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27 June 2012

To: Chairman – Councillor Alex Riley  
Vice-Chairman – Councillor Raymond Matthews  
Members of the Licensing Committee – Councillors Richard Barrett, Val Barrett,  
Trisha Bear, Nigel Cathcart, Alison Elcox, Jose Hales, Roger Hall, Sally Hatton,  
Janet Lockwood, Mervyn Loynes, Cicely Murfitt, Charles Nightingale and  
Neil Scarr

Quorum: 4

Dear Councillor

You are invited to attend the next meeting of **LICENSING COMMITTEE**, which will be held in **SWANSLEY ROOM, GROUND FLOOR** at South Cambridgeshire Hall on **THURSDAY, 5 JULY 2012 at 10.00 a.m.**

Members are respectfully reminded that when substituting on committees, subcommittees, and outside or joint bodies, Democratic Services must be advised of the substitution *in advance of* the meeting. It is not possible to accept a substitute once the meeting has started. Council Standing Order 4.3 refers.

Yours faithfully  
**JEAN HUNTER**  
Chief Executive

**The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you.**

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<b>AGENDA</b>		<b>PAGES</b>
<b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence from committee members.		
<b>2. DECLARATIONS OF INTEREST</b>		
<b>3. MINUTES OF PREVIOUS MEETING</b> To authorise the Chairman to sign the minutes of the meeting held on 7 November 2011.		<b>1 - 12</b>
<b>4. GAMBLING ACT 2005 - AMENDMENTS</b>		<b>13 - 44</b>
<b>5. TAXI LICENSING REFORMS</b>		<b>45 - 60</b>

### **OUR VISION**

South Cambridgeshire will continue to be the best place to live and work in the country. Our district will demonstrate impressive and sustainable economic growth. Our residents will have a superb quality of life in an exceptionally beautiful, rural and green environment. The Council will be recognised as consistently innovative and a high performer with a track record of delivering value for money by focussing on the priorities, needs and aspirations of our residents, parishes and businesses.

### **OUR VALUES**

We will demonstrate our corporate values in all our actions. These are:

- Trust
- Mutual respect
- A commitment to improving services
- Customer service

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

Minutes of a meeting of the Licensing Committee held on  
Monday, 7 November 2011 at 9.30 a.m.

PRESENT: Councillor Roger Hall – Chairman  
Councillor Raymond Matthews – Vice-Chairman

Councillors:	Val Barrett	Trisha Bear
	Alison Elcox	Jose Hales
	Sally Hatton	Liz Heazell
	Janet Lockwood	Cicely Murfitt
	Charles Nightingale	Alex Riley

Officers:	Myles Bebbington	Licensing Officer
	Gary Duthie	Senior Lawyer
	Maggie Jennings	Democratic Services Officer

Councillor Sue Ellington, Environmental Services Portfolio Holder was in attendance for part of the meeting.

Apologies for absence were received from Councillors Richard Barrett, David McCraith and Ben Shelton.

**3. DECLARATIONS OF INTEREST**

None.

**4. MINUTES OF PREVIOUS MEETING**

The Chairman was authorised to sign, as correct records, the minutes of the meetings held on 3 March and 26 May 2011.

**5. LICENSING ACT 2003, REGULATED ENTERTAINMENT: CONSULTATION**

The Licensing Committee received a Department for Culture, Media and Sport consultation document relating to a proposal to deregulate regulated entertainment. Members considered the questions contained within the document and as a result of the ensuing discussion, the following responses were agreed:

Deregulation of Schedule 1

**Q1: Do you agree that the proposals outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on?**

*The majority of premises within South Cambridgeshire already hold licences, there are currently 89 community based premises with entertainment provision out of a maximum of approximately 102. The current regime allows for premises to have a degree of flexibility by use of TENS whilst allowing the regulatory body (The Licensing Authority) to consider the expectations, particularly of nearby residents, in the promotion of the licensing objectives. It is not expected that the removal of Schedule 1 would increase the number of performances or events in South Cambridgeshire.*

**Q.2 If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?**

N/A

**Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).**

*It is difficult to agree with any such assessment especially when there are so many assumptions throughout the impact assessment. The cost saving is not a realistic reflection as it is primarily a time saving to the applicant. Therefore, it would be better to simplify the forms across the entire Act.*

**Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.**

*No, The current system allows for Local Authorities to be aware of events that are happening within the area, i.e if a TEN is served and there is an associated risk of noise nuisance, the EHO/Licensing officer work pattern can be amended to be available for monitoring or enforcement at no extra direct cost to the Local Authority. The removal of an entertainment licence will result in a reactive response to problems which is more costly to this rural authority by way of an "out of hours service" which typically involves extra payments for officers to attend, a typical cost for a 2/3 hr call out is around £80 plus mileage and telephone costs which is passed on, indirectly, to the taxpayer.*

**Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment**

*Yes. The current system permits conditions to be attached to reflect the issues raised, particularly in respect of times and frequency. This gives both the licence holders and nearby residents/businesses a clear understanding of what is permitted. The SCDC area is one of a largely rural nature with no clear urban centre and therefore the activities of local village based pubs and community centres are vital. Noise related issues can and often do cause as much disturbance as that of a pub. Whilst it is generally accepted that alcohol can contribute to anti social behaviour, but it should be recognised that it is not the sole cause. An event involving entertainment can cause as much disturbance to nearby residents and affects their general wellbeing even if alcohol is not provided, particularly during hours of sleep.*

*A potential loophole that is not addressed in these proposals is the scenario where premises without a licence for alcohol allow a bring your own event, therefore going round the provisions and controls of an alcohol licence, or, technically close the pub and use the TEN system so that any disturbance caused effectively by passes the Licensing review framework.*

**Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of**

**what you think the correct ranges should be and explain how those figures have been estimated.**

*It is difficult to give estimates, given the number of premises within our district and the very limited requests or complaints from either premise licence holders or the public regarding the current restrictions either via licences or the TENS system. It is difficult to assess that there would be no significant increase in activities should the proposals be introduced. The effect would be on the lack of boundaries that event organisers would be required to adhere to and the subsequent complaints that would follow.*

**Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?**

*Little or no consideration has been given to the fact that prevention is better than cure. The knock on effect, particularly for smaller district councils of reactive out of hours noise complaints could be significant. A number of premises have been brought into line by the Licensing Act in a manner that allows the business to operate successfully, whilst setting boundaries that residents are satisfied with. This applies equally to alcohol and non-alcohol related premises. To remove those boundaries would in our view significantly increase the workload on other areas of enforcement within the Council whilst at the same time eroding the confidence of the public who have come to terms with a system that if applied reasonably and with common sense works.*

**Q8: Are there any impacts that have not been identified in the Impact Assessment?**

*Public trust. The Public have since the introduction of the Licensing Act had a clear and transparent route in which to express their views and concerns as well as a clear way in which to address complaints. Many rural authorities have community premises that have entertainment only licences and these can cause as many problems as alcohol licensed premises. Therefore the removal of this schedule would undermine the Localism Agenda along with the trust of those members of the public and take away the transparent and clear methods in which to raise issues.*

*The public at large are now familiar with the licensing and planning regimes, and apart from a few instances where issues arise in both areas, now make appropriate representations to address issues under each relevant legislation. The removal of Schedule 1 would result in an increased pressure on the planning process to deal with issues currently dealt with by the Licensing regime because the public would only have one opportunity to raise concerns.*

**Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.**

We find it impossible to quantify an answer as any monetary figures are at this stage unknown given the number of assumptions made, however we would refer the panel to our answers in Q.7

**Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?**

*No. Premises that hold alcohol licences should apply for the entertainment activities to be removed and by doing so give people the opportunity to make representations either for or against. Whilst the majority of premises work successfully within conditions attached to*

*their licence, they often have little regard for neighbours. This can be demonstrated when TENS are used by premises to avoid restrictions on their licence. Conditions imposed have been done so only after good and sound reasons have been considered. However, it is recognised that should deregulation be imposed, then an imbalance could arise over time between premises that have existing licenses and new premises that have no requirement to obtain a licence for entertainment.*

**Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?**

*Definitely not. In a rural area there are currently very few events that attract 5,000 people but an event for 250 people in a village of 150 is an extremely significant event. Therefore we would urge Government to reconsider this level. It is understood that certain quarters feel that 250 is an acceptable number, but in reality this would be detrimental to community well being in small rural areas.*

**Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.**

It is our view that no limit should be set, however if Government is determined to set a figure then this should be determined locally by the Licensing Authority for indoor and outdoor events. The panel needs to be aware that rural authorities do not share the typical size of licensed premises that occur in the town or city environment. Any such limit should consider the well being of the community and should balance the need of those being affected by any given activity.

Within South Cambridgeshire there is a mix of community use premises and public houses, 130 premises that had capacity figures carried over from previous legislation into the Licensing Act 2003 these have formed the base evidence for the statistics below:

Community premises (e.g schools, village halls etc) Average capacity = 210 Highest figure = 930 lowest figure = 60

Pubs/hotels etc Average capacity = 160 Highest figure = 750 lowest figure = 45

With respect to Pubs/hotels it is worth noting that if the 4 main hotel figures were removed the figures for pubs only would read:

Average capacity = 107 Highest figure = 245 lowest figure = 45

**Q13: Do you think there should there be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question.**

*It is our view that no limit should be set, however if Government is determined to set a figure then this should be determined locally by the licensing Authority for indoor and outdoor events. The panel needs to be aware that rural authorities do not share the typical size of licensed premises that occur in the town or city environment. Any such limit should consider the well being of the community and should balance the need of those being affected by any given activity.*

**Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original**

**licensing objectives? If so please provide details of the scenario in question.**

Yes – The main area will be that of public nuisance and in particular noise related complaints either from events involving entertainment, music in particular, or people leaving or being outside premises late at night

The use of conditions by a committee after careful consideration are imposed to promote the licensing objectives, particularly that of noise related nuisance, currently allow for swift action to be taken in cases of a breach whereas the environmental health based measures referred to in the consultation document often rely on a continuous exposure that has to be measured over a period of time and therefore attracts a cost in terms of officer time and use of expensive noise monitoring equipment. Only where there is substantial disturbance would Environmental health legislation be effective, however the powers in the Licensing Act allow low-level nuisance to be considered.

One should also consider the risk from events where no controls are exerted or requirements for risk assessments are in place as to the safety of patrons, if a fire alarm goes off and there are the controls in place to automatically cut loud music off, then a significant risk to life could occur.

**Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.**

Yes. Safety issues arising from outdoor events are often different than those within a confined space. For example:- it is far easier to evacuate people from a field or large marquee if a safety risk arises rather than trying to get a number of people out from confined premises such as pubs and Village Halls. If the consultation is considering safety based upon audience size then there is an argument to say that outdoor and indoor events could have differing parameters. However a small pub with a capacity of 50 is indoors just as the NEC with a capacity in excess of 10,000 is. It would be foolish to consider them in a similar manner by just saying "indoor events". However, all premises should be required to have a mandatory risk assessment for its activities.

**Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply.**

Yes we do think they should be regulated. There should be no cut off point for entertainments each premise and activity should be judged on its individual merits. With decisions taken at a local level considering the local situation a recent play taking place in an open area created a number of complaints due to amplification of the voices and incidental music, primarily because the event went over 3hours for 4 consecutive evenings and finished by 22.00 whereas live music at the same venue for 2 hrs but finishing at Midnight has received no complaints in the past.

**Q.17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why?**

*No. Each should be treated on their own individual merits.*

**Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?**

*If Government is determined to remove all current restrictions, then there should still be*

*scope for local decisions to be made when the evidence supports the fact that disturbance is proving unacceptable after a given time, The consultation panel needs to be aware that a "district wide" policy would not work and such a policy should be flexible to account for localised variations. It may be worthwhile considering turning the emphasis around to the Licensing Authority who would have to demonstrate why a premise should not be permitted to operate after a given time or over a given period.*

**Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?**

*No – a code of practice is only as good as the weakest operator, The Licensing Act has allowed authorities to identify the poor performing licences and impose conditions to protect the public at large. The question would also be as to who enforces the code of practice?*

**Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?**

*No. The existing laws are often unwieldy and time consuming. To receive a complaint after an event makes it impossible for officers to take forward any meaningful enforcement due to the evidence being hearsay only, and the process for determining disturbance is subjective and can be affected by many natural factors, i.e wind, distance, background noise etc, what upsets one person is acceptable to another. Whereas an event going on beyond a permitted time is clear and can be actioned upon to prevent further occurrences. The various pieces of legislation mentioned within the document do not give a local authority the appropriate tools to deal with matters in a quick and efficient way, for this authority may mean a restructuring of the current Environmental health resources to take account of the lack of control envisaged but, at present is controlled via the Licensing Act 2003.*

**Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view.**

*There is little doubt that in the short term premises will extend the times that events terminate, However, given the number of licenses and flexibility of numerical limits within our district it is not expected that frequency of events will increase significantly. We currently have the following:-*

*Total number of licensed with alcohol & entertainment provision = 314*

*Total Number of premises with ONLY entertainment provisions = 102*

*Total number of premises with alcohol provision only = 88*

*Total Number of Temporary Event Notices issued for entertainment only (Jan 2010 to Dec 2010) = 37*

*Total number of Temporary Event Notices with alcohol & entertainment (Jan 2010 to Dec 2010) = 664*

**Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?**

*Yes. The consultation document states that premises where alcohol is sold can still be held accountable and have conditions added if events are held!  
We would raise the following questions:*

- *Why remove existing local conditions that have been placed on the licence for good reason and only after representations, only to be put in the position of re-imposing them at a later date, therefore incurring an expense to the Licensing Authority and an increased workload for the Environmental health dept to establish a nuisance.*
- *If a premise with an alcohol licence has entertainment but “technically” closes the pub and applies for a TEN for sale of alcohol whilst the entertainment takes place, how will this affect the licence if complaints are made and upheld?*
- *Given the current legal system, surely it will be argued by a competent Solicitor that entertainment is beyond the remit of a committee and that any disturbance from an event was not caused by alcohol but by a factor that the Licensing Committee would have no legal remit to control? If so how does Government propose to deregulate entertainment but still allow for a licence to be reviewed if entertainment is held that causes a nuisance?*
- *Government should be aware of why and how current legislation has formed, the entertainment aspect of the Licensing Act. The criminal element that effectively took over clubs and nightclubs in the late 1970`s and early 1980`s along with the total disregard for customer safety, e.g The stardust disaster in Ireland in 1981 resulting in 48 deaths The following are examples where licensing standards are recognised to be significantly below that of the UK in recent years and have resulted in fatalities:-*

*Oct 30, 1999 - Fifty-five people were killed and over 70 injured in a fire at a karaoke bar in the South Korea.*

*Oct 20, 2000 - At least 20 people were killed after they were trapped in a fire at a trendy Mexico City dance club that had been shut by authorities 11 times previously.*

