45 If the Licensing Authority, after a hearing has taken place or has been dispensed with, considers that the TUN should not have effect, it must issue a counter-notice which may:

- Prevent the TUN from taking effect
- Limit the activities that are permitted
- Limit the time period of gambling
- Allow the activity to take place subject to a specified condition.

Appeal process.

N1.46 An appeal against the Licensing Authority's decision may be made by the applicant, or any person entitled to receive a copy of the TUN, to the Magistrate's Court within 21 days of receiving notice of the Licensing Authority's decision. There is a further right of appeal to the High Court on a point of law. Appeals are discussed in further detail in chapter P.

Right to withdraw TUN application

N1.47 The person who gives a TUN may notify the authority that it is withdrawn at any time up to and during the time it has effect. In those circumstances the notice will have no effect, and any un-lapsed period of time will not count towards the 21-day maximum for a TUN having effect on the premises. While the gambling is taking place, a copy of the TUN must be displayed prominently on the premises.

Occasional Use Notices (OUN).

N1.48 Section 38 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an OUN without the need for a full premises licence.

N1.49 While tracks are normally thought of as permanent racecourses, it should be noted that the meaning of 'track' in the Act covers not just horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place, or is intended to take place (section 353(1)).

N1.50 This means that land which as a number of uses, one of which fulfils the definition of track, can qualify for the OUN provisions (for example agricultural land upon which a point-to – point meeting takes place). Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

N1.51 The intention behind OUN is to permit licensed betting operators (with appropriate permission from the Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. The OUN dispenses with the need for a betting premises licence for the track in these circumstances.

N1.52 OUN may not be relied upon for more than eight days in a calendar year. Note that the requirement relates to a calendar year (starting 1 January) and not to any period of 12 months. The Secretary of State has the power to increase or decrease the number of OUN that are permitted, but there are currently no plans to use this power.

N1.53 This Licensing Authority keeps a record of the number of notices served in relation to each track.

N1.54 A notice must be served by a person who is responsible for the administration of events on the track or by an occupier of the track. The notice be served on the Licensing Authority and copied to the Chief Officer of Police for the area in which the track is located. The notice must specify the day on which it has effect. Notices may be given in relation to consecutive days, so long as the overall limit of eight days is not exceeded in the calendar year.

N1.55 Provided that the notice will not result in betting facilities being available for more than eight days in a calendar year, there is no provision for counter-notices or objections to be submitted.

N1.56 The Act does not require the applicant or the Licensing Authority to notify the Commission that an OUN has been given. However the Commission does require Licensing Authorities to submit returns showing how OUN may were received during each quarter.

N1.57 It should be noted that betting operators cannot provide gaming machines at tracks by virtue of an OUN. Gaming machines may be made available by betting operators and this is reliant on a betting premises licence, which refers to a specific licensed area, but does not enable the operator to site gaming machines outside of that area.

Part O. Provisional Statements.

O1.1 Developers may wish to apply to this authority for provisional statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

O1.2 S204 of the Act provides for a person to make application to the licensing authority for a provisional statement in respect of premises that he or she:

- Expects to be constructed;
- Expects to be altered; or
- Expects to acquire a right to occupy.

O1.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

O1.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

O1.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they:

- concern matters which could not have been raised by objectors at the provisional licence stage; or
- Reflect a change in the operator's circumstances

O1.6 In addition the licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- Which could not have been raised by objectors at the provisional statement stage;
- Which in the authority's opinion reflect a change in the operator's circumstances; or

- Where the premise has not been constructed in accordance with the plan submitted with the application.
This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

Part P. Rights of appeal and judicial review – Premises Licences.

P1.1 This section deals only with appeals relating to premises licensing and other decisions by the Licensing Authority.

Providing reasons for our decisions.

P1.2 In many cases, it is a requirement of the Act that Licensing Authority gives clear and comprehensive reasons for rejection of an application. For clarity and transparency the Licensing Authority must give reasons for all its decisions (see section 165 of the act, which also applies in relation to other applications under Part 8 of the Act). A failure to give reasons may compel a person to appeal, and may suggest that the Licensing Authority did not make its decision with regard to all the information that it should have regard to, and in line with its obligation under section 153 of the act.

P1.3 The avenues of appeal against decisions the Licensing Authority are set out in sections 206 & 209 in Act. The below table identifies who can appeal different types of premise licence decisions.

