



**LICENSING COMMITTEE AGENDA**

**Date:** Thursday, 29 November 2018

**Time:** 6.30 pm

**Venue:** The Board Room - Pavilion Gardens, Buxton

**21 November 2018**

**PART 1**

1. Apologies for absence
2. To receive Disclosures of Interest on any matters before the Committee
  - i) Disclosable Pecuniary Interests
  - ii) Other Interests
3. To approve the Minutes of the previous meeting (**Pages 3 - 4**)
4. Gambling Policy Update (Statement of Principles 2019-2022) (**Pages 5 - 44**)
5. Draft Street Trading Policy 2019-2021 (**Pages 45 - 64**)
6. MOT Stations Update (**Pages 65 - 74**)
7. Licensing Enforcement Activity (July 2018-October 2018) (**Pages 75 - 78**)

**SIMON BAKER  
CHIEF EXECUTIVE**

Membership of Licensing Committee

Councillor J Perkins (Chair)

Councillor L Dowson

Councillor C Johnson

Councillor D Kerr

Councillor M Stone

Councillor G Wharmby

Councillor R McKeown (Vice-Chair)

Councillor I Huddleston

Councillor E Kelly

Councillor K Sizeland

Councillor J Walton

Councillor S Young

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### LICENSING COMMITTEE

**Meeting: Thursday, 15 March 2018 at 6.30 pm in The Cafe, Pavilion Gardens, Buxton**

Present: Councillor J Perkins (Chair)

Councillors I Huddleston, P Jenner, C Johnson, E Kelly (substitute for M Stone), D Kerr, R McKeown and S Young

Councillor T Kemp was also in attendance

Apologies for absence were received from Councillors L Dowson, K Sizeland, M Stone and G Wharmby

**17/13 TO APPROVE THE MINUTES OF THE PREVIOUS MEETING**  
(Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 2 November 2018 be approved as a correct record.

**17/14 UPDATE ON APPROVED GARAGES FOR TAXI TESTING**  
(Agenda Item 4)

There was an update on the progress and revised timetable to implement a preferred garage Taxi Testing regime for Private Hire and Hackney Carriage licenced vehicles. It was report that the deadline for expressions of interest had been extended to 23 March 2018. Responses received, accepting only those garages with the best Driver and Vehicle Standards Agency rating and implementation were also discussed.

RESOLVED:

That the proposed project be approved and contents of the report and revised timetable noted.

**17/15 MINOR AMENDMENTS TO STREET TRADING CONSENT POLICY TO INCLUDE CHARITABLE EVENTS**  
(Agenda Item 5)

It was reported that the Council's licensing section had been approached by a number of event organisers and asked for a concession to recognise their charitable events and reduce or waive the current cost of the street trading fees to enable the events to continue within the Borough. Information from Visit New Mills was circulated and considered. Ways of verifying charitable status were discussed. Paragraph 7.5 of the Policy would be amended to read 'need their own **paid** Street Trading Consent.' A full review of the Street Trading Consent Policy was planned and would be considered at a future meeting.

RESOLVED:



1. That the comments made by Visit New Mills be noted.
2. That the amendments to the current Street Trading Consent Policy, to include provision for charitable events as detailed in the report, be approved and authority delegated to the Chairman and Executive member to approve any temporary amendments for existing events, with Committee members kept informed.
3. That the Executive be recommended to approve the amended Street Trading Consent Policy attached at Appendix 2 to the report.

**17/16 LICENSING ENFORCEMENT ACTIVITY OCTOBER 2017 - MARCH 2018**  
(Agenda Item 6)

Consideration was given to enforcement actions by the Licensing Service in the period October 2017 to March 2018. Taxi regulations and Pub Watch meetings were also considered.

**RESOLVED:**

1. That staff be thanked for their hard work.
2. That Ward Councillors be invited to Pub Watch meetings in their area.
3. That the contents of the report be noted.

The meeting concluded at 6.57 pm

**CHAIRMAN**

## HIGH PEAK BOROUGH COUNCIL

### Report to Licensing Committee

29 November 2018

<b>TITLE:</b>	<b>Gambling Policy Update (Statement of Principles 2019-2022)</b>
<b>EXECUTIVE COUNCILLOR:</b>	<b>Councillor Kemp- Executive Councillor for Tourism, Regeneration &amp; Licensing</b>
<b>CONTACT OFFICER:</b>	<b>Alicia Patterson – Operations Manager</b>
<b>WARDS INVOLVED:</b>	<b>Non Specific</b>

### **Appendices Attached – Statement of Principles 2019-2022 (Gambling Act 2005)**

#### **1. Reason for the Report**

- 1.1 The purpose of this report is to ensure that the Council complies with its legal obligations as provided by the Gambling Act 2005 which requires that the Council must consult and publish a revised Statement of Principles every 3 years.

#### **2. Recommendation**

- 2.1 That the Committee considers the consultation response from the Gambling Commission as detailed in 3.5 of this report and revises the Statement of Principles 2019 - 2022 as attached at Appendix A.
- 2.2 That the Committee RECOMMENDS the revised Statement of Principles 2019 – 2022 to Full Council for approval.

#### **3. Executive Summary**

- 3.1 Section 349 of the Gambling Act 2005 requires that the Council as a licensing authority prepares and publishes a Statement of Principles under the Gambling Act 2005 every three years. The Council's Statement of Principles is due for renewal in 2019. The Statement will last for a 3 year period but may be reviewed at any time prior to this by the authority.
- 3.2 It is a further requirement of the Act that a revised policy must be approved at

a full meeting of the Council. Such approval cannot be granted until consultation has been undertaken with a range of statutory bodies defined by the Act.

3.3 A small number of amendments have been made to the 2016 Policy and incorporated in the new Statement of Principles policy 2019 - 2022 following consideration of the consultation responses received. The main amendments are summarised below:

- The appendix relating to Gaming Machines, their stakes and prizes and location has been removed. This is under advice from the Gambling Commission as the information is subject to change and if it did so then a review of the Council Policy would be required;
- The local area profile section of the Introduction on page 3 of the Policy has been reduced. The Gambling Commission has advised that if a Council wishes to create a local area profile it is best doing so as a separate 'live' document so it can be updated without the need to review the Policy and can readily address a change in circumstances of a particular area;
- The local risk assessments section of the Policy (Part B – General Principles page 10-11) has been improved to set down specific considerations that premises licence holders/applicants must include in their premises risk assessments. These risk assessments must be readily available at each premises for officers to inspect;
- The section of the Policy on Exchange of Information (page 7) has been included to set out the Council's position in respect of how we will process the data that we hold.

3.4 The Consultation was undertaken between 25th September 2018 and 6th November 2018 and included all the relevant Stakeholders listed in page 4 of the Policy.

3.5 The Council only received one response during the consultation period. The Gambling Commission offered advice that where the Policy does not specify as such, it should contain a reference requiring that the Local Risk Assessment prepared by an operator should be kept and made available for inspection on the premises by an Authorised Officer. This can be accommodated within the General Principles section on page 10 of the Policy document which it refers specifically to the LCCP Part II guidance on Risk Assessments.

#### **4. Options and Analysis**

4.1 That the Committee approves the revised Statement of Principles 2019 - 2022 including the recommendation from the Gambling Commission at point 3.3 of this report. (Recommended)

4.2 That the Committee approves the revised Statement of Principles 2019 - 2022 without including the recommendation from the Gambling Commission. (Not Recommended)

## 5. How this report links to Corporate Priorities

The contents of this report relate to the following corporate priorities:

- Creating a cleaner, safer and sustainable Borough.
- Creating a healthy and active community.

Mr Mark Trillo

**Executive Director (People) and Monitoring Officer**

### **Web Links and Background Papers**

Statement of  
Principles 2019-2022  
(Appendix A)

### **Location**

### **Contact details**

Alicia Patterson  
Operations Manager -  
Environmental Services  
(Regulatory)  
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moorlands.gov.uk

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High Peak Borough Council

*working for our community*

***HIGH PEAK***

***BOROUGH COUNCIL***

***GAMBLING ACT 2005***

***STATEMENT OF  
PRINCIPLES  
2019-2022***

## Gambling Act 2005 Statement of Principles

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### **Important Note:**

Any reference made to Guidance issued to Licensing Authorities by the Gambling Commission relates to the Fifth Edition released in September 2015.

## **1. The Licensing Objectives**

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
- **Ensuring that gambling is conducted in a fair and open way**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and in accordance with the authority’s statement of licensing policy

## **2. Introduction**

High Peak Borough Council is situated in the County of Derbyshire, which contains eight District/Borough Councils and one Unitary Authority in total. High Peak Borough Council area has a population of 90,892 (2011 Census) and covers 39,171 hectares.