*Dec 25, 2000 - A Christmas Day fire killed 309 disco revellers and construction workers at a dance hall in a commercial centre in the Chinese city of Luoyang.*

*Jan 1, 2001 - Thirteen people were killed and 180 injured in a fire in a cafe packed with teenagers celebrating the New Year in Volendam, Netherlands.*

*July 20, 2002 - A fire started by a juggler with blazing batons ripped through the Utopia disco in the Peruvian capital Lima killing 14 people.*

*Dec 1, 2002 - Fifty people were killed, mostly by smoke, when fire swept through the Goajira bar and club in Venezuelan capital Caracas.*

*Feb 17, 2003 - Twenty-one people killed in a stampede in an unlicensed nightclub in Chicago when they tried to escape pepper spray used to break up a fight and are crushed behind blocked doors.*

*Feb 20, 2003 - Fire swept through a nightclub in West Warwick, Rhode Island, during a pyrotechnics display at the start of a heavy metal concert, killing 96 people and injuring nearly 200.*

*Dec 30, 2004 - A blaze in a nightclub in Buenos Aires kills 192 people and injures nearly 1,000. Cause of the fire is thought to have been a hand held flare or firework sold for New Year's celebrations fired into the club's ceiling, which was covered with foam.*

*May 8, 2006 - Fire sweeps through a nightclub in the Thai resort of Pattaya killing at least eight and injuring 54 others.*

*Nov 27, 2006 - Nine people were killed in a pre-dawn fire that swept through a nightclub in the Dominican Republic capital Santo Domingo.*

*Nov 14, 2007 - A fire sweeps through a Chinese karaoke bar killing 11 people. The fire broke out at a bar in Chengde county in Hebei province, 230 km (140 miles) northeast of Beijing.*

*April 19, 2008 - At least 15 people died and 35 were injured when a fire ignited by fireworks swept through a crowded Quito nightclub in Ecuador.*

*Jan 1, 2009 - A blaze at a top Bangkok nightclub kills 61 people, including four foreigners.*

*More than 100 people were injured as they stampeded out of the burning building. Dec 4, 2009 - A blaze sparked by an indoor firework show rips through a crowded Russian nightclub, killing at least 102 and injuring 134 as revellers stampeded for the exits.*

*None of these premises to our knowledge have a capacity of over 5000 and therefore would be exempt from licensing should the proposals be introduced. This list indicates that without rules and controls acting in a proactive manner the reality is that there is a potential danger and we will be dealing with the aftermath and potentially with fatalities*

**Q23: Are there any public protection issues specific to the deregulation of the performance of live music that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?**

*Yes. Live music remains one of the main points of contention in the Licensing Act 2003. It is this Council's view that this should not be deregulated in any manner, The main issues surrounding Live music are that of nuisance and the right for nearby residents to peacefully enjoy their property. The panel needs to be clearly aware that outside of the "hot spot" cities and towns there are thousands of pubs with adjacent neighbours and often back gardens joined by party walls, all of which can give rise to an uneasy relationship. The current restrictions within the Act largely create a set of rules that everyone understands and can work to, but at the same time allows for both parties to ask for changes within a trusted and recognised set of procedures*

**Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.**

*No. A brass band may be as noisy as a small amplified band and therefore any controls should remain. The current exemptions for "incidental" could be widened and therefore give better clarity to existing legislation.*

**Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?**

*The consultation panel need to be aware that in many cases the deregulation of recorded and live music in particular will undermine a great deal of work that has been done at a local level involving licensing Authorities, the public and the trade. The effect on those residents affected by inconsiderate activities will be disproportionate to the perceived benefit of the individual premises causing the disturbance. When a disturbance is caused the speed and effectiveness by which the matter is resolved is how we as a council are judged, the Licensing Act gives us a tool to act quickly, proportionately and transparently to protect the well being of nearby residents. Without this the perception by residents will be that we are largely powerless to act without drawn out investigation and monitoring whilst the problem, often a low level drip feed nuisance, that may not meet the exceptionally high threshold test of other legislation persists.*

**Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?**

*This authority has received very few complaints regarding theatrical performances over the years and would consider amendments provided that such activities were unamplified or were still subject to a form of notification to the Licensing Authority who could consider the relevance of conditions, such as the need for risk assessments, subject to the merits of the notice.*

**Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?**

*Whilst no health & safety issues have occurred in recent years, the additional risk of often setting up temporary structures outside should not be ignored. Fixed premises will automatically be on the radar of bodies such as Fire, health & Safety executive etc, how will responsible authorities be made aware of temporary structures and events?*

**Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?**

*The key is not whether pyrotechnics, hazardous materials, etc. at plays can only be handled through the licensing regime. The value of the licensing regime is in a "belt and braces" approach: there is a lower probability of failure if these issues are handled both through the licensing regime and through legislation such as the Management of Health and Safety at Work Regulations 1999, the Control of Substances Hazardous to Health Regulations 2002, the Control of Explosives Regulations 1991, or the Manufacture and Storage of Explosives Regulations 2005, as appropriate.*

**Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?**

*To remove or amend the definitions of theatres from Schedule 1 would be worthy of further investigation given the general low risk nature of such events against the licensing objectives.*

**Q30: Are there any public protection issues specific to the deregulation of the performance of dance that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?**

*The performance of dance is a matter that has caused confusion for many years. This authority would appreciate a clear indication on such determinations It is our view that the music activity is the main area where controls should be kept, not whether an area is cleared to allow people to dance to the music.*

**Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?**

*None identified.*

**Q32: Do you agree with the Government's position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?**

*Yes. The BBFC system is well understood and respected. However, a regulatory check system within the Licensing Act should remain to enforce breaches of the system.*

**Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?**

*Premises should be required to sign up to the BBFC system as part of the application procedure. However, it should remain a part of the licensing enforcement function to*

*enforce regulation should breaches occur or where films are shown without agreement to adhere to the system or where films are shown without the appropriate classifications.*

**Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children's DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?**

*The Act, Guidance and Statutory instruments are clear that films shown for educational purposes are exempt. However the definition of education could be widened to permit over cautious authorities imposing non-sensical conditions on premises such as schools etc.*

**Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?**

*None identified.*

**Q36: Are there any public protection issues specific to the deregulation of the indoor sport that are not covered in chapter 3 of this consultation? If yes, please outline the specific nature of the sport and the risk involved and the extent to which other interventions can address those risks.**

*Indoor sport has raised no previous issues within our district. However by its very wording it has caused confusion to many despite Government guidance. This authority would support measures that either amended the definition, so that the weekly pool or darts leagues weren't treated differently by differing licensing authorities or the clarification on what constituted an audience and an indoor event.*

**Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?**

*None identified*

**Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as "regulated entertainment", requiring a licence from a local licensing authority, as now?**

*Yes. Boxing and Wrestling type activities have increased since the commencement of the Licensing Act, cage wrestling for example has increased, however given the nature of the events and the numbers that watch such events, the panel needs to be aware that outside of the televised- type event, these are often covered by TENS and therefore have very little control by the Licensing Authority*

**Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.**

*No*

**Q40: Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions**

*Yes. The legislation should be amended to cover all aspects of Boxing and Wrestling in any form along with Martial arts where physical combat takes place. Most "Cage fight" type events in our area operate under TENS to ensure that they do not fall foul of any legislation. Whilst not a common activity, there is a clear view that this type of event is gaining in popularity and the recent case in the North West where two 8yr olds were fighting, should give rise to serious concern.*

**Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.**

*No. There are considerable risks in deregulating performances of recorded music to audiences of fewer than 5000 people. Performances of recorded music of excessive volume, to audiences of, say, a couple of hundred people, cause great distress and anger in our communities, as evidenced by the fact that, in my experience as a Councillor, they are the single most frequent cause of telephone complaints to councillors and to the Environmental Health emergency line. How are we to explain to angry residents that Whitehall-imposed deregulation has denied their elected local authority the power, for example, to insist on volume limiters as a licence condition?*

*The disturbance from events including recorded music, i.e a "disco" type event can be as disturbing to residents as a live music event. We frequently receive complaints about all types of licensed premises holding such events, The concept that Village halls or community centres are likely to be better controlled is an assumption that we would challenge. Many halls are hired out to persons unknown and very few, if any, checks are made during the events by the licence holders. The process of the licensing act in allowing interested parties to raise concerns before permissions are granted allows for appropriate and necessary conditions to be attached to a licence that will in most cases give a degree of assurance to residents whilst allowing the licensed premises to flourish.*

**Q42: If you feel that a different audience limit should apply, please state the limit that you think suitable and the reasons why this limit is the right one.**

*It is the view of this authority that no numerical limit should apply; all events should be licensed. We would refer the panel to our response in Q.12*

**Q43: Are there circumstances where you think recorded music should continue to require a licence? If so, please could you give specific details and the harm that could be caused by removing the requirement?**

*Recorded music remains one of the main points of contention in the Licensing Act 2003. It is this Council's view that this should not be deregulated in any manner, The main issues surrounding recorded music are that of nuisance and the right for nearby residents to peacefully enjoy their immediate environment. The panel needs to be clearly aware that outside of the "hot spot" cities and towns there are thousands of pubs and community premises with adjacent neighbours and often back gardens are joined by party walls, all of which can give rise to an uneasy relationship. The current restrictions within the Act largely create a set of rules that everyone understands and can work to, but at the same time allows for both parties to ask for changes within a trusted and recognized set of procedures.*

**Q44: Any there any other benefits or problems associated specifically with the proposal to deregulate recorded music?**

We see no benefit to the proposal to deregulate recorded music and would refer the panel to the answers given at Q.25

**Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.**

*None identified. This authority has no incidents recorded against this activity, however, any such premises used for providing such facilities needs to be subject to a form of governance to ensure they are fit to be used for the activities proposed.*

**Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?**

*The interpretations and areas of confusion are largely laid out in the consultation document at Para 1.5. This authority would prefer the existing restrictions to remain but would support any moves to amend legislation to remove the ambiguities outlined. However, it is unclear to this authority exactly why some of the activities mentioned have been raised as the act is clear on many of the areas highlighted. It would be far better to ensure that those people who are charged with regulating the activities are fit and proper to do so. A recognized qualification for a licensing practitioner should be mandatory as a way to ensure national consistency, which in turn will reduce the bureaucratic burden on business.*

**Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?**

*We would refer the panel to the problems and issues raised throughout the response document submitted.*

**Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.**

Yes.

In conclusion, the Licensing Committee **AGREED** to respond to Option 3 contained within the accompanying Impact Assessment and to submit a reply to the questions posed in the Department for Culture, Media and Sport (DCMS) consultation on the Licensing Act 2003, Regulation Entertainment as stated above.

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**The Meeting ended at 2.00 p.m.**

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Licensing Committee / Environmental  
Services Portfolio Holder

5 July 2012

**AUTHOR/S:** Director – Health & Environmental Services

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**REVISION TO POLICY STATEMENT OF GAMBLING ACT 2005****Purpose**

1. To seek approval for the revised Gambling Act Policy statement for consultation in line with the requirements of the Gambling Act 2005.
2. This is not a key decision.

**Recommendation**

3. It is recommended that The Licensing Act 2003 Committee recommends to the Environmental Services Portfolio Holder that the Gambling Act 2005 statement of Policy, as attached as an **Appendix**, be approved for consultation and subsequent ratification and adoption by Council.

**Reasons for Recommendations**

4. No major reforms to current legislation have taken place.
5. Legislation requires that the Statement of Policy is considered and amended where necessary every three years. It is intended that the consultation period for the updated Statement of Policy will take place between 17 July 2012 and 28 September 2012 for publication on the anniversary date of 31 January 2013.

**Background**

6. The Gambling Act 2005 received Royal Assent on the 7 April 2005 introducing a unified regulator for gambling in Great Britain, the Gambling Commission, and a new licensing regime for commercial gambling, which is conducted by the Commission or by the Licensing Authority, depending on the matter to be licensed
7. In May 2009 the Gambling Commission published the 3rd edition of its formal guidance to Licensing Authorities in order that existing Policy could be updated in accordance with the requirements laid down in the Gambling Act 2005 including the consultation requirements.
8. A statement of Gambling Act Licensing Policy is a requirement of the Gambling Act 2005 and without a policy the Council may be subject to Judicial Review for failing in its responsibility to carry out a statutory duty. In preparing the draft Gambling Act Licensing Policy, Officers have given full regard to both the requirements of the Act itself and the guidelines issued by, the Gambling Commission and where appropriate relevant Council strategies such as Crime and Disorder.

9. Central Government has stated that the revised Licensing Policy must be published by 31 January 2013. Failure to do so may lead to a judicial review for failure to comply with statutory legislation.
10. Consultation will take place between 17 July 2012 and 28 September 2012 and will be available for viewing on the Council website, at public libraries, and at the Council's reception. In addition officers will notify other interested parties as detailed in paragraph 12 below.
11. The Policy recommended for consultation contains no changes from the current policy in force since 2009.

### **Considerations**

12. The Act states that the Licensing Authority must carry out a consultation process. The Council is required to consult with the following:
  - The Chief Officer of Police for Cambridgeshire
  - Persons who appear to the Authority to represent the interest of persons carrying on Gambling businesses in the Authorities area: and
  - Persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's function under this Act.
13. The Act is deliberately wide and therefore the consultation document will be forwarded to all relevant businesses with an interest, i.e. William Hill, Ladbrokes etc. The Council will also consult with Parish Councils as persons who represent the interest of persons likely to be affected by the Gambling Act Policy Statement. In addition the council will also consult with Gamcare a national body primarily dealing with the victims of Gambling, including gambling addicts and those persons affected by people with gambling problems and others listed in the policy document.
14. As a Licensing Authority, the Council is required to follow a clearly defined procedure before issuing any policy. This includes publishing a notice of its intention to public a formal notice in a local newspaper and on the Council's website.
15. After the consultation period, appropriate weight will be given to any views submitted by the respondents and a finalised revised copy of the Gambling Act Licensing Policy will be drawn up for final consideration and approval.
16. The approved policy will form the basis of any decision taken in respect of applications or enforcement under the Gambling Act 2005 by Officers or any Committee or sub-committee involved in licensing decisions.
17. The Policy is a document that continually develops to reflect the changing nature of the gambling industry, Government initiatives and the needs of local businesses and residents alike. The policy will remain in force for three years but may be reviewed at any time before this if required.

### **Options**

18. Members may after consideration opt for one of the following options:
19. To recommend the Policy as shown in the attached appendix to be approved for consultation with interested parties and stakeholders.

20. To make further amendments prior to approval for consultation.

**Implications**

21. Financial	Consultation costs within existing budgets
Legal	As stated in the report.
Staffing	There are no staffing implications arising for this report.
Risk Management	A statement of Gambling Act Licensing Policy is a requirement of the Gambling Act 2005 and without a policy the Council may be subject to Judicial Review for failing in its responsibility to carry out a statutory duty.
Equality and Diversity	Consultation will take place with relevant groups as outlined in the Act
Equality Impact Assessment completed	yes Assessment was neutral impact
Climate Change	N/A

**Consultations**

22. Consultation will take place with the following:-
1. The Chief Officer of Police for Cambridgeshire
  2. Persons who appear to the Authority to represent the interest of persons carrying on Gambling businesses in the Authorities area: and
  3. Persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority’s function under this Act.