Type of decision	Section of act	Who may appeal
Decision to reject an application for a premises licence or to vary a premises licence, or an application for a provisional statement.	s.165, s.187 & s.188	The applicant
Decision to grant an application for a premises licence or to vary a premises licence, or an application for a provisional statement.	s.165, s.187 & s.188	The applicant. Any Person who made representations on the application
Decision to take action or to take no action following a review	s.202	The applicant. Any Person who made representations on the application. The person, if any, who applied for the review. The commission.

Type of decision	Section of act	Who may appeal
A decision to take action or make a determination in relation to a transfer application	s.188(4) or (5)	The Licencee. The applicant for transfer.

P1.4 It does not automatically follow that the person who made the representations will be appellant. It could be the licensee who is appealing, because he or she considers conditions attached to the licence too onerous. Similar arrangements will apply in appeals against a decision not to take action following a review, and in relation to the grant of temporary use notices. The Licensing Authority will choose who it has as its witness.

How to appeal.

P1.5 To begin the process the appellant must give notice of their appeal within 21 days of their having received notice of the relevant decision. During that period, and until any appeal that has been brought has been finally determined, a determination or other action by the Licensing Authority under Part 8 of the Act will not have effect unless the authority so directs (see section 208 of the Act).

Who to appeal to.

P1.6 Any appeal against the Licensing Authority is made to the Magistrates court. Your local Magistrates Court can be found at <https://courtribunalfinder.service.gov.uk/search/>

P1.7 An appeal has to be commenced by giving of a notice of appeal by the appellant to the local magistrate's court within a period of 21 days, beginning with the day on which the appellant was notified by the Licensing Authority of the decision being appealed.

P1.8 It should be noted that unless he or she is the appellant, the licence holder or a person who has made an application for:

- A licence
- The transfer or reinstatement of a licence
- A provisional statement.

Is a respondent in any appeal, in addition to the Licensing Authority.

Determination and appeal outcomes.

P1.9 On determining an appeal, the court may:

- Dismiss the appeal
- Substitute the decision appealed against with any other decision that could have been made by the Licensing Authority

- Remit the case to the Licensing Authority to dispose of the appeal in accordance with the direction of the court.

Provisional statements.

P1.10 A provisional statement can be refused on exactly the same grounds as a premises licence. The applicant may appeal against the rejection of an application of a provisional statement under section 206(1); and a person who made representations or the applicant may appeal against the grant of an application.

Permits.

P1.11 The process of appeals in respect of permits is different to that for premises licences and is set out in the following Schedules of the Act:

- Schedule 10 – Family entertainment centre gaming machine permits (further explained in paragraphs 12.16 – 12.17 of the guidance).
- Schedule 11 (Parts 4 and 5) – Small society lotteries (further explained in paragraphs 12.18 – 12.19 of the guidance).
- Schedule 12 – Club gaming permits and club machine permits (further explained in paragraphs 12.20 – 12.26 of the guidance).
- Schedule 13 – Licensed premises gaming machine permits (further explained in paragraphs 12.27 – 12.28 of the guidance).
- Schedule 14 – Prize gaming permits (further explained in paragraphs 12.29 – 12.30 of the guidance).

Temporary use notices.

P1.12 Appeals in relation to temporary use notices are detailed with in section 226 of the Act. This section grants the right to appeal to the magistrates' court to both the applicant and any person entitled to receive a copy of the notice (that is the Commission, local chief of police and HM Revenue and Customs). Appeals must be made within 21 days of receiving the notice of the Licensing Authority's decision. If the appeal is against the decision of the authority not to issue a counter-notice, then the person giving notice must be joined with the Licensing Authority as a respondent in the case.

P1.13 The magistrates' court may take the following action: dismiss the appeal, direct the authority to take specified action, remit it back to the authority to decide in accordance with a decision of the court, and make an order for costs. It should be noted that if the decision is remitted to the authority, the same rights of appeal will apply as for the original decision.

P1.14 There is no stay of proceedings in relation to temporary use notices (as there are in relation to applications under Part 8 of the Act). However, the time limits are such that the

Commission would expect proceedings on appeal to be heard before the temporary use notice would otherwise take effect.

Judicial review.

P1.15 Any party to a decision may apply for judicial review if they believe that the decision taken by the Licensing Authority is:

- Illegal – that is beyond the powers available to the Licensing Authority
- Subject to procedural impropriety or unfairness – which is failure in the process of reaching the decision, such as not observing the ‘rules of natural justice’
- Irrational – where a decision is so unreasonable that no sensible person could have reached it (in effect ‘perverse’ or ‘Wednesbury’ unreasonable).