High Peak is a largely rural area with the main centres of population being Glossop, Buxton, New Mills, Chapel-en-le-Frith and Whaley Bridge. Appendix 3 shows a map of High Peak.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles, which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published. The previous Policy statement was published in 2016.

High Peak Borough Council will consult widely upon this statement before finalising and publishing. A list of the consultees is provided below.

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

- The Chief Officer of Police;
- One or more persons who appear to the authority 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.

This Licensing Authority will consult with:

- The Chief Constable, Derbyshire Constabulary
- Derbyshire Safeguarding Board, Derbyshire County Council Social Services
- Derbyshire Fire & Rescue Service
- Derbyshire Youth Services
- Derbyshire County Council Trading Standards
- Trade associations as appropriate
- British Beer & Pub Association
- Association of British Bookmakers
- High Peak Borough Council elected Members
- All Parish and Town Councils in High Peak
- Local Chamber of Trade
- All Town Centre Co-ordinators
- Neighbouring local authorities
- All Internal Departments of High Peak Borough Council
- All persons who hold Amusement Arcade Permits in High Peak
- All persons who hold Betting Office Permits
- Citizens Advice Bureau
- Relevant debt collection advisory services
- Members of the Public and Representatives of persons who hold Small Society Lottery Registrations in High Peak (via the website)

The consultation took place between and 25 September 2018 and 6 November 2018. This licensing authority followed the HM Government Code of Practice on Consultation (published July 2012).

The full list of comments made will be made available upon request to: The Licensing Section, High Peak Borough Council, Town Hall, Market Place, Buxton SK17 6EL.

This policy will be approved at a meeting of the Full Council after consultation. Copies will be available for inspection on the website at [www.highpeak.gov.uk](http://www.highpeak.gov.uk).

Should you have any comments as regards this statement of principles please send them via e-mail or letter to the following contact:

Operations Manager – Regulatory Services  
High Peak Borough Council, Town Hall, Market Place, Buxton SK17 6EL  
E-mail: [licensing@highpeak.gov.uk](mailto:licensing@highpeak.gov.uk)

It should be noted that this statement of principles 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.

### **3. Declaration**

In producing the statement of principles, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance to licensing authorities issued by the Gambling, and any responses from those consulted on the statement.

### **4. Responsible Authorities**

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

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

In accordance with the suggestion in the Gambling Commission's Guidance to local authorities, this authority designates the Derbyshire Safeguarding Board at Derbyshire County Council for this purpose.

Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are as follows:

- The Licensing Authority (High Peak Borough Council)
- The Gambling Commission
- The Chief Officer of Police for Derbyshire
- Derbyshire Fire & Rescue Service
- Local Planning Authority (High Peak Borough Council)

- Environmental Health Pollution Section, High Peak Borough Council
- Derbyshire Area Child Protection Services, Derbyshire County Council Social Services
- HM Revenue and Customs
- Director of Public Health for Derbyshire County Council
- Any other person prescribed in regulations by the Secretary of State

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.highpeak.gov.uk](http://www.highpeak.gov.uk).

## 5. Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities,  
or
- c) represents persons who satisfy paragraph (a) or (b)”

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

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to licensing authorities as listed below.

### Persons living close to premises

The factors that licensing authorities should take into account when determining what 'sufficiently close to the premises' means (in each case) may 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 (number of customers, routes likely to be taken by those visiting the establishment)

- the circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.

#### Persons with business interests

The factors which this licensing authority will take into account when determining what “business interest that might be affected” may include:

- the size of the premises
- the ‘catchment’ area of the premises (that is, how far people travel to visit the premises)
- whether the person making the representation has business interests in that catchment area that might be affected.

This licensing authority will also consider the Gambling Commission’s Guidance that “business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

#### Interested parties

Can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be interested parties. Other than these, however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Sub-Committee dealing with the licence application. If there are any doubts, then please contact the licensing department.

## **6. Exchange of Information**

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

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 2018 and the commensurate General Data Protection Regulations will not be

contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

The Council has a duty to protect the public funds it administers and, to this end, may use the information provided for the prevention and detection of fraud. It may also share information with other bodies responsible for auditing or administering public funds for these purposes, eg. National Fraud Initiative

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

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

This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to local authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects. As per the Gambling Commission's Guidance to local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority has adopted and implemented a risk-based programme, based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling



Commission will be the enforcement body for the operating and personal licences, large society lotteries, remote gambling through websites and the National Lottery. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This licensing authority will keep abreast of developments as regards to the Regulators' Compliance Code and the principles of the Legislative and Regulatory Reform Act 2006.

Bearing in mind the principle of transparency, the licensing authority's enforcement/compliance protocols/written agreements will be available upon request.

## **8. Licensing Authority functions**

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*;
- Issue *Provisional Statements*;
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue *Club Machine Permits* to *Commercial Clubs*;
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) or the use of two or fewer gaming machines;
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*;
- Receive and Endorse *Temporary Use Notices*;
- Receive *Occasional Use Notices* (for tracks);
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange');
- Maintain registers of the permits and licences that are issued under these functions.

## **PART B PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

### **1. General Principles**

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

#### *(i) Decision making*

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling :

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

The Gambling Commission's Licence Conditions and Code of Practice (LCCP) which were revised and published in February 2015 formalised the need for Operators to consider local risks. The LCCP was most recently revised in April 2018

#### Part II of the LCCP provides:

**1** Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.

**2** Licensees must review (and update as necessary) their local risk assessments:

- a** to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- b** when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- c** when applying for a variation of a premises licence; and
- d** in any case, undertakes a local risk assessment when applying for a new premises licence.

#### Part II also provides:

**1** 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.

The Licensing Authority must provide guidance to operators on what it considers should be included in the risk assessments and identify any local risks to be considered prior to making an application. The guidance will be appended to the Statement of Principles, and may be amended from time to time subject to approval by the Licensing Committee.

The Council will expect the local risk assessment to include the below considerations as a minimum:

- The location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- The demographics of the area in relation to vulnerable groups;
- Whether the premises is in an area subject to high levels of crime and/or disorder;
- How vulnerable people, including those with gambling dependencies are protected;
- Any information held regarding self-exclusions and incidences of underage gambling;
- Gaming trends that reflect pay day or benefit payments;
- Known problems in the area such as problems arising from street drinkers, individuals involved in areas such as ASB, drug dealing etc;
- Areas or premises where children are known to congregate including bus stops, cafes etc;
- Areas or premises that may be frequented by vulnerable adults such as hospitals, residential care homes, medical facilities, addiction clinics, places where alcohol or drug dependant individuals may congregate.

In accordance with the Gambling Commission's Guidance to local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority (see section on Casinos).

*(ii) Definition of "premises"* - Premises are defined in the Act as "any place". Section 152 therefore prevents more than one premises licence applying to any place, but a single building can be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in its Guidance to Licensing Authorities that:

“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 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 officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises”.

Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Are neighbouring premises owned by the same person as that premises subject to the Gambling Act requirements?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**The Gambling Commission’s relevant access provisions for each premises type are reproduced below:**

**Casinos**

- The principal access entrance to the premises must be from a street.
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

**Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises.

**Betting Shops**

- Access must be from a street or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of any kind and you could not have a betting shop at the back of a café’ – the whole area would have to be licensed.

**Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

**Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

**Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

**(iii) Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

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.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:

- whether the premises ought to be permitted to be used for gambling;
- whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

(iv) **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. As per the Gambling Commission's Guidance for licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) **Planning**

The Gambling Commission Guidance to Licensing Authorities states that in determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. This authority will not take into account irrelevant matters as per the above guidance.

When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings need to or do comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

(vi) **Duplication with other regulatory regimes** – This licensing authority seeks to avoid any duplication with other statutory/regulatory systems where

possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

**Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

### **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider such factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

### **Ensuring that gambling is conducted in a fair and open way**

This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences. There is however, more of a role with regard to track gambling which is explained in more detail in the 'tracks' section (see page 20).

### **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The

licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas, use of 'Challenge 25' principles etc.

As regards the term "vulnerable persons" it is noted that neither the Gambling Commission nor the Council is seeking to offer a definition but 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 mental health needs, learning disability or substance misuse relating to alcohol or drugs. The Council will consider this licensing objective on a case by case basis having regard to any guidance issued by the Gambling Commission. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

**Conditions** - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

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

This authority will also consider specific measures, which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;



- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

Conditions which the licensing authority cannot attach to premises licences are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- Conditions in relation to stakes, fees, winnings or prizes

**Door Supervisors** - The Gambling Commission advises in Guidance for local authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

## **2. Adult Gaming Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient

measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This licensing authority notes that the holder of an Adult Gaming Centre premise licence may make available for use a number of category B gaming Machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change in legislation need to make alterations to the structure/layout of the premises.