**Consultation with Children and Young People**

23. The Policy applies only to premises and activities restricted to over 18’s.

**Effect on Strategic Aims**

24. The policy clearly states the objectives of the relevant Act and seeks to promote the protection of vulnerable adults and children. Gamcare and Cambridgeshire Constabulary will be sent a copy of the draft policy for consideration.
25. The policy clearly states the objectives of the relevant Act and seeks to promote the protection of vulnerable adults and children. Gamcare and Cambridgeshire Constabulary will be sent a copy of the draft policy for consideration.
26. All applications will be considered on their individual merits and consideration will be given to any relevant Government guidance issued in respect of the Gambling Act 2005. Any relevant representations made against applications will be heard by a Sub-committee of the Licensing Committee.

**Conclusions / Summary**

27. The introduction of the Gambling Act 2005 devolved more responsibilities to Local Authorities. This responsibility is taken seriously and the development of a policy is an important matter. The consultation responses will show whether the draft policy is written in a clear manner or requires amendments. The procedure for adopting a policy is following the legislative requirements. Any policy will be adopted for a period of three years, subject to any legislative changes, whereupon it will be reviewed again

to take into account any changes either legislatively or within the district, however it may be reviewed at any time if circumstances change and it is felt that a review is appropriate.

**Background Papers:** the following background papers were used in the preparation of this report:

Guidance issued under the Gambling Act 2005 by the Gambling Commission May 2009 3rd Edition.

**Contact Officer:** Myles Bebbington - Licensing Officer  
Telephone: (01954) 713132

## Appendix

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL****GAMBLING ACT 2005  
DRAFT GAMBLING POLICY**

3 YEARLY REVIEW

**REVISED POLICY  
Gambling Act 2005****Contents**

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Explanatory Note - The Gambling Act 2005 came into force from 1 September 2007. With the exception of the National Lottery and Spread betting, the Gambling Commission regulates gambling and betting. Local Authorities have a duty under the Act to licence premises where gambling takes place and to licence certain other activities such as small lotteries and gaming machines.

## Appendix

### Summary of Some Terms Under the Gambling Act 2005

The following page is not part of the consultation process, as the definitions are defined Nationally, but they are included in the Gambling Act Licensing Policy to assist the reader.

**Casinos** are defined by the Act to mean a game of chance, which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.

**Bingo** has no statutory definition. It is to have its ordinary and natural meaning. Under the previous legislation, two types of bingo could be offered:

- Cash bingo, where the stakes paid make up the cash prizes that were won; or
- Prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

Under the 2005 Act, the distinction between these two versions of the game has been abolished for commercial operators, and the holder of a bingo operating licence is able to offer any type of bingo game, whether cash or prize. That means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), are able to offer bingo in all its forms.

Apart from commercial bingo halls, prize bingo is traditionally a game played in arcades, especially seaside amusement arcades, or travelling funfairs. For these operators, prize bingo is now subsumed within the allowances for prize gaming in the Act. This means that adult gaming centres, both licensed and unlicensed family entertainment centres, and travelling fairs (or any premises with a prize gaming permit) are able to offer prize gaming, which includes prize bingo.

In this form of gaming, the nature of the prize must not be determined by reference to the number of people playing the game, and the nature or size of the prize must not be determined by reference to the amount paid for or raised by the gaming.

**Gaming Machine** is defined as a machine, which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).

Most gaming machines are of the reel-based type, also known as fruit, slot or jackpot machines. According to the last major prevalence study, fourteen percent of people said they had played fruit machines in the past year.

**Appendix**

Under the Gambling Act 2005, gaming machines fall into categories depending on limits on the stake laid down and prizes available:

<b>Machine category</b>	<b>Maximum stake</b>	<b>Maximum prize</b>
<b>A</b>	Unlimited	Unlimited
<b>B1</b>	£2	£4,000
<b>B2</b>	£100 (in multiples of £10)	£500
<b>B3</b>	£1	£500
<b>B3A</b>	£1	£500
<b>B4</b>	£1	£250
<b>C</b>	50p	£35
<b>D*</b>	10p/30p*	£5/£8*

**Family Entertainment Centres (FEC)** are premises, which are wholly or mainly used for making gaming machines available for use (such as small arcades in holiday parks, theme parks and seaside resorts) may hold a FEC Gaming Machine Permit. A permit allows any number of Category D machines, these are the lowest category of gaming machines available, and the only type that children and young people are allowed to play.



## Appendix

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

The Gambling Act requires that the following parties be consulted by licensing authorities:

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

List of persons this authority will consult with:

- Gambling Commission
- Cambridgeshire police service
- Social Services
- Gamcare and local community organisations that are known to SCDC as working with gamblers
- Parish Councils
- Faith and belief Groups
- Citizens' advice bureau
- Primary Care Trust
- Trade associations including; Ladbrookes, William Hills, Coral, Gala, Independent bookmakers within SCDC area and other trade representatives as may become apparent in due course.

This consultation commenced on 17 July 2009 and will end on 9 October 2009. The HM Government Code of Practice on Consultation (published July 2008) was followed during this process. The code is available at:

<http://www.berr.gov.uk/files/file47158.pdf>

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

Myles Bebbington  
Licensing Officer, South Cambridgeshire District Council, Cambourne Business Park, Cambourne, Cambridgeshire, CB23 6EA.

[licensing@scambs.gov.uk](mailto:licensing@scambs.gov.uk)

It should be noted that this policy will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## Appendix

### 3. Declaration

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

### 4. Responsible Authorities

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

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

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

- Licensing Authority
- The Gambling Commission
- The Chief of Police for Cambridgeshire
- The Cambridgeshire Fire and Rescue Authority
- South Cambridgeshire Planning Authority
- South Cambridgeshire Health and Environmental Services
- County Council Children's Services (Safeguarding and Standards Unit)
- HM Revenue and Customs
- Any other person prescribed in regulations to be prescribed by the Secretary of State.

### 5. Interested parties

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

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

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

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

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that *"has business interests"* should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

## Appendix

Section 158 of the Act defines interested parties. To accept a representation from an interested party, the licensing authority must take the view that the person:

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- (b) has business interest that might be affected by the authorised activities
- (c) represents persons in either of these two groups.

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing section at South Cambridgeshire District Council, Cambourne Business Park, Cambourne, Cambridgeshire CB23 6EA.

The following gives further advice on how licensing authorities determine whether someone is an interested party.

**People living close to the premises** Licensing Authorities may take into account the following when determining what "*sufficiently close to the premises*" means (in each case);

- Size of premises
- Nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- The nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "*sufficiently close to be likely to be affected*" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.

### **Nature and scope of business interests that could be affected**

It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being "*a person with business interests that might be affected by the premises under consideration.*" For example, an operator in a particular sector (be it casino, bingo, betting, etc) should not be able to lodge representations on every application put by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. The

## Appendix

licensing authority should be satisfied that the relevant business is likely to be affected. In this respect, licensing authorities may bear in mind that the 'demand test' from the 1963 and 1968 Acts is not continued in the 2005 Act.

Factors that are likely to be relevant include:

- The size of the premises
- The 'catchments' area of the premises (that is, how far people travel to visit the premises)
- Whether the person making the representation has business interest in that catchment area that might be affected.