P1.16 For an application to succeed, the application must show that:

- The applicant has sufficient standing to make that claim
- The actions of the reviewed Licensing Authority give grounds for review.

P1.17 But the remedy is a discretionary one and the Court may decline judicial review if, for example, it considers that the applicant has an alternative remedy which is more appropriate to pursue, such as right of appeal, or has a private law claim against the defendant.

P1.18 The applicant can ask the Court to grant a number of orders. A mandatory order compels the reviewed body to do something; a prohibitory order compels it to refrain from doing something; a ‘declaration’ sets out the court’s view on the legality of particular course of action, the applicant can seek an injunction which is, in practice, similar to a mandatory or prohibitory order.

Part Q. Gambling Commission.

Q1.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the Government about the matter in which gambling is carried out, the effects of gambling and the regulations of gambling generally.

Q1.2 The Commission has issued guidance under Section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

Q1.3 The Commission has also issued Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities.

The Gambling Commission can be contacted at: Gambling Commission
Victoria Square House Victoria Square Birmingham
B2 4BP
Website: www.gamblingcommission.gov.uk Email: info@gamblingcommission.gov.uk

Part R. Covid-19 Safety In Gambling Premises.

The Gambling Commission has set out three clear strategies that it expects all operators and businesses to adhere to in the light of the Covid-19 Pandemic. This authority fully supports those strategies and will work with the Commission on every occasion when a risk to the Licensing Objectives is identified.

R1.1 Consumer protection must be paramount:

- A strong expectation that you will act responsibly, especially around individual customer affordability checks and increased social responsibility interactions
- Be very mindful that customers may be vulnerable and experiencing financial uncertainty, whilst others may be experiencing other effects of being isolated including, for example, feelings of anxiety, loneliness or boredom
- Get to know your customers and step in if they are showing signs that they are experiencing or at risk of harm.

R1.2 Marketing must be conducted responsibly.

- You must on-board new customers in a socially responsible way
- You must not exploit the current situation for marketing purposes and should be very cautious when seeking to cross-sell online gaming products to customers who signed up with you in order to bet
- We expect you to ensure that your affiliates are conducting themselves appropriately.

R1.3 Compliance with licence conditions and codes of practice

- We expect you to act in a way that minimises the risks to the licensing objectives
- Treat consumers fairly and communicate with them in a clear way that allows them to make a properly informed judgment about whether to gamble.
- Work with the Commission in an open and co-operative way and act in accordance with both the letter or the spirit of the regulatory framework we have set

R1.4 If you have information or concerns about the behaviour of an operator then call our Confidential Intelligence Hotline .

Health and Sustainability Impact Assessment Form

THE GAMBLING ACT 2005 – STATEMENT OF
GAMBLING LICENSING POLICY



Environment and health

Greenhouse gas emissions

SLDC's aim is to be carbon neutral by 2030: How will your proposal affect greenhouse gas emissions?

Consider:

Energy saving, for example preventing unnecessary use of energy - reducing use of appliances or cutting down on journeys that are not required.

Improving energy efficiency - ensures that the maximum benefit is gained from energy that is used. For example energy is not wasted or lost through insulation, heating the right areas and efficient lighting.

Renewable generation for example using renewable resources, such as wind, sunlight, rainwater.

Minimising emissions from transport.

Response:

Neutral Impact on Greenhouse gas emissions. The Statement of Gambling Policy sets out the basis on which decisions under the Gambling Act 2005 will be made and strives to achieve a local balance between the commercial interest of the licensed gambling community and the people that use those premises. There is no mechanism within the Act, or the latest statutory guidance to Local Authorities (dated, April 2021) which would enable SLDC to address greenhouse gas emissions through this policy.

Alternative ways to deliver proposal

Please show how you are addressing alternative ways of delivering your proposal with a reduced or zero requirement for energy, building space, materials or travel

How are you using the waste/energy hierarchy – 1) avoid, 2) reduce, 3) reuse?

Response:

Neutral Impact. There is no mechanism within the Act, or the Statutory guidance, which would enable SLDC to deliver this policy in an alternative way.

Air quality

Please demonstrate how your project will have an impact on air quality.

Response:

Neutral Impact. The policy would not impact on air quality.

