

**TO: Councillor: Bernie Attridge
(Chairman)**

Councillors: Alex Aldridge OBE, Robin Baker, Emlyn
Cooke, Alan Diskin, Brian Dunn, Jim Falshaw, Grenville
James, Eric Owen, Mike Reece, Gareth Roberts, Tony
Sharps

Your Ref /
Eich Cyf

Our Ref / Ein Cyf ^{CO}

Date / Dyddiad 10/11/2009

Ask for / Gofynner am Mike Thomas

Direct Dial / Rhif Union 01352 702324

Fax / Ffacs

Dear Sir / Madam,

A meeting of the **LICENSING COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD** on **MONDAY, 16 NOVEMBER 2009** at **10:00** to consider the following items.

Yours faithfully



Assistant Director (Democratic Services)

AGENDA

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST(INCLUDING WHIPPING DECLARATIONS)**
3. **MINUTES**
To confirm as a correct record the minutes of the meeting held on 3rd November, 2008 (copy enclosed).
4. **THE GAMBLING ACT 2005 - THREE YEAR LICENSING POLICY 2010-2013**
Report of Director of Environment enclosed

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5. **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE APPLICATIONS -**
POLICY GUIDANCE ON THE TREATMENT OF CONVICTIONS, CAUTIONS, CRIMINAL CHARGES
OR OTHER RECORDED SANCTIONS .

Report of Director of Environment enclosed

LICENSING COMMITTEE
3 NOVEMBER 2008

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Monday, 3 November 2008.

PRESENT:

Councillor: J.B. Attridge (Chairman)

Councillors: L. A. Aldridge, S.R. Baker, E. Cook, A.G. Diskin, B. Dunn, J. E. Falshaw, G. James, E. O. Owen, M. A. Reece and H. G. Roberts.

IN ATTENDANCE

Heath, Safety and Licensing Manager, Solicitor and Principal Committee Services Officer.

5. DECLARATIONS OF INTEREST

None were received.

6. MINUTES

RESOLVED

That the minutes of meeting of the Committee held on 30 June be approved as a correct record.

7. LICENSING MATTERS

The Health, Safety and Licensing Manager introduced a report, the purpose of which was to request that Members endorse a Licensing Enforcement Policy and to consider extending the remit of the Licensing Committee.

As part of the improvement agenda, it was necessary to have an up to date Licensing Enforcement Policy that had been approved by the relevant Member forums. The Licensing Committee was responsible for the Licensing Act 2003 and the Gambling Act 2005 however there were a number of other areas of Licensing which could come under the jurisdiction of the Licensing Committee.

At the meeting of the Constitution Committee on 15 October 2008, the principle of extending the remit of the Licensing Committee to cover additional areas was agreed. The most significant area not included was the Private Hire/Hackney

carriage licensing function. Currently if a license was refused, the applicant was offered a hearing before a Flintshire County Council Appeals Committee. It was felt that if the Licensing Committee had Private Hire/Hackney Licensing within its remit then it could be the forum for dealing with any contentious applications. There were a number of other areas which could come under the same remit e.g. commercial animal premises; motor salvage operators; scrap metal dealers and sex establishments.

Councillor L. A. Aldridge supported the recommendations and supported the transparency of the process. The Chairman concurred with this view and said by extending the remit of the Licensing Committee, more Members could become involved in the process which was important.

Councillor L. A. Aldridge said it could prove useful if Members were invited to visit premises which would provide them with a benchmark of good examples.

The Chairman thanked the officers for their hard work.

RESOLVED

- (a) That the Licensing Enforcement Policy be endorsed; and
- (b) That the remit of the Licensing Committee be extended to include Private Hire/Hackney Carriage licensing and any others areas under the same remit

8. DURATION OF THE MEETING

The meeting commenced at 9.30 am and ended at 9.55 am.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

REPORT TO: **LICENSING COMMITTEE**
DATE : **16 NOVEMBER 2009**
REPORT BY: **DIRECTOR OF ENVIRONMENT**
SUBJECT : **THE GAMBLING ACT 2005 - THREE YEAR LICENSING**
 POLICY 2010-2013

1.00 PURPOSE OF REPORT

1.01 To request that Members consider and approve the proposed Gambling Act 2005 Three Year Licensing Policy that will cover 2010-2013

2.00 BACKGROUND

2.01 It is a requirement of Section 349 of the Gambling Act 2005 that a Licensing Authority shall before each successive period of three years prepare a statement of the principles that they propose to apply in exercising their functions under the Act and publish that statement.

2.02 Flintshire's existing policy which fulfills this function came into force on 31st January 2007 and lasts for three years.

3.00 CONSIDERATIONS

3.01 Flintshire County Council has been administering and enforcing the requirements of the Gambling Act since it became operational nearly three years ago.

3.02 In the light of this experience the Council is not minded to depart significantly from the existing Policy document apart from updating any factual information that has changed.

3.03 The legislation requires a consultation process to be undertaken. This has been carried out and ended on November 5th 2009. A schedule of those consulted is shown at Appendix A. The responses received are summarised in Appendix B, together with the view of the Licensing Authority.

3.04 The proposed Statement of Licensing Policy is shown at Appendix C

4.00 RECOMMENDATIONS

4.01 That Members approve the Flintshire County Council Gambling Act 2005 Statement of Licensing Policy to cover the period 2010 - 2013

Date: 10/11/2009

5.00 FINANCIAL IMPLICATIONS

5.01 None in respect of this report (consultation process funded from licensing income)

6.00 ANTI POVERTY IMPACT

6.01 One of the three Gambling Act Licensing Objectives is to protect children and other vulnerable persons from being harmed or exploited by gambling.

