

Public Document Pack

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To: Cllr Tony Sharps (Chairman)

CS/NG

Councillors: Glyn Banks, David Cox, Alan Diskin,
Rosetta Dolphin, Ian Dunbar, Brian Dunn,
Jim Falshaw, Phil Lightfoot, Hilary McGuill,
Mike Reece and Gareth Roberts

18 September 2012

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Dear Sir / Madam

A meeting of the **LICENSING COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **MONDAY, 24TH SEPTEMBER, 2012** at **10.00 AM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

AGENDA

1 **APOLOGIES**

2 **MINUTES** (Pages 1 - 4)

To confirm as a correct record the minutes of the last meeting held on 26 January, 2012.

3 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

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The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

- 4 **LAW COMMISSION CONSULTATION ON THE FUTURE OF TAXI AND PRIVATE HIRE LEGISLATION** (Pages 5 - 8)
Report of the Director of Environment enclosed.

- 5 **THE GAMBLING ACT 2005 - THREE YEAR LICENSING POLICY 2013 - 2016** (Pages 9 - 38)
Report of the Director of Environment enclosed.

- 6 **LICENSING ACT 2003 UPDATE** (Pages 39 - 42)
Report of the Director of Environment enclosed.

LICENSING COMMITTEE **26 JANUARY 2012**

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Thursday 26 January, 2012

PRESENT: Councillor J.B. Attridge (Chairman)

Councillors: S.R. Baker, E.G. Cooke, J.E. Falshaw, M.A. Reece

ALSO PRESENT:

Councillor: D.I. Mackie

APOLOGIES:

Councillors: A.G. Diskin and E.W. Owen

IN ATTENDANCE:

Executive Member for Leisure Services and Public Protection, Solicitor (Litigation), Community Protection Manager, Community Protection Team Leader – Licensing and Committee Officer

8. DECLARATIONS OF INTEREST

Councillor H.D. Hutchinson declared a personal and prejudicial interest in the following Agenda Items:-

- Agenda Item Number 4: Amendments to the Private Hire Vehicle Specification
- Agenda Item Number 5: Private Hire/Hackney Carriage Driver Knowledge Test

Councillor E.G. Cooke declared a personal interest in Agenda Item Number 6: Licensing of a Specialised Vehicle.

9. MINUTES

The minutes of the meeting of the Committee held on 18 July, 2011 were submitted.

RESOLVED:

That the minutes be approved as a correct record and signed by the Chairman.

10. AMENDMENTS TO THE PRIVATE HIRE VEHICLE SPECIFICATION

The Community Protection Team Leader – Licensing introduced a report for Members to consider whether it would be appropriate to remove one of the items listed in Flintshire Council's Private Hire Vehicle Specification (relating to seat-tipping).

Flintshire County Council issued licenses for vehicles to become Private Hire Vehicles and in order to become licensed a vehicle had to comply with Flintshire's Private Hire Vehicle Specification, outlined at Appendix A of the report. The Community Protection Team Leader – Licensing drew Members' attention to item number 2 of the Specification, the tipping of seats, which was included following a recommendation from the Department for Transport (DfT).

The current DfT best practice guidance, attached at Appendix B of the report, did not make reference to the tipping of seats in relation to Private Hire Vehicles. Checks carried out with neighbouring Local Authorities confirmed that most did not have this requirement included in their Specification document.

Councillor S.R. Baker supported amending item number 2 within the Private Hire Vehicle Specification to ensure a common standard across Local Authorities.

RESOLVED:

That item number 2 of the Private Hire Vehicle Specification be amended to the following wording:-

“Each passenger must have direct access to, and egress from, the vehicle without the need to climb over other seats or luggage. This would not include where a seat has to be tipped to allow access or egress”.

11. PRIVATE HIRE/HACKNEY CARRIAGE DRIVER KNOWLEDGE TEST

The Community Protection Team Leader – Licensing introduced a report for Members to determine whether it would be appropriate to have a knowledge test for new Private Hire and Hackney Carriage Drivers. Details were provided on the many checks currently carried out when applying for a Private Hire or Hackney Carriage Drivers Licence. Applicants currently did not have to show any knowledge of the Flintshire area, the Highway Code or any of the licence conditions that they had to abide by.

Flintshire was only one of two Councils within North Wales that did not have a knowledge test for new drivers. A draft knowledge test for Flintshire, including a short policy had been devised and was shown at Appendix A of the report. The test included questions on local area knowledge, private hire/hackney carriage questions relating to the conditions of a licence and a selection of questions from the Highway Code.

The Chairman asked if the introduction of knowledge tests would impact on the workload of staff within the Licensing section. The Community Protection Team Leader – Licensing explained that it was anticipated that when a new driver had made his/her application the knowledge pack would be given to them. Once all of their checks had been returned, the driver would

be offered an appointment to undertake the knowledge test, whereby, the duty officer would ask a selection of 30 questions verbally.