The holder of an Adult Gaming Centre premise licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of four category B machines or 20% of the total number of gaming machines whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### **3. (Licensed) Family Entertainment Centres:**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

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

- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

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

#### **4. Casinos**

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

#### **5. Bingo premises**

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

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the unusual circumstances in which the splitting of a pre-existing premise into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

This licensing authority notes that the holder of a Bingo premise licence may make available for use a number of category B gaming Machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change in legislation need to make alterations to the structure/layout of the premises.

The holder of an a bingo premise licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B machines or 20% of the total number of gaming machines whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulation state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

## **6. Betting premises**

Betting premises are premises such as bookmakers where various types of gambling are authorised to take place. The Act contains a single class of licence for betting premises. However, within this single class there are different types of premises which require licensing such as normal high street bookmakers, bookmakers located in self-contained facilities at racecourses as well as the general betting premises licences that track operators will require

***Betting machines*** – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines and the nature and circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises the Council, amongst other things, will take into account the size of the premises, the number of counter positions available for person to person transactions and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under18 to bet) or by vulnerable people.

## **7. Tracks**

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area

of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as Gamcare

This list is neither mandatory, nor exhaustive and is merely indicative of example measures.

Gaming machines – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

The Council will also consider the special implications of betting machines that may arise at a track due to the size of the premises and the possibility that machines may be scattered around the site making it more difficult for the track operator to comply with the law and prevent children from betting on the machines.

The Council agrees with the Commission's view that it is preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This ensures that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises

The Council will consider any Gambling Commission guidance about the application of conditions regarding rules being displayed. The Council may require the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that the rules are displayed in the race card or made available in leaflet form from the track office.

### **Track applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

It is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information 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.

## **8. Travelling Fairs**

Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit provided that certain conditions are met and this provision continues in similar fashion under the new Act

Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize gaming (without the need for a

permit) as long as the gambling amounts to no more than an ancillary amusement at the fair.

The Council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair.

The Council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

Developers may wish to apply to this authority for provisional statements 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.

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

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.

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.

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 relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- 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 premises have 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.

## **10. Reviews:**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; for the licensing authority to decide whether the review is valid. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of principles

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

The licensing authority can also initiate a review of a 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:-

- (a) add, remove or amend a licence condition imposed by the licensing authority



- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) 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 section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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 Commission
- any person who made representations
- the Chief Officer of Police or Chief Constable; and
- Her Majesty's Commissioners for Revenue and Customs

## **PART C**

### **Permits / Temporary & Occasional Use Notice**

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

Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

Guidance also states: “An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. Licensing authorities might wish to consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes.”

It should be noted that a licensing authority cannot attach conditions to this type of permit.

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. 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 (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.

#### **2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 paragraph 4(1)) Automatic entitlement: 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 premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

### **Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant”. “Such matters” will be decided on a case by case basis with regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and an expectation that the applicant will demonstrate there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of 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.

Some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an Adult Gaming Centre premises licence.

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

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3. Prize Gaming Permits**

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”.

This licensing authority has prepared a Statement of Principles that it proposes to apply, 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 be able to 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.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

There are conditions in the Gambling Act 2005 with which the permit holder must comply, however the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

#### **4. Club Gaming and Club Machines Permits**

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

Gambling Commission Guidance states: Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must

be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

Before granting the permit, the Council will need to satisfy itself that the premises meet the requirements of a members' club and that the majority of members are over 18 years of age.

The Commission Guidance also notes that licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

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

## **5. Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises",

the definition of “a set of premises” is defined as including “any place”. In considering whether a place falls within the definition of “a set of premises”, the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission’s Guidance to Licensing Authorities.

## **6. Occasional Use Notices:**

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

## **7. Small Society Lotteries**

The Act creates two principal classes of lotteries - licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries, there are four sub classes, one of which is small society lotteries

A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These may be administered by the Council for small societies who have a principal office in the area and wish to run such a lottery

A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less

To be ‘non-commercial’, a society must be established and conducted:

- For charitable purposes
- For the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than that of private gain.

The other types of exempt lotteries are ‘incidental non-commercial lotteries’, ‘private lotteries’ and ‘customer lotteries’

The licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. The authority considers that the following list, although not exhaustive, could affect the risk status of the operator:

- Submission of late returns ( returns must be submitted no later that 3 months after the date on which the lottery was held)
- Submission of incomplete or incorrect returns.
- Breaches of limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- By, or on behalf of, a charity or for charitable purposes
- To enable participation in or support of, sporting, athletic or cultural activities.

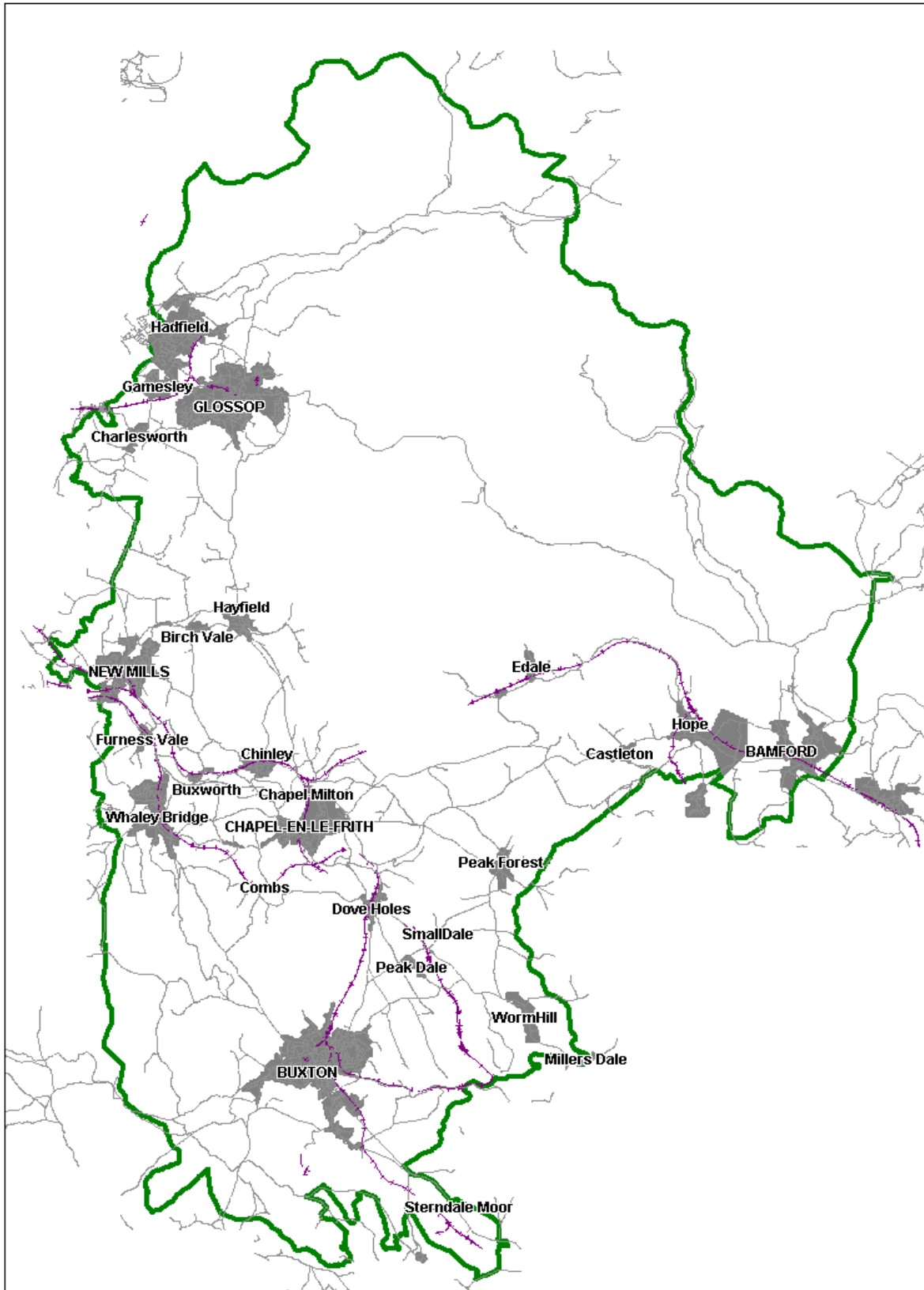
If charities or community groups need further help or advice then they can contact the Council's Licensing Team.