7.00 ENVIRONMENTAL IMPACT

7.01 Not applicable

8.00 EQUALITIES IMPACT

8.01 Not applicable

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 As detailed in 3.03 above and appendices

11.00 CONSULTATION UNDERTAKEN

11.01 As detailed in 3.03 above and appendices

12.00 APPENDICES

12.01

12.02 Appendix B

12.03 Appendix C

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS**

The Gambling Act 2005
The Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006
Gambling Commission Guidance to Licensing Authorities - 3rd Edition
May 2009
Flintshire County Council Statement of Licensing Policy - January 2007

Contact Officer: Michael Lovatt
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Appendix A

Gambling Act Policy Consultees

Elected Members of Flintshire County Council

Town and Community Councils in Flintshire

The Gambling Commission

North Wales Police

North Wales Fire & Rescue Service

Head of Planning, Flintshire County Council

Head of Children's Services, Flintshire County Council

HM Revenue & Customs

Flintshire Community Safety Partnership

Corbett Bookmakers

William Hill; Ladbrokes; Coral; Carefree Racing

Association of British Bookmakers

Mecca Bingo; The Bingo Association

Crown Leisure Limited; Leisure Link

City Vending UK Limited

Gamestec Leisure Limited

Parkers Leisure Holdings Limited

Poppleston Allen Licensing Solicitors

Gamcare

Faith Groups

Citizens Advice Bureau

Voluntary Groups and Community Organisations working with children and vulnerable adults

Gambling Act Policy Consultation 2009

Three responses received :-

1. Macaskill's Solicitors, Buckley - No observations.
2. Councillor Robin Baker, Holywell East - No suggestions for amending the existing policy which appears to be working satisfactorily.
3. Holywell Town Council – Consultation received and noted. No further comment.

In the light of the above it is not deemed necessary to further amend the proposed Gambling Act 2005 Statement of Licensing Policy which will have effect from January 2010 for three years.

Michael Lovatt
Head of Health Safety & Licensing
6th November 2009



Gambling Act 2005

Statement of Licensing Policy

January 2010

Foreword

It is now three years since Flintshire County Council's first Gambling Act 2005 Licensing Policy came into operation.

The Council has worked effectively with the industry and with its partner agencies to ensure that the Act has been implemented effectively.

The Council will continue to work in partnership with the Gambling Commission and the various Responsible Authorities to ensure that the licensing objectives are promoted, and in particular that there are measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling.



Councillor Bernie Attridge
Chair of the Licensing Committee

January 2010

Flintshire County Council Gambling Act 2005 Statement of Licensing Policy

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1. Introduction

1.1 Licensing Objectives

The Gambling Act 2005 requires that the Council carry out its various licensing functions with a view to promoting the following three licensing objectives:

- **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; and**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

The 2005 Act requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This is our second three-year Policy.

This 'Statement of Licensing Policy' has been prepared having regard to the provisions of the Gambling Act, Guidance issued by the Gambling Commission and responses received in response to the consultation process.

The policy will come into effect on 31 January 2010 and will be reviewed as necessary and at least every three years from the date of adoption.

The Council is responsible for granting premises licences in respect of –

- casinos
- bingo premises
- betting premises
- adult gaming centres
- family entertainment centres

The Council is also responsible for issuing a range of permits in respect of other smaller scale gambling activities.

1.2 Flintshire County Council Information

- Flintshire is the north-eastern gateway to Wales, and is bounded by the counties of Wrexham, Denbighshire and Cheshire West and Chester. The Dee Estuary defines the North Eastern limit of the County. The extreme north-west of the county is bounded by the Irish Sea, although the North Wales coastal resorts of Rhyl and Prestatyn lie just outside the county, while the built-up area around Chester straddles the English / Welsh border at Saltney. The south-west of the county is bounded by the Clwydian Hills which forms a distinct boundary with Denbighshire.
- Flintshire covers an area of 49,891 hectares including the Dee Estuary and 43,464 hectares excluding the estuary. Census 2001 statistics show that the area supports 148,594 people, making the county the sixth largest in Wales in terms of population

(exceeded only by Cardiff, Rhondda Cynon Taf, Swansea, Carmarthenshire and Caerphilly). A map of the county is shown at Appendix A.

- This gives a population of 342 persons per square kilometre. This is more than double the average population densities for both North Wales and for Wales as a whole. Flintshire's density is average for England and Wales, but above that of the UK as a whole. From its close neighbours, only the urban areas of the Wirral and Ellesmere Port have a higher density.
- The population of Flintshire has grown markedly over the last 10 years, along with that of Denbighshire and Wrexham. This growth is higher than elsewhere in the region, across England and Wales and the UK as a whole. It is notable that the Wirral and Anglesey both reported substantial falls in their population, and most other authorities in the region had increases less than the national average.

1.3 Consultation

The necessary consultation process has been undertaken and the responses incorporated into this policy where applicable.