Councillor E.G. Cooke supported the principle of new drivers undertaking a knowledge test but asked if questions around their knowledge of rural areas in Flintshire could be included within the knowledge test. The Community Protection Team Leader – Licensing commented that during the Private Hire Operators Forum current drivers had supported the introduction of a knowledge test to ensure driver's knowledge of the Flintshire area, as there were many applications being submitted by people who lived outside of Flintshire.

Councillor S.R. Baker suggested that the Private Hire Operators Forum be asked to assist in designing the knowledge test questions.

RESOLVED:

- (a) That the Committee support the introduction of a knowledge test for new Private Hire/Hackney Carriage Driver applicants; and
- (b) That the Private Hire Operators Forum be asked to assist in designing the knowledge test questions.

12. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 – TO CONSIDER THE EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the meeting for the following item as it was considered to contain exempt information by virtue of paragraphs 12 and 14 of Part 1 of Schedule 12A of the Local Government Act 1972.

13. LICENSING OF A SPECIALISED VEHICLE

The Community Protection Team Leader – Licensing introduced a report for Members to determine whether it would be safe and appropriate to make an exception to Flintshire's private hire vehicle specification in order to licence a motorised tricycle (trike).

Details on an enquiry with the Licensing Section in relation to a motorised purpose built trike becoming licensed as a private hire vehicle were provided to the Committee. Enquiries had been made with the International Vehicle Standards Division of the Department for Transport (DfT) on the safety of such a vehicle when transporting passengers. Information provided from the DfT was shown at Appendix E of the report.

The vehicle in question would need a Class III MOT. One of the Nominated Testing Stations on Flintshire Council's approved list currently undertook this class of MOT. The vehicle also complied with European Regulations.

A number of questions were raised by Members. The Community Protection Team Leader – Licensing explained that any application for a similar vehicle to be licensed as a private hire vehicle would need to be considered by the Committee.

Councillor S.R. Baker proposed an amendment to the recommendations detailed within section 4.01 (2) of the report, that the wording ‘appropriate crash helmets’ be added. This was supported by the Committee.

RESOLVED:

- (a) That the Committee support the exception to be made to the vehicle specification in relation to motorised tricycles to remove the requirement for four wheels and at least four doors, and for the vehicle to be right-hand drive; and
- (b) That the vehicle be subject to the normal private hire vehicle conditions which would be attached to a licence, modified to accommodate a three wheeled tricycle, including the following additional conditions:-
 - 1. All passenger seats to be fitted with three point seat belts which must be worn when the vehicle is in use;
 - 2. No more than two passengers to be carried on the rear seats at any one time;
 - 3. Appropriate crash helmets, which meet the European Safety Standard, must be made available to all passengers, and must be worn by the driver and passengers at all time;
 - 4. Any child under the age of 16 years should be accompanied by an adult; and
 - 5. The vehicle should be equipped with 3 road tyres but is not required to carry a spare tyre.

14. DURATION OF MEETING

The meeting commenced at 10.00 a.m. and ended at 10.30 a.m.

15. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press and public present.

.....
Chairman

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE

DATE: 24TH SEPTEMBER 2012

REPORT BY: DIRECTOR OF ENVIRONMENT

SUBJECT: LAW COMMISSION CONSULTATION ON THE
FUTURE OF TAXI AND PRIVATE HIRE LEGISLATION

1.00 PURPOSE OF REPORT

1.01 To inform Members of the Law Commission consultation in relation to Taxi and Private Hire Legislation.

2.00 BACKGROUND

2.01 In July 2011 the Law Commission agreed to undertake a law reform project relating to taxis and Private Hire Vehicles (PHVs). The Department for Transport (DfT) proposed the project, but in such cases the Law Commission is independent of Government.

2.02 The main legislation on taxis (hackney carriages) dates from 1847 and the legislation relating to private hire vehicles (mini-cabs) from 1976. There has also been a large volume of often conflicting case law built up over that period.

2.03 On 10 May 2012 the Law Commission published its provisional proposals along with associated questions. It is a long and complex document of nearly 250 pages. All parties have until mid September 2012 to submit responses. Details are available on the Commission's website: <http://lawcommission.justice.gov.uk/ons/1804.htm>

2.04 The Law Commission intends that the consultation will be its main information gathering exercise. After the consultation the Commission will analyse responses and reconsider the proposals. The Law Commission aims to produce a report containing its final proposals and a draft Bill by November 2013.

2.05 Flintshire has responded to the consultation by working with the other local authorities in Wales to formulate a joint response co-ordinated by the Institute of Licensing (Wales).