Biodiversity

Please outline any impacts on biodiversity that your proposal might have

“To halt overall biodiversity loss, support healthy well-functioning ecosystems and establish coherent ecological networks, (create) more and better places for nature for the benefit of wildlife and people”: Biodiversity 2020: A strategy for England’s wildlife and ecosystem services, DEFRA.

Response:

Neutral Impact.

Climate change impact

How does your proposal mitigate the impacts of climate change?

Assess the risks and impacts associated with climate change (extreme weather events: flooding, heatwaves, droughts and fires) and the implications for our services and communities. Describe measures in place to embed resilience and recovery.

Response:

Neutral Impact.

Active travel

How does the proposal enable active travel?

Encouraging and facilitating walking, cycling and public transport.

Response:

Neutral Impact.

Economy and culture

Sustainable development

How does the proposal contribute to inclusive and sustainable development?

Response:

Neutral Impact

Pay

How does the proposal impact on jobs and levels of pay?

Response:

Neutral Impact

Healthier high streets

Demonstrate how the proposal contributes to healthier high streets.

Response:

Neutral Impact

Culture, creativity and heritage

How does the proposal impact on culture, creativity or heritage and if not can they be embedded in this proposal?

Response:

Neutral Impact

Housing and communities

Housing standards

Does the proposal lead to an improvement in the standard of housing?

Response:

Neutral Impact

Access to housing

How does the proposal increase access to housing?

Response:

Neutral Impact

Crime and fear of crime

How does the proposal reduce crime or fear of crime?

Response:

Positive Impact. Preventing Gambling from Being a Source of Crime or Disorder, Being Associated with Crime or Disorder or Being Used to Support Crime is one of the three licensing objectives (along with Ensuring that Gambling is Conducted in a Fair and Open Way and Protecting Children and Other Vulnerable Persons from Being Harmed or Exploited). All three objectives have equal importance, and the promotion of all three objectives is a paramount consideration within the policy.

The policy highlights the key role with which local police and other regulatory bodies have in relation to gambling premises understanding organised crime can sometimes gravitate towards gambling premises. In order to enforce the Licensing Objectives we will adopt a partnership approach not only with the police but other law enforcement agencies to determine licensing applications, to impose conditions on how a premises may operate, or to review the license of a premises which may be linked to increased crime.

The Statement of Gambling Policy Chapter C highlights the need for Gambling Operators to continuously assess crime and vulnerability risks as part of their Gambling Risk assessment policy. This must be carried out upon application, post application or because of a change in the Gambling Act 2005 legislation.

Social connectedness

How does the proposal increase social connectedness?

Response:

Neutral impact

Health and sustainability impact summary

Each category is rated either: Positive, Negative, Neutral, or unknown

Environment and Health

Greenhouse gases emissions: Type rating (e.g. Positive) for categories below

Air Quality: Neutral impact

Biodiversity: Neutral impact

Impacts on climate change: Neutral impact

Reduced or zero requirement for energy, building space, materials or travel: Neutral impact

Active travel: Neutral impact

Economy and Culture

Inclusive and sustainable development: Neutral impact

Jobs and level of pay: Neutral impact

Healthier high streets: Neutral impact

Culture creativity and heritage: Neutral impact

Housing and communities

Standard of housing: Neutral impact

Access to housing: Neutral impact

Crime: Neutral impact

Social connectedness: Neutral impact

Health and sustainability action plan

What actions will be taken to eliminate or minimise any negative impacts identified above?

No negative impacts have been identified.

Equality Impact Assessment Form

THE GAMBLING ACT 2005 – STATEMENT OF GAMBLING LICENSING POLICY



General.

Section 349 of the Gambling Act 2005 (the 'Act') requires licensing authorities before each successive period of three years to

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

Before determining its policy the Authority is required to consult with a number of statutory consultees namely:-

- (a) the chief officer of police for the area;
- (b) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the area; and
- (c) 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 Act.

The minimum period for consultation is twelve weeks, (section 349 of the Gambling Act 2005) and will commence on the 8th February before going to full committee in May 2022. It is proposed that faith groups, resident associations and community organisations will be included in the consultation.

Whilst drafting the statement of gambling policy Officers have consulted local and national best practise, guided by the Gambling Act 2005 and also the Gambling Commissions guide to local authorities. Demographics of the District have been included in the Statement of Gambling Policy and be evidenced in Chapter B¹

Impacts on people

What impacts/issues have been identified about how the proposal impacts on people?