1.4 Types of Licence

This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for :

- Premises Licences
- Temporary Use Notices
- Occasional Use Notices
- Permits as required under the Act
- Registrations as required under the Act

1.5 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely :-

- Casinos
- Bingo Premises
- Betting Premises
- Tracks
- Adult Gaming Centres
- Licensed Family Entertainment Centres
- Unlicensed Family Entertainment Centres
- Club Gaming Premises
- Prize Gaming and Prize Gaming Permits
- Occasional Use Notices

- Temporary Use Notices
- Registration of small society lotteries

1.6 General Principles

Nothing in this Statement of Policy will :

1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; or
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application, without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the “risks” involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

When determining an application to grant a premises licence or whether to review a premises licence, regard will be taken of the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children. The proximity of premises etc. taken into consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State has, by regulation, provide for specific conditions to be attached to a Premises Licence as either “mandatory” or “default” conditions. In determining an application, the Licensing Authority may not have regard to the expected demand for the facilities which it is proposed to provide.

In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including :

- Planning controls
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport and other Council Departments
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour

- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence

Objectors will be required to relate their objection to one or more of the Licensing Objectives, as specified in Section 1.1 above, before the Licensing Authority will be able to consider it.

Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premises under consideration, puts themselves forward as representing the interests of residents in the vicinity, the Licensing Authority will normally ask them to provide evidence that they are acting as representatives of others.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

1.7 Advisory Body for the Protection of Children from Harm

Flintshire County Council, as the licensing authority, designates the Local Safeguarding Children Board as the competent authority to provide advice on the protection of children from harm.

The Local Safeguarding Children Board has been established in Flintshire under guidance relating to the Children Act 2004 and is chaired by the Director of Lifelong Learning as lead director under the Act.

1.8 Consultees

This Statement of Licensing Policy was subject to formal consultation with :

- North Wales Police
- North Wales Fire & Rescue Service
- The Local Safeguarding Children Board
- Flintshire Community Safety Partnership
- Representatives of the holders of the various licences for premises in the County who will be affected by this policy
- Elected Members of County, Community and Town Councils
- Faith Groups
- Voluntary Groups and Community Organisations working with children and vulnerable adults
- Gambling businesses
- Persons and businesses likely to be affected by authorised gambling within the area.

For further information about consultees see Appendix D.

1.9 Information Exchange

In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information the Council will conform to the requirements of the Gambling Act, data protection and freedom of information legislation in accordance with the Council's existing policies.

Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representation or applying for a review of a premises licence will be informed that these details will be disclosed.

Contact details of relevant authorities are given in Appendix C.

2. Legislation, Policies and Strategies

2.1 Legislation

In undertaking its licensing function under the Gambling Act 2005, the Council must also consider other legislation, including :

- Section 17 of the Crime and Disorder Act 1988
- Human Rights Act 1998
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990
- The Anti-Social Behaviour Act 2003
- Race Relations Act 1976 (as amended)
- Regulatory Reform (Fire Safety) Order 2005
- Licensing Act 2003

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

2.2 Relationship with Planning Policies

When determining an application, regard cannot, under the terms of the Act, be given to planning or building control permissions and / or any planning restrictions.

Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

The issue of a Provisional Grant of a premises licence is a separate and distinct process to the granting of Planning Permission. Planning and Building Control permissions will have to be sought and approved before any development takes place.

2.3 National Strategies

The Council will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the licensing function.

2.4 Local Strategies and Policies

The Council will consider applications with reference to other adopted local policies, including the following :

- The Council's Visions, Strategic Aims and Priorities
- Community Safety Strategy
- Enforcement Policy

2.5 Integrating Strategies

By consulting widely prior to this policy statement being published the Council will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

3. Decision Making

3.1 Committee Terms of Reference

A Sub Committee made up of three councillors from the Licensing Committee will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a panel involving an application within their ward.

Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

Every determination of a licensing decision by the Licensing Sub Committee shall be accompanied with clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable.

The Council's licensing officers will deal with all other licence applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Sub Committee. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case.

3.2 Allocation of Decision Making Responsibilities

The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, effective and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, will be delegated to Council Officers.

The Table shown at Appendix B sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub Committee and Officers.

This form of delegation is without prejudice to officers referring an application to a Sub Committee or a Sub Committee to Full Committee, or Committee to Full Council, if considered appropriate in the circumstances of any particular case.

3.3 Licensing Reviews

The council will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may be that activities, including the following, are taking place :

- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes
- Use of licensed premises for the sale and distribution of illegal firearms
- Use of licensed premises for prostitution or the sale of unlawful pornography
- Use of licensed premises as a base for organised criminal activity
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse attacks
- Use of licensed premises for the sale of smuggled tobacco or goods
- The use of licensed premises for the sale of stolen goods
- Children, young persons or vulnerable persons are being put at risk

Due consideration will be given to all relevant representations unless:

- the grounds are frivolous
- the grounds are vexatious
- the grounds are irrelevant
- the grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the Premises Licence

- the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- the grounds are substantially the same as representations made at the time the application for a Premises Licence was considered.

A Premises Licence may also be reviewed by the Licensing Authority on its own volition.

3.4 Licence Conditions

In order to avoid duplication with other statutory regimes as far as possible the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

4. Local Standards

4.1 Applications

An application for a Premises Licence can only be made by a person who either holds an Operating Licence authorising him to carry out the activity in respect of which a Premises Licence is sought, or has made an application for an Operating Licence which has not been determined.

Applications for the grant, transfer or variation of a premises licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule. The Applicant may ask the Council for advice as to the scope of information to be provided.

The level of detail to be provided will be advised by the Council and will be proportionate to the scale and nature of the application being made.

4.2 Assessment of Need

Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

4.3 Conditions

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Council will principally draw upon the advice issued by the Gambling Commission and attach conditions relative to the circumstances of each individual case.