## Appendix 1: TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Licensing & Regulatory Committee)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Small Society Lotteries		Where refusal or revocation is recommended	Authority to grant or cancel Small Society registrations



## Appendix 2: Map of the High Peak District



### Appendix 3: Licensing Authority's Guidance to Operators with Regards to Local Area Risk Assessments

#### Local Gambling Risk Assessment - SAMPLE

<b>Premises Name:</b>	<b>Premises Licence Number (If Applicable):</b>
<b>Premises Address:</b>	
<b>Post Code:</b>	
<b>Category of gambling premises licence:</b>	
<b>Name of person completing the assessment:</b>	
<b>Date original assessment carried out:</b>	

This risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

Complete **a) - c)** with areas that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises having regard to Local Area, Gambling Operation and premises design.

**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.**

**d) Control measures** (based on the information above for a) – c), state the control measures you will put in place, e.g. systems, design and physical)

Describe the steps you intend to take to promote the three licensing objectives:

#### ACTIONS FOLLOWING ASSESSMENT

<b>AREA e.g local area, gambling operation, premises design</b>	<b>PERSON/DEPT TASKED</b>	<b>DATE TASKED</b>	<b>DATE TASK COMPLETED</b>

<b>Signed:</b>	<b>Date:</b>
----------------	--------------

**PRINT NAME:**

For further guidance on completing this assessment or when this assessment must be reviewed please refer to Gambling Commission Guidance on Undertaking Gambling Local Area Risk Assessments para 6.41 <http://www.gamblingcommission.gov.uk/pdf/GLA5---March-2015.pdf>

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## HIGH PEAK BOROUGH COUNCIL

### Report to Licensing Committee

29 November 2018

<b>TITLE:</b>	<b>Draft Street Trading Policy 2019-2021</b>
<b>EXECUTIVE COUNCILLOR:</b>	<b>Councillor Kemp - Executive Councillor for Tourism, Regeneration &amp; Licensing</b>
<b>CONTACT OFFICER:</b>	<b>Alicia Patterson - Operations Manager - Environmental Services (Regulatory)</b>
<b>WARDS INVOLVED:</b>	<b>Non Specific</b>

### Appendices: Appendix (A) - Draft Street Trading Policy 2019-2021

#### 1. Reason for the Report:

- 1.1 The report proposes the revised Street Trading Policy 2019-2021 which has been prepared for consultation.

#### 2. Recommendation

- 2.1 That the Committee approves the Policy for consultation in accordance with the timetable outlined at paragraph 5.4 of the report.
- 2.2 That following the consultation period the Policy (together with a summary of key consultation comments) is brought back to the Licensing Committee in March 2019 for consideration. The final policy will then be presented to Full Council for formal adoption in April 2019 with an implementation date of May 2019.

#### 3. Executive Summary

- 3.1 On 1 October 2008 the Council re-designated the streets in High Peak in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and introduced a Street Trading Consent Policy to provide a transparent framework for the decision making process, and to ensure that the system operated within appropriate constitutional arrangements.
- 3.2 It is a requirement that licensing authorities regularly review and update policies to reflect changes in legislation, local circumstances and

safeguarding issues. The last review of the Street Trading Policy took place in 2014.

- 3.3 The Street Trading Policy is governed by the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.4 It is a requirement that a revised policy must be approved at a full meeting of the Council. Such approval cannot be granted until a consultation has been undertaken with existing Street Traders and consultees.

#### **4. Background and Proposed Policy**

- 4.1 Street trading means the selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment (this can include private land). High Peak Borough Council ("the Council") has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") which means that consent is required before trading in certain places. Other locations have prohibitions on street trading at any time.
- 4.2 The following are not street trading for the purposes of the Policy:
  - a) Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
  - b) Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order;
  - c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
  - d) Trading as a news vendor;
  - e) Trading which –
    - (i) Is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
    - (ii) Is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
  - f) selling things, or offering or exposing them for sale, as a rounds man;
  - g) the use for trading under Part VIIA of the highways Act 1980 of an object or structure placed on, in or over a highway;
  - h) the operation of facilities for recreation or refreshment under Part VIIA of the highways Act 1980;
  - i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions Act 1916.)
- 4.3 The Policy sets out, amongst other things, the process for submitting applications for permission to the Council; matters which will be considered by the Council in determining the application; the usual conditions which will be attached to licences granted; and the Council's approach to fee setting.

## 5. Consultation

5.1 The proposed policy will be available to view on the Council's website and a hard copy will be made available at the Buxton and Glossop receptions.

5.2 The following timetable is proposed in respect of the consultation amendment and adoption of the policy:

Reporting Process	Dates
Consultation with existing Street Traders and Consultees	December 2018 – January 2019
Consultation responses noted and reports prepared for committee	February 2019
Revised Street Trading Policy considered by Licensing Committee	7 <sup>th</sup> March 2019
Revised Street Trading Policy considered by Council	11 <sup>th</sup> April 2019
Street Trading Policy commencement and implementation	1 <sup>st</sup> May 2019

## 6. Options and Analysis

6.1 To agree to the consultation process and the timetable proposed for the implementation of the revised Street Trading Policy. (Recommended)

6.2 To refuse the consultation process and retain the Council's current policy. (Not Recommended)

## 7. Implications

### 7.1 Community Safety - (Crime and Disorder Act 1998)

The successful implementation of the Street Trading Policy should have a positive impact on community safety and assist in the reduction of crime.

### 7.2 Workforce

None.

### 7.3 Equality and Diversity/Equality Impact Assessment

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

### 7.4 Financial Considerations

The failure of the Authority to review and consult on our policies on a regular basis may result in a judicial review claim being brought against the Council.

#### 7.5 Legal

High Peak Borough Council has adopted Section 4 of the Local Government Miscellaneous Provisions Act 1982; as a result all street trading in High Peak requires a Street Trading Consent.

#### 7.6 Sustainability

The aim of the Street Trading Policy is to improve the economic, environmental and social well being of the area.

#### 7.7 Internal and External Consultation

A consultation will take place with existing Street Traders and consultees.

#### 7.8 Risk Assessment

The Street Trading Policy will be monitored during the 3 year period and can be reviewed at any time if considered necessary and appropriate.

Mr Mark Trillo

**Executive Director (People) and Monitoring Officer**

**Web Links and  
Background Papers**  
Appendix A – Draft  
Street Trading Policy  
2019-2021

**Location**

**Contact details**


Alicia Patterson  
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HIGH PEAK BOROUGH COUNCIL  
REGULATORY SERVICES

# Street Trading Policy



designed by  vexels

2019-  
2021

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## **Purpose**

The aim of this Street Trading Policy (“the policy”) is to provide a consistent and transparent approach to the method of providing street trading consents within the High Peak Borough Council area.

To achieve this aim the Council is committed to partnership working with Derbyshire Constabulary, Derbyshire County Council, the trade and local fixed premises businesses.

The policy sets out how we intend to manage the street trading consent function and how we will ensure the process is fair.

The Council has an overall aim to improve the quality of life in the High Peak. The Council has four main aims around which it has centred its ambitions for the community. These aims are to:-

- Provide Quality Services in Partnership with Communities.
- Meet Financial Challenges and Provide Value for Money
- Support Economic Development and Regeneration
- Protect and Improve the Environment

The policy recognises the importance of street trading to the Borough of High Peak and that it can add to the vibrancy and vitality of the area whilst not adding to nuisance and crime and disorder, or cause other problems.

This policy will be the subject of monitoring and review after three years.

This policy will be applied in a manner which is consistent with the Council’s equalities policies.

## **What is Street Trading?**

Street trading means the selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment (this can include private land). High Peak Borough Council ("the Council") has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") which means that consent is required before trading in certain places. Other locations have prohibitions on street trading at any time.

This policy does not include activities such as placing goods for sale on the street from a shop, street cafés operating from a fixed premises or the siting of "A" Boards on the street as this is not within the remit of the above legislation, (providing that the same products/merchandise that the shop sells are being sold outside).