### People representing those in the above categories

Examples of people that may fall within the categories above include:

- Democratically elected representatives such as local councillors and MPs
- Bodies such as trade associations
- trade unions
- residents' and tenants associations

Circumstances may arise where the authority needs to satisfy itself in a case by case basis and possibly request written evidence that a person does represent interested parties. For example, a school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

Licensing authorities may have regard to anything an interested party says about their status to make representations.

### 6. Exchange of Information

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

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available at [www.scamb.gov.uk](http://www.scamb.gov.uk).

### 7. Enforcement

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

## Appendix

This licensing authority will operate to the Health and Environmental Services enforcement policy, which is considered consistent within the Gambling Commission guidance and the Regulators Compliance Code.

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will adopt and implement a risk-based inspection programme, based on;

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

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions, which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement schedule is available upon request to the licensing department at South Cambridgeshire District Council, South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA or via our website [www.scambs.gov.uk](http://www.scambs.gov.uk). At present there is no schedule on risk -based inspections in relation to gambling premise. If such a policy is developed this will be made available on [www.scambs.gov.uk](http://www.scambs.gov.uk).

### 8. Licensing authority functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds

**Appendix**

- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on ‘information exchange’)
- Maintain registers of the permits and licences that are issued under these functions and make available such registers at any reasonable time to the public who may request copies of the entries. The Authority is entitled to make a charge for copies.

**Hearings**

In dealing with applications members of the Licensing Committee will act in accordance with South Cambridgeshire District councils constitution but in particular in making decisions on applications, Members of the Committee will;

- Act fairly and openly approach each application with an open mind
- Carefully weigh up all the material considerations
- Avoid undue contact with interested parties
- Ensure that reasons for decisions are clearly stated.

All hearings in respect of the Gambling Act 2005 will be heard by Licensing Act 2003 Committee or a sub-committee, where there is a conflict of interest by a member/s, if the interest is prejudicial then this Authority will follow the guidelines laid out in the Procedural Guidance for members and officers in Planning and Licensing – supplemental to the Code of Conduct Guidance adopted by the Council on 25<sup>th</sup> April 2002, Section 51 of the Local Government Act 2000.

It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

**9. Delegation Table**

Matter to be dealt with	Full Council	Licensing Committee or Licensing Sub-Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		Portfolio Holder	
Application for premises licence		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	Where no representations received/representations

**Appendix**

		withdrawn	have been withdrawn
Application for a transfer of licence		Where representations have been received from the Commission or a Responsible Authority	Where no representations received from the Commission or a Responsible Authority
Application for a provision statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of Premises Licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

**PART B****PREMISES LICENCES: CONSIDERATION OF APPLICATIONS****1. General Principles**

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

**(i) Decision-making**

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

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's Gambling Act 2005 policy

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It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "*moral objections to gambling are not a valid reason to reject applications for premises licences*" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority.

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

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "*In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.*"

This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

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

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?

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- Can the premises only be accessed from any other gambling premises?

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

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

Government Guidance para 7.25:

### Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### Adult Gaming Centre

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

### Betting Shops

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### Tracks

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

### Bingo Premises

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

### Family Entertainment Centre

- No customer must be able to access the premises directly from:

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- a casino
- an adult gaming centre
- a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

### **(iii) Premises "ready for gambling"**

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

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

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

This Authority has identified no such areas.

### **(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

7.59 – *"In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to*

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*gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal."*

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

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

**(vi) Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions, which cannot be met by licensees due to planning restrictions, should such a situation arise.

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

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

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

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**Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 19.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “*vulnerable persons*” it is noted that the Gambling Commission does not seek to offer a definition but states that “*it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.*” This licensing authority will consider this licensing objective on a case-by-case basis.

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

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

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

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

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than

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through a designated entrance;

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

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

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

It is noted that there are conditions, which the licensing authority cannot attach to premises licences, which are:

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

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

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be Security Industry Authority (SIA) licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## 2. Adult Gaming Centres

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

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

- Proof of age schemes
- CCTV

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

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

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

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

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

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

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

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

### **4. Casinos**

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

### **5. Bingo premises**

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

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

This authority also notes the Guidance at paragraph 18.5 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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

## 6. Betting premises

This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the betting machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## 7. Tracks

The Act does not give a list of premises that are officially recognised as "tracks" but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include

- A horse racecourse
- A greyhound track
- A point to point horserace meeting
- Football, cricket and rugby grounds
- An athletics stadium
- A golf course
- Venues hosting darts, bowls or snooker tournaments
- A premises staging boxing matches
- A section of river hosting a fishing competition
- A motor racing event.

This list is by no means exhaustive as in theory, betting could take place at any venue where a sporting or competitive event is occurring.

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

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

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

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

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

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

*Betting machines* - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

### Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.29).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases

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betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

(See Guidance to Licensing Authorities, para 20.32).

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “*five times rule*” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.33).

### 8. Travelling Fairs

South Cambridgeshire District Council is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

### 9. Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

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

- (a) expects to be constructed;
- (b) expects to be altered; or
- (c) expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is

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made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

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

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

### 10. Reviews:

Interested parties or responsible authorities can make requests for a review of a premises licence; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's Gambling Act 2005 policy

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

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason, which it thinks is appropriate.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, which will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

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- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

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

Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

## PART C

### Permits / Temporary & Occasional Use Notice

#### 1. Unlicensed Family Entertainment Centre gaming machine permits (Policy on Permits - Schedule 10 paragraph 7)

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

The Gambling Act 2005 states that a licensing authority may prepare a policy that they propose to consider in determining the suitability of an applicant for a permit and in preparing this policy, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "*In their three year licensing policy, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues.*" (24.6)

Guidance also states: "*...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has*

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*been consulted on the application. Licensing authorities might wish to consider asking applications to demonstrate:*

- *a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;*
- *that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and*
- *that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)*

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

This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**

### **Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

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

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

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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*"

This licensing authority considers that "*such matters*" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be

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sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

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

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### 3. Prize Gaming Permits

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Gambling Act Policy, which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm.

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

It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

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

### 4. Club Gaming and Club Machines Permits

## Appendix

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

Gambling Commission Guidance states: *"Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."*

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

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

There is also a 'fast-track' procedure available under the Act for premises, which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: *"Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced."* and *"The grounds on which an application under the process may be refused are:*

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;*
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming;*  
*or*
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."*

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

## 5. Temporary Use Notices

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

## Appendix

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

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

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "*premises*" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "*premises*", the definition of "*a set of premises*" will be a question of fact in the particular circumstances of each notice that is given. In the Act "*premises*" is defined as including "*any place*".

In considering whether a place falls within the definition of "*a set of premises*", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

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

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

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

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Licensing Committee . Environmental  
Services Portfolio Holder

5 July 2012

**AUTHOR/S:** Director – Health and Environmental Services

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**LAW COMMISSION TAXI REFORM CONSULTATION****Purpose**

1. To prepare a response in respect of the law Commission consultation on Taxi and Private Hire legislative reform.
2. This is not a key decision because at this stage this is a response to a consultation document.

**Recommendations**

3. That The Licensing committee recommend to the Environmental Services Portfolio Holder that the consultation response be approved and submitted to the Law Commission as the formal response by South Cambridgeshire District Council.