Conditions attached to the premises licences will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras may be appropriate in certain premises.

4.4 Enforcement

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

- Proportionate : regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable : regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent : rules and standards must be joined up and implemented fairly;
- Transparent : regulators should be open, and keep regulations simple and user friendly; and
- Targeted : regulation should be focussed on the problem, and minimise side effects.

This Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority will adopt a risk-based inspection programme based upon -

- the nature of the gambling activities carried out on the premises
- the location of the premises in relation to schools, etc.
- the procedures put in place by the management to meet the licensing objectives.

The main enforcement 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 of the Operator and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

Decisions relating to enforcement will be made in accordance with the Public Protection Division Enforcement Policy.

4.5 Casinos

There is no resolution to prohibit casinos in the County at present. However, the Council reserves its right to review this situation and may, at some time in the future, resolve not to permit casinos or, if licensed casinos are already operating, resolve not to permit any additional casinos.

Should the Council choose to make such a resolution, this will be a resolution of Full Council following considered debate and the reasons for making the resolution will be given.

4.6 Unlicensed Family Entertainment Centres

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit.

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

4.7 Additional Information

- Details of gaming machine categories are given in Appendix F.
- A schedule of the gaming machines permitted in different types of premises are shown in Appendix G.

4.8 Small Society Lotteries

The Licensing Authority will follow Gambling Commission guidance in respect of small society lotteries.

5. Prevention of Crime and Disorder Objective

The Council will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder.

The Gambling Commission, in its Guidance for local authorities, has noted that "disorder" is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. This authority agrees with this statement.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council and / or the North Wales Police before making a formal application.

In considering licence applications, the Council will particularly take into account the following :

1. The design and layout of the premises;
2. The training given to staff in crime prevention measures appropriate to those premises;
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
4. Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
5. The likelihood of any violence, public order or policing problem if the licence is granted.

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

Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

If the Licensing Authority becomes aware of concerns that gambling is taking place contrary to this licensing objective it may pass these concerns to the Gambling Commission.

7. The Protection of Children and Other Vulnerable Persons Objective

7.1 Children

With limited exceptions, the access of children and young persons to those gambling premises which are adult only environments will not be permitted.

The Council will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

The Council will consult with the Local Safeguarding Children Board on any application that indicates there may be concerns over access for children.

The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as :

1. Supervision of entrances;
2. Segregation of gambling areas from areas frequented by children ;
3. Supervision of gaming machines in non-adult gambling specific premises.

The 2005 Act provides for a Code of Practice on access to casino premises by children and young persons and the Council will work closely with the police to ensure the appropriate enforcement of the law.

7.2 Vulnerable Persons

The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that 'vulnerable persons' includes :

- people who gamble more than they want to;

- people who gamble beyond their means; and
- people who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

8. Complaints Against Licensed Premises

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.

Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the Council may initially recommend a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they are considered to be frivolous, vexatious or repetitious.



Appendix B

Table of Delegations of Licensing Functions

Matter to be Dealt With	Full Council	Licensing Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate			X
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 transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provision 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	

Matter to be Dealt With	Full Council	Licensing Sub-Committee	Officers
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	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as to whether a representation is frivolous, vexatious or repetitive			X

Contact Details for Relevant Authorities

Flintshire County Council	:	Licensing Section Public Protection Flintshire County Council County Hall Mold CH7 6NH
Gambling Commission	:	Victoria House Victoria Square Birmingham B2 4BP
North Wales Police	:	Licensing Officer North Wales Police East Division Headquarters Bodhyfryd Wrexham LL12 7BW
North Wales Fire & Rescue Service	:	County Safety Manager North Wales Fire & Rescue Service Flintshire Area Office Unit 4, Acorn Business Park Aber Road Flint CH6 5YN
Safeguarding Children Board	:	Head of Children's Services Flintshire County Council County Hall Mold CH7 6ND
HM Revenue and Customs	:	HM Revenue & Customs National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ

Gambling Act Policy Consultees

Elected Members of Flintshire County Council

Town and Community Councils in Flintshire

The Gambling Commission

North Wales Police

North Wales Fire & Rescue Service

Head of Planning, Flintshire County Council

Head of Children's Services, Flintshire County Council

HM Revenue & Customs

Flintshire Community Safety Partnership

Corbett Bookmakers

William Hill; Ladbrokes; Coral; Carefree Racing

Association of British Bookmakers

Mecca Bingo; The Bingo Association

Crown Leisure Limited; Leisure Link

City Vending UK Limited

Gamestec Leisure Limited

Parkers Leisure Holdings Limited

Poppleston Allen Licensing Solicitors

Gamcare

Faith Groups

Citizens Advice Bureau

Voluntary Groups and Community Organisations working with children and vulnerable adults

Glossary of Terms

Within this Statement of Policy, the following words and terms are defined as stated:

Act :	means the Gambling Act 2005.
Applications :	means applications for Licences or Permits defined in section 1.4 above.
Code of Practice :	means any relevant code of practice under section 24 of the Gambling Act 2005.
Council :	means Flintshire County Council
District :	means the area of Flintshire County Council – see map in Appendix A.
Interested Party :	<p>for the purpose of the Gambling Act 2005, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person :</p> <ul style="list-style-type: none">▪ Lives sufficiently close to the premises to be likely to be affected by the authorised activities;▪ Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.▪ Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations. <p>When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Gambling Commission's Guidance to Local Authorities.</p>
Licences :	as defined in section 1.4 above.
Licensing Authority :	means Flintshire County Council.
Licensing Objectives :	as defined in section 1.1 above.
Mandatory :	means any specified condition provided by regulations to be attached to a licence.
Notifications :	means notifications of Temporary Use Notices and Occasional Use Notices.