3.00 CONSIDERATIONS

3.01 The proposals retain the distinction between taxis – which can “ply for hire” on the street or a cab rank – and private hire vehicles which can

only be pre-booked. Flintshire, in conjunction with the other Welsh authorities, would favour a single tier system because the distinction is not readily understood by the public who simply want a safe reliable means of transport at reasonable cost.

- 3.02 The existing legislative structure means that each local authority has set up its own set of standards in the form of licence conditions such as age of vehicle, specification of vehicle, signage requirements, vehicle inspection frequencies, etc. This leads to confusion and inconsistency for the trade, customers and enforcing authorities. One of the Law Commission proposals is to have a UK wide set of standards which will deliver the desired 'safe driver and safe vehicle' concept.
- 3.03 It is understood that in Wales the Welsh Ministers will have to bring in separate legislation to that which will have effect in England in response to the Law Commission findings. As Flintshire is a border County it is a matter of concern that standards may differ between the two countries and therefore perpetuate the existing inconsistencies that cause concern to the trade.
- 3.04 Another current contentious area is restrictions on where vehicles can operate. The Law Commission proposal is that a private hire firm could work freely across the country, without geographical or licensing restrictions. This would contribute to widening consumer choice and to making services cheaper and more competitive.
- 3.05 Private hire operators would also be able to take bookings outside their own local area which is not currently the case.
- 3.06 There is a proposed requirement that all new taxi and private hire drivers should have disability awareness training. The consultation also asks whether there should be a specific licence for accessible vehicles.
- 3.07 Improved enforcement powers are also suggested.

4.00 RECOMMENDATIONS

- 4.01 That Members note the Law Commission consultation on the future of taxi and private hire licensing and that draft legislation may be forthcoming at the end of 2013

5.00 FINANCIAL IMPLICATIONS

- 5.01 None at present though there may be implications when the nature of the proposed changes become clearer once the Law Commission issues its findings

6.00 ANTI POVERTY IMPACT

6.01 None

7.00 ENVIRONMENTAL IMPACT

6.01 None

8.00 EQUALITIES IMPACT

8.01 The proposals seek to improve drivers knowledge and awareness of equalities issues

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 None

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

None.

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE
DATE: 24TH SEPTEMBER 2012
REPORT BY: DIRECTOR OF ENVIRONMENT
SUBJECT: THE GAMBLING ACT 2005 – THREE YEAR
LICENSING POLICY 2013 - 2016

1.00 PURPOSE OF REPORT

1.01 To inform Members about the renewal of the three year Gambling Policy which will cover the period between 2013 – 2016

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 fulfils this function came in to force on 31st January 2010 and lasts for three years. Please see Appendix A.

3.00 CONSIDERATIONS

3.01 Flintshire Council has been administering and enforcing the requirements of the Gambling Act since it became operational in 2007.

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 which has changed.

3.03 The legislation requires a consultation process to be undertaken. This will be initiated in September and requesting responses by November. The responses will be summarised together with the view of the Licensing Section and the final draft policy will be presented to a future Licensing Committee for consideration and approval.

4.00 RECOMMENDATIONS

4.01 That Members note the proposals for the renewal of the Council's Gambling Act 2005 policy.

5.00 FINANCIAL IMPLICATIONS

5.01 None. The consultation costs will be funded by Licensing income.

6.00 ANTI POVERTY IMPACT

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

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 There is a statutory duty to carry out a consultation.

11.00 CONSULTATION UNDERTAKEN

11.01 This will be undertaken in Autumn 2012.

12.00 APPENDICES

12.01 Attached

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

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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

	Contents	Page No.
1.	Introduction	1
1.1	Licensing Objectives	1
1.2	Flintshire County Council Information	1
1.3	Consultation	2
1.4	Types of Licence	2
1.5	Licensable Premises and Permits	2
1.6	General Principles	3
1.7	Advisory Body for the Protection of Children from Harm	4
1.8	Transitional Arrangements	4
1.9	Consultees	4
1.10	Information Exchange	5
2.	Legislation, Policies and Strategies	5
2.1	Legislation	5
2.2	Relationship with Planning Policies	5
2.3	National Strategies	6
2.4	Local Strategies and Policies	6
2.5	Integrating Strategies	6
3.	Decision Making	6
3.1	Committee Terms of Reference	6
3.2	Allocation of Decision Making Responsibilities	7
3.3	Licensing Reviews	7
3.4	Licence Conditions	8