**Reasons for Recommendations**

4. This response will form part of a national consultation to consider redrafting current legislation covering all licensing matters in respect of drivers, vehicle and operators licensed under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 part II

**Background**

5. The Law Commission is independent of the Government, it reviews the law, and makes provisional proposals for reform.
6. In July 2011 the Law Commission agreed to undertake a law reform project on the law of taxis and private hire vehicles. The project was proposed by the Department for Transport.
7. In England and Wales, both taxis and private hire vehicles must be licensed. There is a fundamental legal distinction between taxi and private hire services. Taxis, referred to as “hackney carriages” in much of the legislation, can be hailed on the street or work at a rank for immediate hire. Only taxis can do this, which is referred to in law as “plying for hire”. Alternatively, taxis can be booked in advance either directly with the driver or through a third party without the need for an additional licence. By contrast private hire vehicles cannot “ply for hire” and can only be booked in advance. Private hire drivers cannot take bookings directly and can only take passengers that have booked through a licensed operator. A person engaging in any of these activities without the correct licence is committing a criminal offence.
8. The consultation document proposes the following key changes

- National minimum safety standards for both taxis and private hire vehicles.
  - Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
  - It would be easier for private hire services to operate on a national basis. We suggest private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Subcontracting would be allowed, as is already the case in London.
  - London would be regulated under the same flexible framework as the rest of England and Wales.
  - Licensing authorities could no longer limit the number of taxi licences.
  - More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
  - Disability awareness training for drivers.
  - Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
  - Weddings and funeral cars would no longer be exempted through primary legislation.
  - Allowing leisure use of taxis and private hire vehicles.
  - Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State
  - Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
  - Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.
9. South Cambridgeshire has by the rural nature of the district developed in a slightly different way to most Local Authorities in that we have very few hackney Carriages and a significant number of Private Hire, the current statistics are ;-
- Private Hire drivers – 818
  - Private Hire vehicles – 667
  - Private Hire operating companies – 138
  - Hackney Carriage drivers – 12
  - Hackney Carriage vehicles - 10
10. In addition to the numbers above, South Cambridgeshire District Council currently has no official taxi ranks in South Cambridgeshire.
11. Due to the small numbers of Hackney Carriages in South Cambridgeshire, certain questions within the consultation are not relevant to this authority, questions such as Zoning, quantity restrictions.
12. The consultation deadline is the 10<sup>th</sup> September 2012, it is anticipated that the findings from this nationwide consultation will be fundamental in drafting new legislation which, subject to Government approval, will be tabled during 2014/15.
13. In addition to the response submitted by South Cambridgeshire District Council ( APPENDIX A), Mr Bebbington has also been invited to sit on a select working group instigated by the law Commission and involving approximately 15 persons

representing views of the trade, legal profession, Local Authorities and user groups. This group meets with the Commission to act as a steering group.

**Considerations**

- 14. To consider submitting a response for consideration by the Law Commission when developing future legislation

**Options**

- 15. Members may either submit a response or decline to do so, it is not compulsory to formulate a response.

**Implications**

- 16. There are no immediate implications arising from any consultation response submitted by the authority, however any response submitted will be considered in the future development of any new taxi/private hire legislation.

17.	Financial	There are no financial implications arising from this report
	Legal	There are no legal implications arising from this report
	Staffing	There are no staffing implications arising from this report
	Risk Management	N/A
	Equality and Diversity	N/A
	Equality Impact Assessment completed	NO – This is a consultation response only and does not affect any existing policy
	Climate Change	N/A

**Consultations**

- 18. South Cambridgeshire District Council are the consultees in this particular instance

**Consultation with Children and Young People**

- 19. Not applicable

**Effect on Strategic Aims**

- 20. Any response to the consultation will have no effect on the strategic aims of South Cambridgeshire District Council

**Conclusions / Summary**

- 21. The law Commission has embarked on a national consultation with a wide range of people including, the Public, trade, regulators and any persons or business who may have contact with the Taxi trade in general.
- 22. The purpose is to seek views on how to reform current legislation that in some cases dates back to the 1840's and is widely recognised as not fit for purpose in today's modern society.

23. It is envisaged that following this consultation process the Law Commission will draft new legislation with a view to it being introduced by 2015.

**Background Papers:** the following background papers were used in the preparation of this report:

Reforming the law of Taxi and private hire services – Law Commission

**Contact Officer:** Myles Bebbington – Licensing Officer  
Telephone: (01954) 713132

# LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

## CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

### Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept prebooked

fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

*This authority would consider itself to be biased in respect of this question as over 95% of its licensed vehicles are Private Hire only. However we would question the need for a 2 tier system which restricts the operation of a certain group and would ask the commission to consider “what the customer wants”, which, we would respectfully suggest is the ability to book or hail a safe vehicle at an affordable cost. Surely it should be the discretion of the person running his or her business to decide whether they concentrate on one style of work or another or indeed both.*

## CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

### Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

*It would be unfair of this authority to dictate what another area such as London should do, however we would expect that the Commission should see a clear evidenced base argument indicating why or why not they should be treated differently from the rest of the UK*

### Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

*provided that Public safety continues to be the overriding consideration for licensing any vehicle then particular types should not be excluded, each vehicle should be considered on its individual merits*

### Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

*We assume this refers to “pedicab” type vehicles, again we would ask that each type of vehicle is considered on its own merits and possibly the nature of the area that it intends to operate*

### Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

*Agreed*

**Provisional proposal 6**

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

*Many companies would like the opportunity to better utilise their vehicles, particularly where 7 or 8 seat MPV's are concerned. We see no reason why separate customers should not share a vehicle at separate fares provided that all parties are in agreement prior to the commencement of the journey.*

**Provisional proposal 7**

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

*Agreed, in addition the Commission may also seek to set a standard for Stretch Limos carrying less than 9 passengers that can apply to all Local Authorities to promote consistency*

**Provisional proposal 8**

The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

*FOR SPECIFIC DEBATE WITH LC should volunteers still be registered in some capacity i.e crb & medical ??*

**Question 9**

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? (Page 170)

*Provided such schemes are run as a club where all members agree to the terms and conditions then the issue of safety is taken on by the members, however guidance by the secretary of state on how such schemes can be run legally would be beneficial, this could be done in a similar manner to the matters that the Gambling issues guidance on. The law Commission may wish to look at some form of registration with a Local Authority so that they can be audited for compliance*

**Provisional proposal 10**

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

*Agreed*

**Provisional proposal 11**

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

*Why ? what evidence is there to indicate that the public are at specific risk? The area for clarification is to what extent should "used in relation to a wedding" be stretched. Does taking everyone to the airport 2 days after a wedding count as exempt??*

**Question 12**

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

*(Page 174)*

*We do not believe that reintroduction of the contract exemption would be a positive step, it would re introduce a degree of confusion that could be exploited by less scrupulous businesses.*

**Provisional proposal 13**

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". *(Page 175}*

*If a provision for hire is undertaken, where it is undertaken should not be relevant, it is the act of making a booking that should dictate what licenses are required.*

**Question 14**

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

*This authority has no airports so do not offer an answer, other than to ask the commission to consider what the customer would want and balance this against the public safety requirement*

**Provisional proposal 15**

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

*Agreed, plying for hire, ranking and hailing should be given its simplest and commonly understood interpretation.*

**Provisional proposal 16**

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

*Agreed, it will be self-limiting to dictate the terms these terms as technology moves fast and any such clarification will be out of date quickly.*

**Question 17**

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"?