Premises : means any place and includes a vehicle, vessel or moveable structure.

Regulations : means Regulations made under the Gambling Act 2005

Responsible Authorities: for the purposes of the Gambling Act 2005, the following are responsible authorities in relation to premises:

- The Licensing Authority (Flintshire County Council)
- The Gambling Commission
- North Wales Police
- North Wales Fire & Rescue Service
- Head of Planning, Flintshire County Council
- Head of Public Protection, Flintshire County Council
- Safeguarding Children Board : Lifelong Learning Directorate, Flintshire County Council
- HM Revenue and Customs

Gaming Machine Categories

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of 10)	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D Combined money and non-money prize (other than coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D Combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

Gaming Machines Allowed in Arcade Premises

Gaming machines allowed in arcade premises

Gaming machines fall into categories depending on the maximum stake and prize available. Arcades are allowed to offer a certain number of gaming machines from each category:

	Machine category			
	B3	B4	C	D
Adult gaming centre	Maximum of 4 machines in category B3 or B4		No limit on category C or D machines	
Family entertainment centre (with premises licence)			No limit on category C or D machines	
Family entertainment centre (with permit)			No limit on category D machines	

All gaming machines sited in adult gaming centre (AGC) or family entertainment centre (FEC) premises must comply with the relevant Gaming Machine Technical Standards – June 2007.

Gaming Machines Allowed in Betting Shops

Gaming machines fall into categories depending on the maximum stake and prize available. A general betting (standard) operating licence, together with a betting premises licence, allows for up to four gaming machines from any of the following categories to be sited on that premises:

		Machine category				
		B2	B3	B4	C	D
Betting premises and tracks occupied by pool betting		Maximum of 4 machines in categories B2 to D				

Gaming machines can be sited on betting premises. All gaming machines sited on betting premises must comply with the Gambling Commission's gaming machines technical standards, and be tested to the appropriate standard by an approved test house.

Gaming Machines Allowed in Bingo Premises

Gaming machines fall into categories depending on the maximum stake and prize available. A licensed bingo operator is permitted up to eight gaming machines from category B3 or B4, and any number of category C or category D machines.

		Machine category			
		B3	B4	C	D
Bingo premises	Maximum of 8 machines in category B3 or B4			No limit on category C or D machines	

All gaming machines sited on bingo premises must comply with the Gambling Commission's Gaming Machines Technical Standards and be tested to the appropriate standard by an approved test house.

Gaming Machines Allowed in Pubs & Clubs

Gaming Machines allowed in pubs, clubs, and other qualifying alcohol licensed premises

Gaming machines fall into categories depending on the maximum stake and prize available.

	Machine category		
	B4	C	D
Clubs or miners' welfare institute (with permits)	Maximum of 3 machines in categories B3A or B4 to D		
Qualifying alcohol-licensed premises		1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with gaming machine permit)		Number as specified on permit	

Permits for additional gaming machines

In addition to their automatic entitlement, pubs and other alcohol licensed premises may apply to their local licensing authority for a gaming machine permit which allows the provision of additional machines. The number of machines allowed will be specified on the permit.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 5

REPORT TO: LICENSING COMMITTEE
DATE : 16 NOVEMBER 2009
REPORT BY: DIRECTOR OF ENVIRONMENT
SUBJECT : HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS
LICENCE APPLICATIONS -

POLICY GUIDANCE ON THE TREATMENT OF
CONVICTIONS, CAUTIONS, CRIMINAL CHARGES

OR OTHER RECORDED SANCTIONS .

1.00 PURPOSE OF REPORT

- 1.01 To request that Members consider and approve proposed amendments to Flintshire's current policy guidelines relating to applicants who may have been convicted of offences.

2.00 BACKGROUND

- 2.01 The Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall not grant a hackney carriage or private hire drivers' licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence.
- 2.02 The same legislation permits the Council to suspend, revoke, or refuse to renew a drivers' licence if, since the grant of the licence, the driver has been convicted of an offence involving dishonesty, indecency, or violence; or has been convicted of an offence under, or failed to comply with, certain licensing statutory provisions; or for any other reasonable cause.
- 2.03 The Council last revised its guidelines in respect of the assessment of ex-offenders as being fit and proper persons to hold a licence to drive hackney carriages or private hire vehicles in 2003. It is now opportune to review the guidelines.

3.00 CONSIDERATIONS

- 3.01 Updated guidance has been produced in consultation with the other local authorities in Wales under the auspices of the All-Wales Licensing Technical

Date: 10/11/2009

Panel of the Directors of Public Protection Wales and is recommended for adoption by all authorities in the Principality