## **Exemptions from the need to obtain a Consent**

Some types of trade are legally exempt from the need to obtain a street trading consent. These include:

- A person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- Trade carried out by rounds men e.g. milkmen
- Trade carried on at a petrol filling station
- Market created by statute or grant
- Trading as a news vendor
- Trading in and around shops
- Charity collections

## **Application Process**

- ✓ Applications must be made on the application form provided by the Council.
- ✓ Basic Disclosure required for Annual Consents (no older than 3 months), see further below.
- ✓ Map of location with location of van or stall marked on it.
- ✓ A copy of the applicant's current Public Liability Insurance to cover the period of the date(s) of the event.
- ✓ Photograph of the trading unit.
- ✓ Size and Dimensions of the unit including any support unit or equipment which must be a moveable structure and cannot be sited for more than 28 days in one period (unless permission has been granted by the Authority for a permanent structure).
- ✓ Proposed food businesses must be registered under the Food Regulations with the Local Authority where their vehicle is based and provide evidence that they are registered. The Authority has an expectation of 4 stars or higher standard and confirmation of this is required.
- ✓ If the business is based in the High Peak, and they are not currently registered with High Peak Borough Council, they should register with the Council and be formally inspected before a Consent will be granted.
- ✓ Passport Photos of applicant (Annual Applicants only).
- ✓ DVLA Licence to demonstrate capacity to tow a vehicle.
- ✓ Declaration form for convictions (please see conviction guidelines).

Applications will be considered within the time limits set in Appendix 1 where possible.

Once a decision has been made on the application, the applicant will be notified in writing. If the applicant is successful then the 1<sup>st</sup> instalment (annual consents only) or payment in full of the consent is required prior to the consent being issued.

## **Transfer/Amendments**

- Street trading consents are non-transferable.
- No amendments (e.g. date changes/location/type of stall or van) may be made without prior written consent of the Licensing Authority.
- Any consent which is valid but is no longer required should be surrendered to the Authority in writing.

## Identification Plates

For annual consents only the Authority will issue one identification plate included in the initial fee. The plate will need to be secured to the rear of the unit/van, replacement plates will incur additional charges.

## Consultation with interested parties (Annual and Special Consents only)

On receipt of an application for an annual or special consent, the Council may request further information from the applicant, depending on the circumstances of the application, which must be provided prior to any decision being made. Before determining such an application, the Council may also consult as it sees fit with:

- ✓ occupiers of premises in the vicinity of the proposed trading location (in most cases this will be in the form a public notice displayed in the vicinity of the proposed site);
- ✓ the local chamber of trade;
- ✓ the local town or parish council;
- ✓ the police;
- ✓ the Highway Authority Derbyshire County Council;
- ✓ ward members;
- ✓ other relevant Council service areas;
- ✓ any other body deemed appropriate;

The application will be displayed on the Authority's website.

## Consideration of Applications

The Council will consider each individual application on its merits and in most cases grant a street trading consent unless, in its opinion:

- ❖ *There is not enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street.*
- ❖ *There are already enough traders trading in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade.*
- ❖ *There is undue concentration of traders trading in the street in which the applicant desires to trade.*
- ❖ *The consent, if granted, will result in nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which will be caused by granting the consent.*
- ❖ *The size, nature or appearance of the proposed stall (and any associated equipment) is inappropriate for the proposed location in terms of amenity or public or highway safety.*

- ❖ *The proposed trading hours are outside the usual business hours of shops in the vicinity.*
- ❖ *The applicant has previous convictions for relevant offences (Dishonesty, Food Safety, Health and Safety, Licensing or other related issues).*
- ❖ *Failure on a previous occasion to pay street trading consent fees within the agreed timescales.*
- ❖ *There are any additional issues arising from consultations or otherwise.*

## **Special Events**

At special events in the Borough the Council will issue one consent only to the person organising the event, rather than to each individual trader and that person or company shall be responsible for all traders under their consent and for ensuring that all traders are complying with the conditions of the consent.

The Council will require that the organiser produces a complete list of the individual traders 7 days before the trading day (any additional traders received after 7 days will not be accepted) and applies for the consent at least 28 days prior to the event, including a plan of where the stalls will be positioned.

The Council will require all individual traders trading under the consent to hold insurance certificate covering their activities to value of £5,000,000 and they must all be over 17 years of age.

If the event is ticketed on private land then no consent is required but if the event is on private land and accessible to the public then a consent will be required and the applicant must produce a written authorisation from the land owner to the Council with their application.

## **Fee Structure**

The fee structure is available on the Council's website and is updated and reviewed annually.

For special consents the number of traders covered is as follows:

- Category 1 – Up to 20 traders
- Category 2 – Over 20 traders

If the event is charitable and all of the profit from the stalls or units will be donated to charity then a Charitable Street Trading Consent can be applied for. There will be no charge for this consent. Please note your charity will need to be registered with the Charity Commission or CIC registered to qualify for this consent, and you will need to supply a detailed account of donations to registered charities within six weeks of the event.

If the event is charitable and all of the profits go to charity, but itinerant traders are invited to come to the event to provide food and refreshments to persons attending the event, then you will have to apply for either a category 1 or category 2 consent.

## **Guidelines relating to the relevance of convictions**

### **General Policy**

It should be advised that the Council will take relevant prior convictions into account when it decides whether to grant a street trading consent.

Each case will be decided on its own merits.

The Council will assess whether an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent.

In considering the previous convictions of the applicant, the council will consider the following:

- ❖ Whether the conviction is relevant;
- ❖ The seriousness of the offence;
- ❖ The length of time since the offence occurred;
- ❖ Whether there is a pattern of offending behavior;
- ❖ Whether that person's circumstances have changed since the offence occurred; and
- ❖ The circumstances surround the offence and the explanation offered by that person.

### **Offence Types**

The following is a description of the Council's general approach to certain categories of offences.

#### **Dishonesty**

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest tradesman or assistant to take advantage of the public.

Members of the public using a street trading outlet expect the holder and his/her assistant to be honest and trustworthy.

For these reasons a serious view will be taken on any conviction involving dishonesty. In general, an application for the grant or renewal of a street trading consent is unlikely to be granted a street trading consent where the



application is made within 3 to 5 years of a conviction or the date of release from jail depending upon the nature and seriousness of the offence.

### **Violence**

As street traders and their assistants have close contact with the public, a robust approach will be taken with applicants that have convictions for violence. In cases where the commission of an offence involves loss of life, a street trading consent will normally be refused. In other cases, a period of 3 – 10 years free of conviction from the date of conviction or the date of release from jail where a custodial sentence has been imposed, depending upon the nature and seriousness of the offence, will generally be required before an application is likely to be considered favourably.

### **Drugs**

Where an applicant has a conviction for an offence that relates to the supply or importation or possession of drugs and the date of the conviction or the release from jail, where a custodial sentence has been imposed, is less than 5 to 10 years before the date of the application, an application will normally be refused. After 5 years from a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a suitable person to hold a street trading consent will be taken into consideration.

### **Sexual and indecency offences**

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a street trading consent. Where an applicant has a conviction for a sexual offence such as indecent exposure they will normally be refused a street trading until they can show a substantial period, usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a suitable person to hold a street trading consent. In cases where the Council considers that information shows an applicant is not a suitable person, it will normally require a period of not less than 5 years free of such incidents from the date on which the incident occurred or, if more than one from the date of the last incident.

## Conditions - generally

Conditions will be imposed as the Council considers reasonably necessary and relevant in any particular case. The usual conditions to be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality are as follows:

1. The place in which the consent holder is permitted to trade.
2. The day(s) and times at which the consent holder is permitted to trade.
3. A description of the types of articles in which they are permitted to trade.
4. The nature, size and type of stall, stand etc which is to be used.
5. That the street trading consent notice issued by the Council must be conspicuously displayed on the stall.
6. If food is to be sold, that there are satisfactory handwashing facilities in line with the food premise registration.
7. Any employees under the age of 17 must be supervised at all times.
8. That the trader is not to trade from the stall unless he holds and maintains sufficient public liability cover (currently £5,000,000).
9. Restrictions on the means the trader may use to attract custom to their stall (could include restrictions on the use of A Boards/amplified music etc).
10. That a suitable receptacle for litter must be provided and removed daily at the close of trading.
11. That the location must be kept in a clean and tidy condition at the end of trading hours each day.
12. That the stall must be removed each day at the end of trading hours, unless agreement in writing is obtained from High Peak Borough Council.
13. That the trader must comply with any reasonable request of a police officer or authorised officer of the Council.
14. That the trader must produce to a police officer or authorised officer of the Council a copy of the consent on demand (as per condition e).
15. Trader must retain their registration with their local Environmental Health Service for Food Hygiene purposes.
16. Operators must cease trading immediately upon expiry of a consent or when payments (as per individual written agreements) are overdue or when asked to do so by an officer of the Council or police officer.
17. The trader may be prohibited from trading at certain times due to other extenuating circumstances.
18. The trader is responsible for advising the Council of any change of name or address.