*(Page 182)*

*The trade, regulators and courts have an understanding of what is "plying for hire" it would seem illogical to change this unless clear evidence can be shown that the Scottish definition works better, particularly in cases where enforcement issues are raised.*

**Provisional proposal 18**

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

*Agreed, if hackneys have the permission to refuse fares they will effectively pick and choose jobs at busier periods*

**Provisional proposal 19**

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

*agreed – if the commission believes that a 2 tier system should remain.*

**Provisional proposal 20**

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

*Agreed*

**Provisional proposal 21**

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)

*Agreed and encouraged*

**Provisional proposal 22**

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

*Agreed, the term Hackney Carriage is out of date*

**Question 23**

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “prebooked” and did not otherwise lead to customer confusion? (Page 186)

*The term “taxi” has a preconceived vision for most people, however a “cab” is often used in a more generic term LC TO DISCUSS*

**CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK****Provisional proposal 24**

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

*Agreed*

**Provisional proposal 25**

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

*This authority generally agrees, however the minimum standard should not be set so low as to have no real effect.*

**Provisional proposal 26**

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

*Agreed*

**Provisional proposal 27**

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

*Why? The public rarely differentiate between the two and should be entitled to the same standards whichever service they choose to use*

**Question 28**

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

*There should be a national set standard ( see answer to Q25)*

**Question 29**

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

*The inflexibility of the trade. This question will have different obstacles depending on where the standard is set, however provided the overriding objective of public safety is upheld then everyone should follow, possibly with a transition period.*

**Question 30**

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

*Why ?? The public deserve safe and competent drivers whatever vehicle they choose to utilise.*

**Provisional proposal 31**

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

*This authority would be willing to consider any options that create consistency on a national basis so would prefer to see more detailed proposals on this matter before giving a definitive view*

**Provisional proposal 32**

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

*Agreed*

**Question 33**

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

*A cross party group of trade/regulators/users and technical persons should be consulted with.*

**Provisional proposal 34**

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

*provided the “national minimum” is high enough, this should not be needed. Unfortunately local authorities are scattered with conditions imposed on spurious grounds to further a particular agenda, using safety as an excuse.*

**Question 35**

Should there be statutory limits to licensing authorities’ ability to set local taxi standards? (Page 194)

Yes

**Question 36**

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

*yes provided they are reasonable and proportionate*

**Question 37**

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

*Authorities should have clear statutory backing to cooperate but the workings should be left to local arrangements.*

**Provisional proposal 38**

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

*Agreed*

**Provisional proposal 39**

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

*Agreed – but not relevant to South Cambridgeshire*

**Question 40**

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

*We would question the merit of this as it will inevitably lead to more enforcement issues and misuse by the trade*

**Provisional proposal 41**

Private hire operators should no longer be restricted to accepting or inviting

bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

*In principle this is logical, it seems absurd that a driver in one authority needs to duplicate the process, i.e CRb, Medical, DVLA checks etc to obtain a badge to work in a neighbouring authority. If a national standard for drivers/vehicles is met then they should be permitted to work anywhere, possible a nominal registration fee and acceptance of an authorities general conditions should be completed that then permits that authority to enforce there conditions if required, even though a driver or vehicle is not registered with them.*

#### **Provisional proposal 42**

We do not propose to introduce a “return to area” requirement in respect of outof-area drop offs. (Page 199)

*Agreed, this would cause confusion and apart from anything else significantly increase the trades carbon footprint.*

#### **Provisional proposal 43**

Licensing authorities should retain the ability to regulate maximum taxi fares.  
Licensing authorities should not have the power to regulate private hire fares.

*This authority would ask the commission to consider a band of fares to be set nationally, that authorities can work to given the local differences. However we do feel that any fares set should be a maximum.*

*We can present no evidence that by not regulating private hire fares this has caused problems. However again we ask the commission to consider “what would the customer want ?*

#### **Question 44**

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

*NO, The public need to have a fixed point to refer to, and in most cases this is the metered fare*

### **CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**

#### **Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

*Given the ever changing fields of law and case law and the public perception over time of what is considered appropriate. i.e quite possibly 25 yrs ago an applicant with a drink drive conviction may have been treated differently than today, We would question whether primary legislation is the right direction to go as it can take considerable time to update and reflect the changing views within society and the courts.*

**Provisional proposal 46**

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

*Agreed, it is outdated and easy for owners to get around this requirement, it creates unnecessary burdens for local authorities*

**Question 47**

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)

*For similar reasons to those outlined in Q47 we would prefer it to be within SoS powers.*

**Provisional proposal 48**

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

*Agreed, It is essential that a licensing authority works closely with operators, particularly in respect of complaints.*

**Question 49**

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

*Any business that is involved in taking bookings or fulfilling bookings in any way should be regulated.*

**Provisional proposal 50**

The definition of operators should not be extended in order to include intermediaries. (Page 209)

*No – The operator should be clearly defined, The company that takes the booking from the customer should be the responsible party.*

**Question 51**

Should “fit and proper” criteria in respect of operators be retained? (Page 210)

*This is a good idea on paper but in practice, unless, the definition of fit and proper is applied to any person, then it is easy to use a front person to be the licensee.*

**Provisional proposal 52**

Operators should be expressly permitted to sub-contract services. (Page 210)

*Provided it is clear where the responsibility for completion of the contract lies*

**Question 53**

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

*Yes – and an operators licence should be in place*

**CHAPTER 17 – REFORMING QUANTITY CONTROLS**

**Provisional proposal 54**

Licensing authorities should no longer have the power to restrict taxi numbers.

**Agreed****Question 55**

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

*The trade would be subject to Market forces in the same way as any other business.*

**Question 56**

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

*Yes this would seem reasonable, plates often change hands for figures in excess of £40,000 therefore any change should take into account this potential loss.*

**CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY****Question 57**

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

*Taxis and private hire were excluded from the Transport Act 1980 which placed various duties on business in respect of disability issues, this is an area that can be looked at again as it is far wider than what provisions authorities or individuals should adopt.*

**Question 58**

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

*yes, but how would this be subsidised, if at all.*

**Question 59**

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

*If a 2 tier system is to be retained, all vehicles working from a rank must be wheelchair accessible*

**Provisional proposal 60**

We do not propose to introduce national quotas of wheelchair accessible vehicles.

*This is reasonable as each area has different requirements*

**Provisional proposal 61**

National standards for drivers of both taxis and private hire vehicles should

include recognised disability awareness training.

*Agreed*

**Provisional proposal 62**

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

*Agreed*

**Question 63**

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

*Failure to stop should be an offence, test purchases should be undertaken by authorities*

**CHAPTER 19 – REFORMING ENFORCEMENT**

**Question 64**

Should authorised licensing officers have the power to stop licensed vehicles?

Yes

**Question 65**

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

*The level of fine should be raised as a deterrent, touting for hire often invalidates insurance which currently carries a 6 point fine by DVLA, this should be a disqualification offence for professional drivers.*

**Question 66**

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

*yes but only with authorisation of a senior officer or Police officer*

**Question 67**

Should licensing authorities make greater use of fixed penalty schemes and if so how?

*Yes- smaller offences such as not displaying badges, or, not meeting licensing conditions should carry a fixed penalty*

**Provisional proposal 68**

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

*Yes – if a national set of standards are introduced then this will become a practical possibility*

**Question 69**

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?

*yes, however a scheme similar to that of "primary Authority" as adopted in food regulation may be appropriate – See BDRO for further details*

**CHAPTER 20 – REFORM OF HEARINGS AND APPEALS**

**Provisional proposal 70**

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

*Agreed – but isn't this the case now??*

**Provisional proposal 71**

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.

*Agreed*

**Provisional proposal 72**

Appeals should continue to be heard in the magistrates' court.

*Agreed – as an alternative to a Local Authority panel*

**Question 73**

Should there be an onward right of appeal to the Crown Court?

*yes*

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