- 3.02 The proposed guidelines are shown at Appendix A
- 3.03 The existing guidelines are shown at Appendix B
- 3.04 The main changes are as follows :-
- 3.05 The statement relating to convictions and the guidelines are combined into a single document
- 3.06 Aspects related to minor and major driving offences have been clarified (paragraphs 4.2 and 4.3 in Appendix A)
- 3.07 Breaches of Licence Conditions are now specifically included (paragraphs 4.4 and 4.5)
- 3.08 Disqualification from driving due to the 'totting up' system operated by the courts is included for the first time (paragraphs 4.7 to 4.10).
- 3.09 Driving under the influence of drugs has been added to the policy (paragraphs 4.11 and 4.12) and possession/supply issues have been further clarified (paragraphs 4.13 and 4.14)
- 3.10 The Licensing Authority will not now normally entertain an application from a person convicted of a serious sexual offence (paragraph 4.17)
- 3.11 A period of 5 years free of convictions for violence is proposed rather than the existing 3 years (paragraph 4.18). Violence against police and local authority officers is specifically included (paragraphs 4.19 and 4.20)
- 3.12 Three years free of convictions for dishonesty are now specified (3-5 years previously) and the opportunity is given for submission of character references (paragraph 4.21)
- 3.13 There is a new paragraph (4.22) relating to repeat offending.
- 3.14 A new option of a 'probationary' licence is introduced (paragraph 5.1)
- 3.15 As the Criminal Records Bureau can only provide information relating to UK offences there is a new paragraph (6.1) relating to overseas applicants.
- 3.16 A new paragraph (7.1) details Flintshire's approach to licences issued by other local authorities.

4.00 RECOMMENDATIONS

- 4.01 That Members approve the proposed policy guidance relating to the treatment of convictions, cautions, criminal charges or other recorded sanctions in respect of applications for hackney carriage and private hire drivers' licences and existing drivers who may commit offences.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None in respect of this report

6.00 ANTI POVERTY IMPACT

6.01 None

7.00 ENVIRONMENTAL IMPACT

7.01 None

8.00 EQUALITIES IMPACT

8.01 None

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 None

11.00 CONSULTATION UNDERTAKEN

11.01 None

12.00 APPENDICES

12.01 Appendix B

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS**

Local Government (Miscellaneous Provisions) Act 1976
Flintshire County Council Existing Guidelines Relating to the Relevance
of Convictions for Use in Determining Applications (2003)

Contact Officer: Michael Lovatt
Telephone: 01352 703393
E-Mail: michael_lovatt@flintshire.gov.uk

Flintshire County Council

Hackney Carriage and Private Hire Drivers' Licence Applications

Guidance on the Treatment of Convictions, Cautions, Criminal Charges or other recorded sanctions

1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage / private hire driver's licence.
- 1.2 The aim of the policy is to protect the safety of the public. It has regard to the nature of the Council's locality and, in particular, the type of journey that may be undertaken by a vulnerable passenger.

2. General

- 2.1 In the policy set out below, the Licensing Authority is Flintshire County Council. References to the Committee are to the Licensing Committee of Flintshire County Council, or such other Committee as may be appointed from time to time to discharge the Council's functions relating to the licensing of hackney carriage and private hire vehicle drivers.
- 2.2 Under the provisions of Sections 51 and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a hackney carriage / private hire driver's licence is a fit and proper person to hold such a licence. When processing a licence application the Licensing Authority will make a check on an applicant's criminal record. A criminal record does not necessarily mean that a licence will not be issued. However, any convictions, warnings, cautions or charges awaiting trial, will be considered on the basis of:
 - How relevant the offences are to the licence being applied for
 - How serious the offences were, and
 - How recent they were
- 2.3 Section 61 of the Act allows the Licensing Authority to suspend, revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle if convicted of an offence involving dishonesty, indecency, violence, failure to comply with the provisions of the Town Police Clauses Act 1847, or any other reasonable cause.

- 2.4 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Council to take into account all convictions recorded against an applicant, or the holder of a private hire or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 2.5 It is a condition of the grant of a hackney carriage / private hire driver's licence that the holder reports any convictions, pending charges or simple or conditional cautions issued by the police, to the Licensing Authority without delay.

3. Delegation Arrangements

- 3.1 The grant or renewal of an application for a hackney carriage / private hire driver's licence will normally be delegated to an authorised officer of the Licensing Authority.
- 3.2 Where an applicant for a new licence has been convicted of a relevant offence (for example one involving dishonesty, anti-social behaviour, violence, a serious driving offence or a breach of a licence condition) within a period of five years prior to the date of application, the application will be referred to the Licensing Committee for determination. A relevant offence resulting in a simple or conditional caution or a fixed penalty notice may not be referred to the Committee. However, applicants who have been convicted of, or cautioned simply or conditionally by the police for dishonesty, indecency or violence, or have a history of repeat offending prior to that period will be referred to the Committee.
- 3.3 A driver holding a valid hackney carriage / private hire driver's licence issued by Flintshire County Council, who is convicted of an offence of dishonesty, indecency, violence, failure to comply with the statutory provisions, or any other reasonable cause falling during the period of the licence, shall be requested to appear before the Committee. "Reasonable cause" will include offences under licensing legislation and may include a breach of byelaws, or private hire driver conditions, or vehicle licence conditions. The Committee may then exercise its powers to suspend, revoke or refuse to renew the licence.
- 3.4 In the case of a renewal application, where the Licensing Committee has already considered a conviction on a previous occasion and decided to grant a licence, the conviction will not be brought to the attention of the Committee again without reasonable cause.

- 3.5 The Operational Manager (Licensing) may decide not to refer an application to the Licensing Committee if an applicant has been convicted of, or cautioned for, a relatively minor criminal offence and has demonstrated a period of rehabilitation in excess of 3 years prior to the date of application.
- 3.6 Where the holder of a hackney carriage / private hire drivers' licence is charged with an offence which may lead to the licence being revoked, the case will be referred to the earliest available meeting of the Licensing Committee in order to determine whether or not the licence should be suspended. The discretion to reinstate a suspended licence lies with the Committee.