## Conditions – Ice Cream Vans

1. May only trade at the locations stated on the consent.
2. May only trade during the dates and times specified on the consent.
3. Must not trade within 200 metres of any schools.
4. May only sell the goods described on the consent.
5. May only use the vehicle specified on the consent.
6. Must display the Street Trading Consent and its conditions conspicuously on the vehicle.
7. Must provide satisfactory hand washing facilities if food is sold.
8. Must hold and maintain sufficient public liability insurance cover (currently £5,000,000).
9. Must refrain from the use of signage that is not an integral part of the vehicle, including fly posting and A boards.
10. Where food is sold, must provide a suitable receptacle for litter and dispose of such litter with the business's trade waste and the location must be left in a reasonably clean and tidy condition at the end of the trading hours each day.
11. Must remove the vehicle each day at the end of trading hours, unless agreement in writing is obtained from the Council.
12. Must comply with any reasonable request of a police officer or authorised officer of the Council.
13. Must produce to a police officer or authorised officer of the Council a copy of the consent on demand.
14. Must maintain their registration with their local Environmental Health Service for Food Hygiene purposes if food is prepared, stored or sold.
15. Must cease trading immediately upon expiry of the consent or when payments (as per any individual written arrangements with the Council) are overdue.
16. Shall not allow the vehicle to cause an obstruction to road users or to the occupiers of adjoining premises.
17. The consent holder shall not stop to trade so as to cause any interference with the normal flow of traffic.
18. The consent holder shall comply at all times with the Code of Guidance on Noise from Ice-Cream Van Chimes in England 2013.
19. Must have a full driving licence.

## **Conditions – Special Events**

As well as the usual conditions applying to a street trading consent, conditions may also be imposed where reasonably necessary to control and maintain access to the area by emergency services and access by other vehicles during the event, employment of marshals, provision of WC's and additional conditions relating to removal of debris/waste from the area.

## **Competing for Sites**

If any application is received on a site where an existing consent has already been granted, or where there are competing applications for an application for renewal, in all cases these will be determined by the Licensing Officer. Normally the Council will give priority to the first application or existing consent holder but there may be occasions when it is appropriate to deviate from that general approach where the Council considers it is appropriate.

## **Enforcement**

Any enforcement action taken by the Council will be in accordance with the Council's Enforcement Policies, and will take into account the Government's Enforcement Concordat.

Failure to comply with the conditions may lead to suspension, revocation or non-renewal of the Consent.

Failure to make one agreed payment under any written agreement or invoice may result in revocation of a Consent.

Any person found trading without consent in a Consent Street or in a Prohibited Street will be subject to enforcement action by the Council and may be prosecuted.

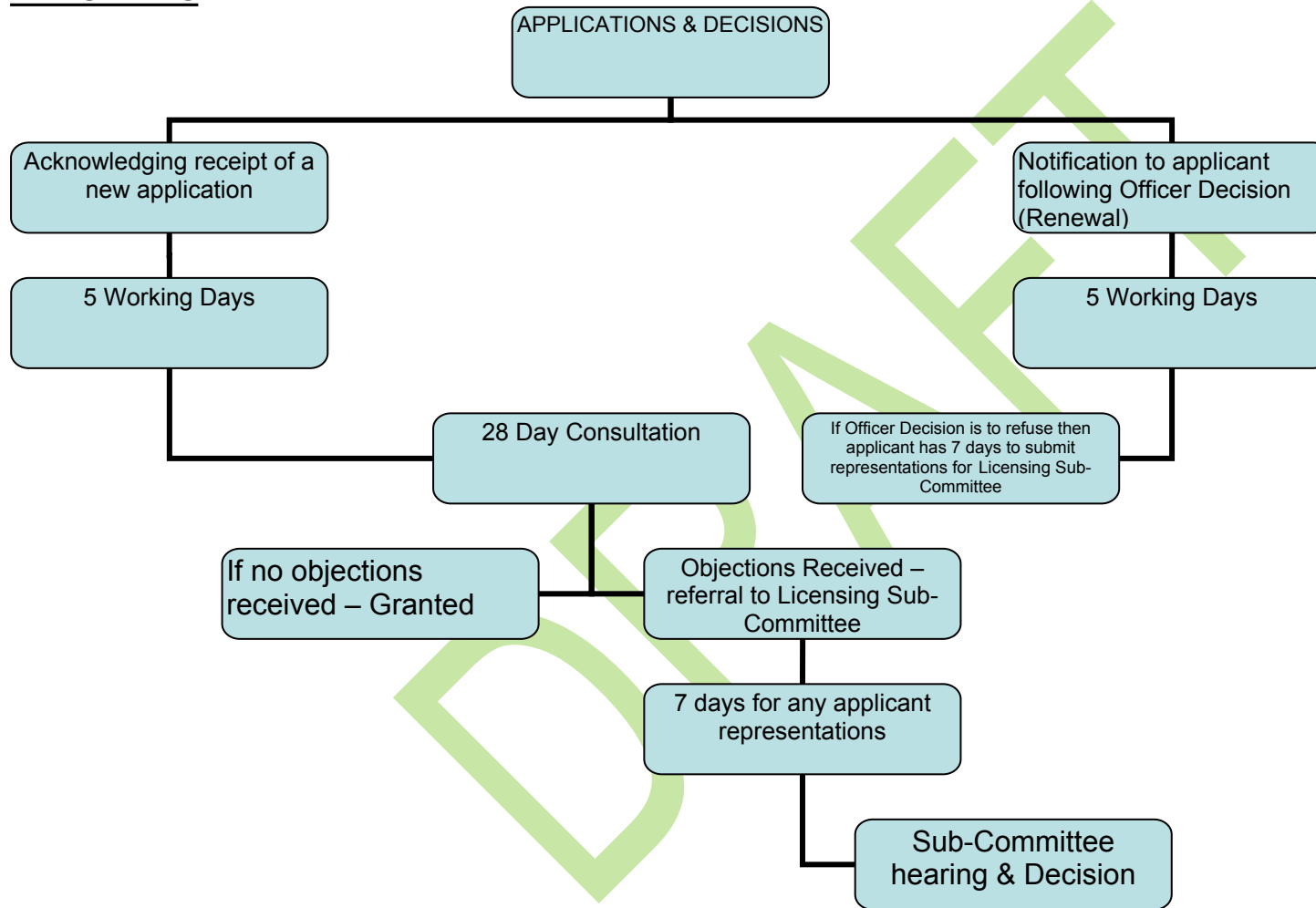
## **Administration, Exercise and Delegation of Functions**

The powers and duties of the Council with regard to Street Trading Consent may be carried out by the Licensing Sub Committee or by officers acting under delegated authority. Since many of the functions are administrative or compliance monitoring based in nature, in the interests of speed, efficiency and cost-effectiveness, the Council supports the principle of delegating routine matters to officers. Appendix 1 sets out the delegation of functions and decisions.

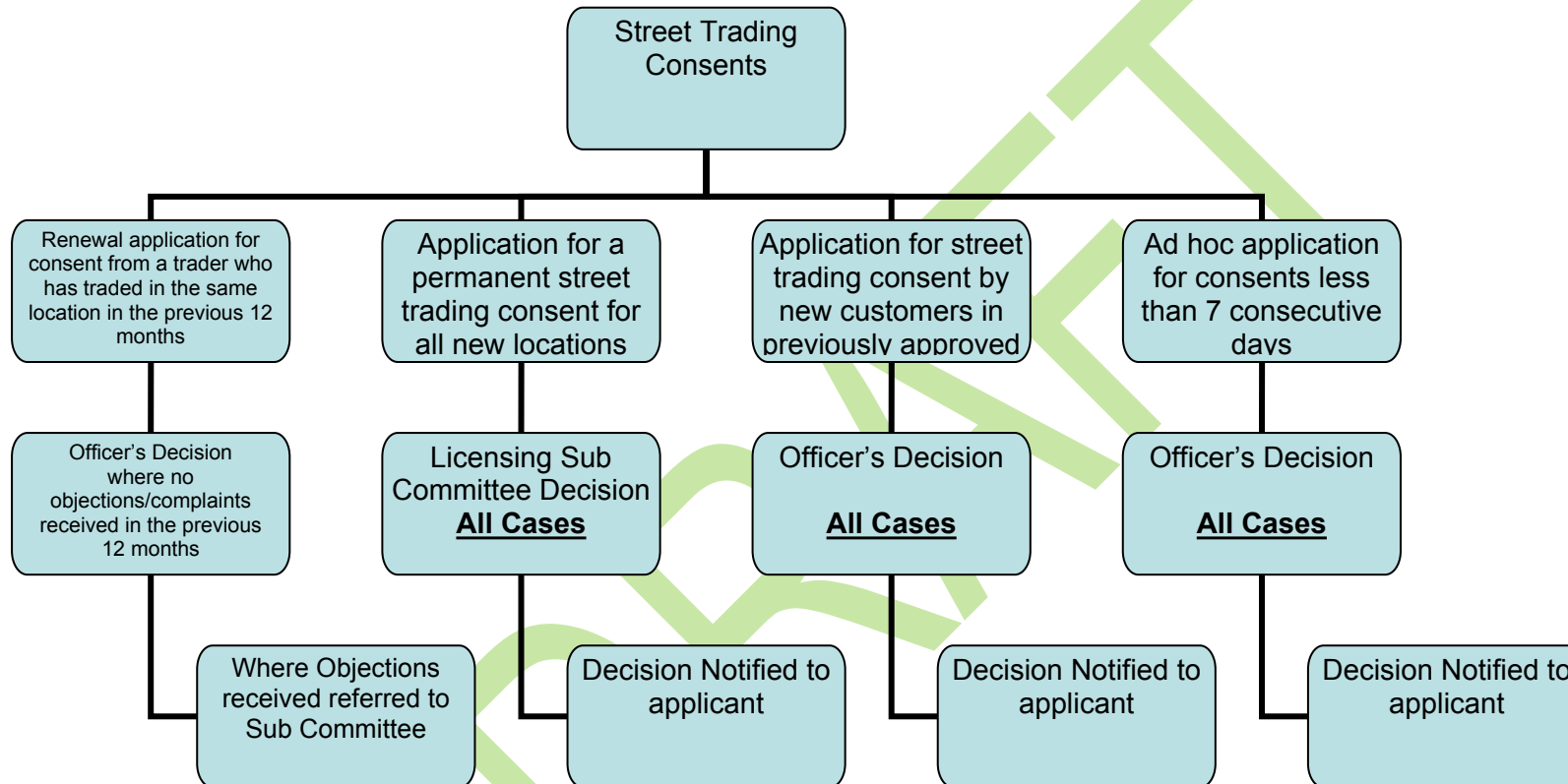
At the officer's discretion, any applications normally dealt with by officers may be passed up for Licensing Sub Committee for determination.