Contents		Page No.
4.	Local Standards	8
4.1	Applications	8
4.2	Assessment of Need	8
4.3	Conditions	8
4.4	Enforcement	9
4.5	Casinos	9
4.6	Unlicensed Family Entertainment Centres	9
4.7	Additional Information	10
4.8	Small Society Lotteries	10
5.	Prevention of Crime and Disorder Objective	10
6.	Ensuring that Gambling is Conducted in a Fair and Open Way Objective	11
7.	The Protection of Children and Other Vulnerable Persons Objective ...	11
7.1	Children	11
7.2	Vulnerable People	11
8.	Complaints Against Licensed Premises	12
Appendix A	Plan of Flintshire	13
Appendix B	Table of Delegations of Licensing Functions	14
Appendix C	Contact Details for Relevant Authorities	16
Appendix D	Consultees	17
Appendix E	Glossary of Terms	18
Appendix F	Gaming Machine Categories	20
Appendix G	Gaming Machines Permitted in Different Premises	21

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 : 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 :
- 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.
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.
- 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

REPORT TO: LICENSING COMMITTEE
DATE: 24TH SEPTEMBER 2012
REPORT BY: DIRECTOR OF ENVIRONMENT
SUBJECT: LICENSING ACT 2003 UPDATE

1.00 PURPOSE OF REPORT

1.01 To inform Members of the Licensing Committee of the recent changes to the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011

2.00 BACKGROUND

2.01 In 2010, the Home Office launched a public consultation entitled 'Rebalancing the Licensing Act'. This consultation sought views for a number of proposed changes to the Licensing Act 2003 with the overall aim of achieving a fundamental shift in the licensing regime in this country, with more emphasis on local accountability.

2.02 The Bill was subject to some amendments, and received Royal Assent and became law on 15 September 2011

2.03 The timetable for commencement was split into two stages. The first came into effect in April 2012, and the later changes are due to take effect in October 2012.

3.00 CONSIDERATIONS

3.01 April 2012 changes:

3.02 Local Health Boards became one of the Responsible Authorities and are now entitled to make representations in relation to alcohol licensing. The Betsi Cadwaladr University Local Health Board has therefore been added to our current list of Responsible Authorities and must be notified of new licensing applications.

3.03 The fine for persistent selling of alcohol to persons under the age of 18 years has doubled to £20,000

3.04 Residents, businesses or associations will now be able to make representations on applications even if they do not live or work in the 'vicinity' of the premises. The only test on validity is whether their representation is relevant to the licensing objectives. It was thought

that this would prompt an increase in the amount of representations received, but no increase has been seen since the legislation came in to force in April.

- 3.05 The new legislation lowers the evidential threshold for licensing. In determining an application, a Licensing Sub Committee is now only required to consider what is 'appropriate' to promote the licensing objectives, rather than what is considered 'necessary' which was the case prior to April 2012. This will give licensing authorities greater power to tackle irresponsible premises.
- 3.06 Prior to April a Temporary Event Notice (TEN) had to be submitted at least 10 working days prior to the event taking place. A new facility for the acceptance of 'late' TEN's has been introduced. A late TEN can be accepted if it is received within five and ten working days of the event, from the day after it was received by the local authority. These late TEN's can only be accepted in exceptional circumstances. The maximum period for an event covered by a TEN has increased from 96 hours to a maximum of 168 hours (i.e. one week).
- 3.07 Environmental Health are now able to make representations in relation to a TEN or a late TEN as well as the Police.
- 3.08 The licensing authority are now able to suspend a Premises Licence for non payment of an annual fee. This will remove the need for the Council's finance section to follow up debtors.
- 3.09 The Licensing Authority itself is now also a Responsible Authority. This will mean that the licensing authority is able to respond to concerns and perhaps take action without having to wait for representations from other responsible authorities. In cases where a licensing authority is also acting as a responsible authority in relation to the same process it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. Accordingly it is proposed in such circumstances that the Community Protection Manager assumes the role of Responsible Authority with the Team Leader-Licensing and the Licensing Officers continuing their traditional role of processing all licence applications in accordance with the Council's Statement of Licensing Policy.
- 3.10 The proposed changes which will come in to effect in October 2012 are as follows:
- 3.11 The licensing authority can opt for a time between midnight and 6am to impose an Early Morning Restriction Order (EMRO) which would restrict the sale of alcohol within that adopted period. An EMRO can be applied to different parts of the district and can have effect at different times on different days of the week or year. It can be applied for a limited period. It is likely that the revised Home Office guidance

to Licensing Authorities will exclude some classes of premises such as hotels and B&B's entirely.

- 3.12 The introduction of a Late Night Levy (LNL) would enable licensing authorities to introduce a charge for all premises in the local authority area which are authorised to sell alcohol between midnight and 6am. This is a matter which will need separate consideration.

4.00 RECOMMENDATIONS

- 4.01 That Members note the changes to the Licensing Act outlined above.
- 4.02 That the Licensing Committee nominates the Community Protection Manager as the officer authorised to act as a Responsible Authority when necessary.

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 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

Licensing Act 2003

Police Reform and Social Responsibility Act 2001

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