4. Convictions, Breaches of Condition and Alleged Offences

- 4.1 The information set out below is not exhaustive, nor is it in any order of priority. It is intended as a guide to applicants on how the Committee may determine the degree of weight to give to a conviction, prior to reaching a conclusion about the case before them. As a general principle:
- i) each case will be determined on its own merit, and;
 - ii) the overriding consideration will be the protection of the public, and;
 - iii) where there is evidence causing significant doubt about the fitness or appropriateness of an applicant or licence holder, the Licensing Committee will exercise the precautionary principle and refuse the application, or revoke the licence.

Minor Driving Offences

- 4.2 A conviction for a minor driving offence, for example one incurring no more than 3 penalty points, will not usually result in refusal or revocation and will not be referred to the Committee. A driver may be referred to the Committee where there is a pattern of repeat offending over a longer period of time.

Major Driving Offences

- 4.3 A conviction for a major driving offence, for example one incurring between 4 and 11 penalty points, will normally result in a written warning as to future driving conduct. Drivers will be advised on the required standards. In the case where an applicant or licence holder has more than one conviction for this type of offence within a period of five years ending with the date of conviction of the second offence, the matter will be referred to the Licensing Committee. The Committee will have regard to any previous convictions and may determine to refuse an application or

revoke a current licence. In the case of an offence involving vehicle insurance an applicant will be required to demonstrate the ability to obtain insurance covering hire and reward

Breach of Licence Condition

- 4.4 The holder of a hackney carriage driver's / private hire driver's licence found by an authorised officer of the Licensing Authority, or a police officer, to be in breach of licensing legislation or licence conditions will be warned in writing as to future conduct, provided that the breach did not put the safety of passengers or the public at risk.
- 4.5 The Licensing Committee may revoke a hackney carriage / private hire driver's licence where the holder has been convicted of a serious breach of licence law.

Disqualification from Driving (excluding Drink/Drive Offences)

- 4.6 In paragraphs 4.7 to 4.10 below, the Licensing Authority will treat a period of a disqualification as being that which a driver would have been eligible to serve, and will disregard the decision of a court to waive or reduce a disqualification period either on the grounds of exceptional hardship under S.35 of the Road Traffic Offenders Act 1988 or for "special reasons" under S.34 of the Road Traffic Offenders Act 1988.
- 4.7 Where a recent conviction has resulted in a short period disqualification (less than 56 days), an application is unlikely to be granted unless a period of at least 6 months has elapsed from the end of the disqualification period. This 6-month period may be reduced, at the discretion of the Licensing Committee where an applicant has successfully completed further recognised driver training and testing since the disqualification ended.
- 4.8 If sufficient penalty points have accrued within a three year period under the "totting up" system to cause or merit disqualification for a period not exceeding 12 months, an application for a private hire or hackney carriage driver's licence is unlikely to be granted within a term of 12 months following the end of a disqualification period. This 12-month period may be reduced at the discretion of the Licensing Committee where an applicant has successfully completed further recognised driver training and testing since the disqualification period ended.
- 4.9 The Licensing Authority is unlikely to grant an application for a private hire or hackney carriage driver's licence for a period of three years following the ending of a disqualification exceeding 12 months. The three-year period may be reduced to no less than 12 months at the discretion of the

Licensing Committee where an applicant has successfully completed further recognised driver training and testing since the disqualification ended.

- 4.10 The Licensing Authority will not normally entertain an application for a private hire or hackney carriage driver's licence from a person who has been disqualified from driving for a period of 5 years or more.

Driving Under the Influence of Alcohol or Drugs

- 4.11 Disqualification from driving following a conviction for driving, or being in charge of a vehicle, whilst under the influence of drugs or alcohol, will be considered more serious than a disqualification under paragraphs 4.7 and 4.8 above. A single conviction is unlikely to result in an application being refused, provided that at least three years have elapsed since the ending of the disqualification. A conviction for 'refusing or failing to provide a specimen when asked' may be treated in the same way.
- 4.12 At least five years should elapse following the end of a disqualification period before an application from an applicant with more than one conviction for such an offence is likely to be granted. A special medical examination may be required before an application is considered. Where an applicant is found to be in need of medical treatment, a period of five years shall elapse, after successful treatment, before a further application is likely to be granted.

Drug Related Offences

- 4.13 An applicant with a conviction for possession of an illegal substance is likely to be required to show a period of at least five years free of conviction before an application is granted. If the applicant has received treatment for addiction, then the period shall be five years following successful detoxification treatment.
- 4.14 The Licensing Authority is unlikely to grant an application from a person convicted of any offence involving the supply of illegal substances to others unless a period of at least 10 years free from criminal conviction has elapsed.

Drunkenness (Not in a Motor Vehicle)

- 4.15 An isolated conviction for drunkenness is unlikely to result in an application being refused or a licence being revoked, provided it is not associated with other criminal conduct.

- 4.16 More than one conviction for drunkenness may indicate a medical problem necessitating a medical report. If an applicant is assessed as being alcohol dependant, a period of three years following successful treatment shall elapse before a further licence application is considered. A current licence holder may have his or her licence suspended pending the outcome of the medical report. A medical report confirming alcohol dependency will result in revocation of a licence.

Indecency and Other Sexual Offences

- 4.17 The Licensing Authority will not normally grant an application from a person convicted of, or cautioned simply or conditionally for, any offence involving sexual misconduct including indecent exposure, indecent assault, soliciting or any other serious sexual offences. Regard will be given also to any other relevant information disclosed at the Chief Constable's discretion.