Each category is rated either: Positive, Neutral or Negative

Age: Type rating (e.g. Positive) for categories below

Positive; The objective of 'Protecting Children and Other Vulnerable Persons from Being Harmed or Exploited' is one of the three statutory licensing objectives. This includes the

¹ [South Lakeland \(District, United Kingdom\) - Population Statistics, Charts, Map and Location \(citypopulation.de\)](https://www.citypopulation.de/en/uk/south-lakeland/)



protection of children from moral, psychological, and physical harm. The adoption of this policy gives SLDC broad powers in protecting children from harm and applicants are required to set out the steps they will take in the operation of their premises for SLDC to consider when issuing a premises license. Controls may be placed on how a premises may operate if this objective is not promoted by the operator.

Disability:

Neutral

Gender reassignment:

Neutral

Marriage and civil partnership:

Neutral

Pregnancy and maternity:

Neutral

Race/ethnicity:

Neutral

Religion or belief:

Neutral

Sex/gender:

Neutral

Sexual orientation:

Neutral

Armed forces families:

Neutral

Rurality:

Neutral

Socio-economic disadvantage:

The Statement of Gambling Policy 2021 - 2024 amplifies the third licensing objective 'Protecting Children and Other Vulnerable Persons from Being Harmed or Exploited' This objective is paramount in the policy to stop any person becoming exploited or made vulnerable due to gambling premises, or gambling activities. SLDC will take a multi-agency approach with other regulatory authorities to prevent anyone being exploited in or around licensed gambling premises, with a strong emphasis on the Gambling Operator themselves

to constantly risk assess their premises and take positive action when required. This includes training of staff and safeguarding any person identified.

Equality action plan

What actions will be taken to eliminate or minimise the negative impacts identified above?

No negative impacts have been identified.

Report details

Date of report: 19.01.2022

EIA Author(s): Neil Gardiner

Director: Simon Rowley

Document version number: 1

Date for review: The Statement of Gambling Policy covers a 3 year period between August 2021 and August 2024 unless there are changes to legislation or statutory guidance within that time period. The Equality Impact Assessment will be reviewed in line with the policy.

EIA forwarded to Strategy Specialist: Over-type, Yes

Glossary

Age: This refers to a person having a particular age (for example, 32 year-olds) or being within an age group (for example, 18-30 year-olds).

Armed Forces Families: Those who have served or who are serving in the Armed Forces and their families.

Civil partnership: Legal recognition of a same-sex couple's relationship. Civil partners must be treated the same as married couples on a range of legal matters.

Disability: A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. Includes: Physical/sensory disability, mental health or learning disability.

Gender reassignment: A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

Maternity: The period after giving birth. It is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, including as a result of breastfeeding.

Race: It refers to a group of people defined by their colour, nationality (including citizenship), ethnic or national origins. Includes, Asian, Black and White minority ethnic groups including. Eastern Europeans, Irish people and Gypsy Travellers.

Religion or belief: “Religion” means any religion, including a reference to a lack of religion. “Belief” includes religious and philosophical beliefs including lack of belief (for example, Atheism). The category includes Christianity, Islam, Judaism, Hinduism, Buddhism, and non religious beliefs such as Humanism.

Rurality: South Lakeland is defined as ‘Rural-80’ – this means we have at least 80 percent of our population in rural settlements and larger market towns. Issues affecting the health and wellbeing of rural communities include: low-paid work, unemployment of young people, high costs of housing and fuel poverty, poor access to health services, lack of public transport and poorer broadband and mobile phone network availability. Social isolation is also an issue especially among older people – in South Lakeland 27.7% of the population are aged over 65. The ageing rural population brings a number of challenges. These include the fact that older people often have poorer health and greater care needs, issues compounded by the greater distances to healthcare services and poor public transport. South Lakeland (2015) features most poorly in deprivation indices in “Barriers to Housing and Services Domain” (which relate to the physical proximity of local services, and issues relating to access to housing, such as affordability) and the “Living Environment Deprivation Domain” (The 'indoors' living environment measures the quality of housing; while the 'outdoors' living environment contains measures of air quality and road traffic accidents.

Sexual orientation: This is whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

Socio-economic disadvantage: This includes people on low incomes, as well as issues around rural and urban deprivation, such as access to services and transport. SLDC must adopt effective measures to address the inequalities that result from differences in occupation, education, place of residence or social class. Socio-economic disadvantage includes: Income, employment, health, education, housing, discrimination and local concentrations of deprivation.

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