All lay-bys in the Borough will normally be subject to delegated authority decisions where no objections have been received, while all other streets will be subject to Licensing Sub Committee determination.

**TIMESCALES**



## DELEGATIONS



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## HIGH PEAK BOROUGH COUNCIL

### Report to Licensing Committee

29 November 2018

<b>TITLE:</b>	<b>MOT Stations Update</b>
<b>EXECUTIVE COUNCILLOR:</b>	<b>Councillor Kemp - Executive Councillor for Tourism, Regeneration &amp; Licensing</b>
<b>CONTACT OFFICER:</b>	<b>Alicia Patterson – Operations Manager</b>
<b>WARDS INVOLVED:</b>	<b>Non Specific</b>

#### Appendices Attached

**Appendix A – Consultation Responses**

**Appendix B – List of Approved Garages**

#### 1. Reason for the Report

The report is to update the Committee on the MOT approved garage project and consultation responses.

#### 2. Recommendation

- 2.1 That the Committee notes the consultation responses and approves the list of MOT garages within the Borough.
- 2.2 That the Committee authorises the Operations Manager to administer the list and add or remove garages where necessary in accordance with the VOSA rating scheme.
- 2.3 That the Committee authorises the Operations Manager to deviate from the approved list where exceptional circumstances apply i.e. where vehicles cannot be tested in any of the approved stations due to size or weight then an alternative garage can be nominated (which may fall outside of the HPBC area) as long as it complies with the VOSA green or amber status.
- 2.4 That the Committee amends the Hackney Carriage and Private Hire Policy 2016 as follows:-

APPENDIX C PRIVATE HIRE VEHICLE LICENCE CONDITIONS

(15) Routine Inspection and Testing

The proprietor must:

- (a) Provide a valid MOT certificate to the Authority for the vehicle every six months. The garage used for the MOT test must be listed on the Council's approved list.

#### APPENDIX D HACKNEY VEHICLE LICENCE CONDITION

##### (13) Routine Inspection and Testing

- (b) Provide a valid MOT certificate to the Authority for the vehicle every six months. The garage used for the MOT test must be listed on the Council's approved list.

### 3. **Executive Summary**

- 3.1 A project has been undertaken to compile a list of approved garages within the Borough for delivery of the Council's required taxi testing regime. This will have a number of benefits to the trade and will give greater choice for Taxi Operators as to where they can take their vehicles for the required testing.
- 3.2 The benefit of having an approved list of garages is to ensure that the Council can monitor the garages' VOSA rating. In addition, the garages will ensure that the Council is kept up to date with any issues found on inspected vehicles including accident damage, dirty internal vehicles, missing plates and signage.

### 4. **How this report links to Corporate Priorities**

- 4.1 The appropriate enforcement of licensing legislation is essential in partnership with supporting our local economy and businesses.

### 5. **Alternative Options**

- 5.1 No alternative options.

**Mark Trillo**

**Executive Director (People) and Monitoring Officer**

#### **Web Links and Background Papers**

Appendix A –  
Consultation  
Responses  
Appendix B – List of  
Approved Garages

#### **Location**

#### **Contact details**

Alicia Patterson  
Operations Manager -  
Environmental Services  
(Regulatory)  
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**CONSULTATION RESPONSES RECEIVED BY HIGH PEAK BOROUGH COUNCIL FOR THE APPROVED  
MOT TESTING STATIONS**

Executive Hire Comments	Hackney Taxi & Private hire Comments
<p>“I don’t think this is fair to have to take our vehicles there twice a year!! When we use to take them to water swallows it was every 12months!! Which I would happy do at the new MOT Centres.</p> <p>“To be honest I think it should stay as we are getting them done every 6 months at MOT of our choice, as on some jobs we could be working on the other side of the Country for 3 months and we would not make it back”</p>	<p>“I think the idea is good so long as the garages have a proper list of things to check outside the normal MOT rules such as Bodywork as a lot of cars are running around with damage to them making them look shabby”</p>
<p>“Not excited about it, last time we had fail notice issued for ridiculous things and the difference between a taxi and Chauffeur vehicle was not taken into consideration (still isn’t)</p> <p>“In my world if it “isn’t broke don’t fix it” we are all using MOT stations run by VOSA</p>	<p>I Have two VW 8 seater vehicles which cannot get on some MOT station lifts, I would like to recommend &gt;&gt;&gt;&gt; for my MOT</p>
<p>“I can’t see why we can’t use any reputable garage within the UK for a MOT to our vehicles, it is more convenient for our company, for me and my drivers to take our vehicles to our usual trusted MOT station, as the nature of our business we are very busy and it would be more of an inconvenience to travel to your suggested garage sites for an MOT when the garage we have used for many years are very professional and trusted to keep up legal and safe on the roads”</p>	<p>“Great news having named approved garages gives me confidence in a garages work and reputation” Having a wider choice of garage is better as the garage of choice might be to busy come MOT time”</p>
<p>As you will know, we are a very reputable company undertaking many commercial contracts. We located to High Peak as we serve a very wide area and High Peak has high standards but works cooperatively with operators to facilitate smooth business operations.</p> <p>We operate over 40 vehicles all of which were purchased brand new from dealerships; we operate them for only five years before</p>	


renewing them. However these vehicles are larger than typical Private Hire vehicles. We operate semi high and high roofed minibuses that are medium and long wheelbases. They can only be tested at very large MOT stations. We also find that these larger garages that can accommodate them are often busy and difficult to schedule appointments with.

Our vehicles require deep pits as roof space means they cannot be tested on ramps. We have tight schedules on turn around. If we were delayed in finding an available pit our vehicle would not be tested in time and become unusable for unacceptable periods. Our operations would become tightly stretched as we can often test over twenty vehicles in a single month. Unfortunately we know from experience that if you contact a garage requesting 20 appointments in a single month they will laugh you out of the building. If we try to put this much workload on a garage or even two or three garages there is a danger they will rush tests and decrease safety rather than increase it.





We feel the best way forward is for us to be able to use any MOT test station that has a green rating standard. That way, if one is busy we could call round and use an alternative. Our tests will not be rushed and can be scheduled adequately meaning our resources are not stretched or back-logged and our services can operate efficiently and without disruption.