Violence

- 4.18 The Licensing Authority is unlikely to grant an application from a person convicted of an offence involving the use of violence resulting in actual bodily harm, grievous bodily harm, wounding, or assault, unless at least five years free of such convictions can be demonstrated. A licence holder convicted of such an offence may have his or her licence revoked.
- 4.19 The Licensing Authority is unlikely to grant an application from a person convicted of an offence involving the use of violence or threatening behaviour towards a police officer.
- 4.20 The Licensing Committee will normally revoke a private hire or hackney carriage driver's licence where the holder has been convicted of an offence involving obstruction to, or making a false statement to, or the use of violence or threatening behaviour towards, a police officer or an authorised officer of the Licensing Authority carrying out his or her duty.

Dishonesty

- 4.21 The Licensing Authority is unlikely to grant an application from a person convicted of an offence involving dishonesty unless at least three years free of such convictions can be demonstrated. The Committee may still refuse the application unless the applicant can provide references from at least two trusted sources such as an employer, or probation officer, in support of the application.

Repeat Offending

- 4.22 The Licensing Authority is unlikely to grant an application from a person with a record of persistent offending, where the record shows a lack of regard for the well being of others or for property, unless a period of at least ten years has elapsed since the most recent conviction. The Committee may still refuse the application unless the applicant can provide character references from at least two trusted sources such as an employer, or probation officer, in support of the application.

5. Probationary Licences

- 5.1 The Committee may grant a 'probationary' licence for a period of less than 12 months provided there is reasonable justification to do so.

6. Overseas Residents

- 6.1 If an applicant has spent six continuous months or more overseas the Licensing Authority will expect to see evidence of a criminal record check from the country or countries covering that period.

7. Licences Issued By Other Authorities

- 7.1 Where an application for a hackney carriage / private hire driver's licence has been referred to the Licensing Committee for determination with regard to this policy, and the applicant already holds such a licence granted by another local authority, the guidance in this policy shall take precedence over any decision of another authority.

8. Appeals

- 8.1 Any person aggrieved by a decision of the Licensing Committee to revoke, suspend or refuse to grant a driver's licence or by any conditions attached to the grant of a licence, may appeal to the Magistrates' Court within 21 days of notification of the decision.



PRIVATE HIRE & HACKNEY CARRIAGE LICENSING STATEMENT RELATING TO CONVICTIONS

When submitting an application for a licence to drive a Hackney Carriage or Private Hire Vehicle you are requested to declare any convictions or cautions you may have, whether you have ever received any form of Fixed Penalty Notice or any Anti Social Behaviour Order. This includes any convictions or cautions that are regarded as 'spent' under the Rehabilitation of Offenders Act, 1974. By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, Flintshire County Council as licensing authority is permitted to ask for details of all convictions including those regarded as spent, in order to assess an applicants suitability to be licensed as a private hire/hackney carriage driver. Such spent convictions may also be considered in relation to any proceedings held in respect of an application for the grant, renewal or cancellation of such a licence. The information you give will be treated in confidence and will only be taken into account in relation to your application.

You should be aware that the Council is empowered by law to check with the Criminal Records Bureau for the existence and content of any criminal record held in the name of the applicant. Information received from the C.R.B will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary. You should be aware that any spent convictions that are brought to the attention of this Authority shall be considered in conjunction with your application for a licence and may have a bearing on that application.

You should also be aware that the Council has the right to apply to the Driver and Vehicle Licensing Agency for details of driving convictions which are held separately from C.R.B. records.

The disclosure of a criminal record or other information will not debar you from gaining the licence unless the Authority considers that the conviction renders you unsuitable. In making this decision, the Authority will consider the nature of the offence, how long ago it took place, what age you were when it was committed, the sentence received, whether you have any other convictions, and any other factors which may be relevant.

The Council has adopted the Metropolitan Police Guidelines on the Relevance of Convictions to aid decision making and ensure a consistent approach. A copy is attached herewith.

Any applicant whose application for a driver's licence is refused on the grounds that he/she is not considered to be a fit and proper person to hold such a licence has right of appeal to a Flintshire Council Licensing Sub Committee and direct to the Magistrates' Court. Should you require any further advice or assistance on what effect a conviction may have on your application you may telephone the Licensing Section on 01352 703030 in strict confidence.

FLINTSHIRE COUNTY COUNCIL

Private Hire and Hackney Carriage Licensing

Guidelines Relating to the Relevance of Convictions for Use in Determining Applications

General Policy

1. **Each case will be decided on its own merits.**
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. **However, the overriding consideration should be the protection of the public.**
3. The following examples afford **a general guide on the action to be taken** where convictions are admitted.

(a) Minor Traffic Offences

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification from driving, then a hackney carriage or PHV licence may be granted after the restoration of the driving licence but a warning should be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving without due care and attention etc. should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last 2 years should merit refusal and no further application should be considered until a period of 1 to 3 years free from conviction has elapsed.

(c) Drunkenness

(i) With Motor Vehicle

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an application, but strict warnings should be given as to future behaviour. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic, a period of 5 years should elapse after treatment is complete before a further licence application is considered.

(ii) Not In Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(d) Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

(e) Indecency Offences

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case, if a licence is granted a strict warning as to future conduct should be issued.

(f) Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained, and even then a strict warning should be administered.

(g) Dishonesty

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons, a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.