Disagree with this as the vehicles are not kept within the borough so would be too costly with using stretch vehicles – these require a pit to be MOT's as cannot go on a standard ramp, it should not matter where the mot is carried out as all mot stations are enforced by the DVSA so should all be of the same standards – it is just increasing unnecessary costs to companies which is simply avoidable

Rating	Garage Name	Contact Details	Opening Times	Vehicle Types	Cost
Green	Dove Tyre & Exhaust	Hall Steads Close, Dove Holes, Buxton, SK17 8BP  01298 814060	Monday – Saturday Appointments Only	Class 4 Class 7	£35.00 £56.00
Green	Glossop Service Centre 2006 Ltd	287-301 High Street West, Glossop, SK13 8EX  01457 855703	Monday – Saturday Appointments Only	Class 4	£35.00
Amber	D G Bradshaw (Haulage) Ltd	Staden Lane Buxton SK17 9RZ  01298 74810	Monday – Friday 8am – 5pm 8am – 12noon Saturday Appointments only	Class 4 Up to 5.7 Metres Wheelbase	£45.00
Green	G & T Motor Spares Ltd	16/18 Bridge Street, Buxton  01298 26554	Monday – Friday 9 – 6pm Saturday 9 – 12noon Appointments Only	Class 4	£54.00

Rating	Garage Name	Contact Details	Opening Times	Vehicle Types	Cost
Green	Charlesworth Motors,	7 Marple Road, Charlesworth, Glossop, SK13 5EY  01457 864416	Monday – Friday 9am – 6pm, Saturday 9am – 2pm Appointments only by telephone appointments available	Class 4	£48.00
Green	Andrew Wood Vehicle Repairs	Chunal Lane Glossop SK13 6JX  01457 899233	Monday – Friday 8am – 6pm Saturday 8am – 1pm Appointments only	Class 7 up to 7.5 metres	£50.00
Green	Horderns Motor House Ltd	79-85 Market Street, Chapel En Le Frith, SK23 0JD  01298 813314	Monday – Friday 8-6pm Saturday 8-12 pm Appointments by website or telephone	Class 4 up to 4 tonnes	£35.00

Rating	Garage Name	Contact Details	Opening Times	Vehicle Types	Cost
Green	Hadfield Motors	Unit 14-18 Dinting Vale Ind Estate, Glossop, SK13 6LG ☎ 01457 853399 or 01457 864129	Monday – Friday 8am – 6pm Saturday 8am – 1pm	Class 4 & 5 & 7	£45.00
Green	Buxton Car Centre Service & Repairs	Unit 20, Dew Pond Lane, Tongue Lane Ind Estate, Buxton, SK17 7LF ☎ 01298 24333	Monday – Friday 8am – 5.30m Appointments Only	Class 4	£35.00
Amber	Arthur Forbes & son Ltd	Turner Lodge Brown Edge Road Buxton SK17 7 AA ☎ 01298 26531	Monday – Friday 8am – 5.30pm appointments only	Class 7 including mini buses up to 8 seater	£45.00
Green	Marriot Auto Services	77 Leek Road, Buxton, ☎ 01298 71544	Monday to Friday 9am – 5pm Appointments only	Class 4	£40.00

Rating	Garage Name	Contact Details	Opening Times	Vehicle Types	Cost
Amber	<b>Stella Motors (High Peak) Ltd</b>	<b>18 Hallsteads Dove Holes Buxton SK17 8BJ</b>  <b>01298 816160</b>	<b>Monday – Friday 9am to 5pm Appointments Only</b>	<b>Class 4</b>	<b>£28.00</b>
Green	<b>Fairway Motors</b>	<b>Arundel Street Glossop SK13 7AB</b>  <b>01457 868691</b>	<b>Monday – Friday 8.30am – 5.30pm Appointments Only</b>	<b>Class 4</b>	<b>£40.00</b>
Green	<b>J C Motor Services Ltd</b>	<b>54 Albion Road New Mills SK22 3EX</b>  <b>01663 746099</b>	<b>Monday – Friday 9am – 7pm Appointments Only</b>	<b>Class 4</b>	<b>£54.85</b>
Green	<b>George Poole</b>	<b>Watford Bridge Industrial Estate New Mills SK22 4HJ</b>  <b>01663 742168</b>	<b>Monday – Friday 9am – 5pm</b>	<b>Class 4</b>	<b>£40.00</b>



<b>Rating</b>	<b>Garage Name</b>	<b>Contact Details</b>	<b>Opening Times</b>	<b>Vehicle Types</b>	<b>Cost</b>
<b>Green</b>	<b>Rob Kenyon MOT &amp; Servicing</b>	<b>Unit 5 Bowden Hey Road Chapel-en-le-Frith SK23 0QZ</b>  <b>01298 813424</b>	<b>Monday – Friday 9am – 5pm</b>	<b>Class 1 &amp; 2 Class 4 Class 5 Class 7</b>	<b>£20.00 £40.00 £50.00 £50.00 Free re-test</b>
<b>Green</b>	<b>Hello Dave Autocare &amp; Repair</b>	<b>Unit 2 Milton Works Bowden Lane Chapel-en-le-Frith</b>  <b>01298 815972</b>	<b>Monday – Friday 9am – 5pm</b>	<b>Class 4 Class 7</b>	<b>£35.00 £45.00</b>

APPROVED MOT GARAGE

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## HIGH PEAK BOROUGH COUNCIL

### Report to Licensing Committee

29 November 2018

<b>TITLE:</b>	<b>Licensing Enforcement Activity (July 2018-October 2018)</b>
<b>EXECUTIVE COUNCILLOR:</b>	<b>Councillor Kemp - Executive Councillor for Tourism, Regeneration &amp; Licensing</b>
<b>CONTACT OFFICER:</b>	<b>Alicia Patterson – Operations Manager</b>
<b>WARDS INVOLVED:</b>	<b>Non Specific</b>

## **1 Recommendations**

- 1.1 That the Committee notes the content of the report.

## **2 Executive Summary**

- 2.1 In the period July 2018 to October 2018 the Licensing service has engaged in a number of enforcement actions. These activities have involved reactive responses to complaints and intelligence received from the public and partner agencies as well as proactive compliance checks.
- 2.2 Officers seek to encourage licence holders to conduct their activity in a safe manner, maintain good standards and to comply with the law. Officers have to exercise considerable discretion when approaching individual licence holders. Licensees are often anxious to comply with the law and for such cases the officer's role will be to provide guidance and advice. However, in carrying out their functions officers are authorised with a wide range of powers and may, for example, require entry at all reasonable times or require the production of certain documents.
- 2.3 If on enquiry officers find evidence that the law is being broken and enforcement is required, they can respond in various ways. They may instruct or warn by letter; revoke or suspend a licence; and, where the circumstances warrant it, they may formally caution or prosecute without prior warnings and without recourse to alternative sanctions. Officers will have due regard to the relevant Enforcement Policies when determining the most appropriate course of action.
- 2.4 Below is a summary of enforcement activity carried out during this period:

<b>Enforcement Activity</b>
27 Letters to Taxi Operators.
9 Notice checks for new premises applications and applications to vary licences including revisits.
Taxi Driver Licences renewals: 41 Drivers 1 Hackney Vehicles 5 Private Hire Vehicles
1 Pub Watch Meeting attended.
Rank inspections carried out in Buxton and Glossop during August and September – mostly good results with little non-compliance. Issues mainly around drivers who had elected to provide magnetic decals not displaying them. Warnings issued.
27 Operator Visits to establish compliance with the Hackney Carriage and Private Hire Policy regarding the day to day operator's base and associated records of journeys.  Penalty Points issued to 2 Operators.
Driver Penalty Points Awarded 6 Drivers issued with penalty points for various matters including smoking in vehicle; failure to notify of driving offences; and late submission of applications to renew licences.
Temporary Event Notices.
Expedited Review – Kings Arms.
8 visits involving Multi Agency enforcement visit with Derbyshire Police.
1 Glossop/Buxton joint operation with police/passive drug dog operation.

- 2.5 The primary focus of enforcement work to date has been on ensuring that the law in relation to all relevant licensing legislation and guidance is properly observed. In considering the focus of this activity the Licensing service has had reference to:
- a) Those premises/vehicles against which complaints have been received.
  - b) Those premises which do not hold a licence but where intelligence suggests licensable activity is taking place.

- 2.6 A variety of breaches were identified in the course of these activities, but were addressed by a voluntary change of behaviour on the part of the licence holder or via specific action by the Licensing Service and partners. In none of the cases was further legal action or the application of criminal sanction necessary.
- 2.7 During this period no complaints have been received relating to smoking on licensed premises, specifically:
- As part of the Health Act 2006 and associated Regulations, premises have to comply with signage requirements. All premises visited are now compliant with displaying the required signage.
  - No fixed penalty tickets in relation to offences of witnessed or reported smoking in premises have been issued.

### 3 Options

There are no options to consider.

### 4. How this report links to Corporate Priorities

- 4.1 The appropriate enforcement of licensing Legislation is essential to ensure the safety of the residents within the Borough.

**Mark Trillo**  
**Executive Director (People) and Monitoring Officer**

**Web Links and  
Background Papers**

**Location**

**Contact details**

Alicia Patterson  
Operations Manager -  
Environmental Services  
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