

# NON-CONFIDENTIAL



**Borough of Tamworth**

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## LICENSING COMMITTEE

17 July 2024

Dear Councillor

A meeting of the Licensing Committee will be held in **Town Hall, Market Street, Tamworth on Thursday, 25th July, 2024 at 6.00 pm**. Members of the Committee are requested to attend.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. C. V.'.

**Chief Executive**

### A G E N D A

### NON CONFIDENTIAL

- 1 Apologies for Absence**
- 2 Minutes of the Previous Meeting (Pages 3 - 4)**
- 3 Appointment of a Vice-Chair**
- 4 Declarations of Interest**

*To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.*

*When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.*

**5 Taxi & Private Hire Licensing Policy Review (To Follow)**

*(Report of the Assistant Director, Growth & Regeneration)*

**6 GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES (To Follow)**

*(Report of the Assistant Director, Growth & Regeneration)*

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**Access arrangements**

*If you have any particular access requirements when attending the meeting, please contact Democratic Services on 01827 709267 or e-mail [democratic-services@tamworth.gov.uk](mailto:democratic-services@tamworth.gov.uk). We can then endeavour to ensure that any particular requirements you may have are catered for.*

**Filming of Meetings**

*The public part of this meeting may be filmed and broadcast. Please refer to the Council's Protocol on Filming, Videoing, Photography and Audio Recording at Council meetings which can be found [here](#) for further information.*

*If a member of the public is particularly concerned about accidental filming, please contact a member of Democratic Services before selecting a seat*

**FAQs**

*For further information about the Council's Committee arrangements please see the FAQ page [here](#)*

To Councillors: B Price, C Bain, B Clarke, L Clarke, M Clarke, T Clements, S Daniels, P Pallett, S Smith, N Statham, M Summers, J Wadrup and L Wood.



## **MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD ON 28th MARCH 2024**

**PRESENT:** Councillor B Price (Chair), Councillors L Clarke, T Clements, G Coates, R Kingstone (Vice-Chair), P Thurgood, J Wadrup and L Wood

The following officers were present: Fiona Samuda (Legal Advisor) Sarah Gear (Senior Licensing Officer), Giles Dean (Taxi & Environmental Licensing Officer), Jodie Small (Environmental Health Licensing Officer) and Tracey Pointon (Legal Admin & Democratic Services Manager)

Guests Taxi Licence Holder  
Legal Advisor to Taxi Licence Holder - Mr A Schiller

### **50 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors P Turner, G Coates, J Jones, A Cooper and J Wade.

### **51 MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 6<sup>th</sup> March 2024 were approved and signed as a correct record.

*(Moved by Councillor T Clements and seconded by Councillor L Wood)*

### **52 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

### **53 REVIEW OF LICENSING ACTIVITY 2023/24**

Report of the Assistant Director - Growth & Regeneration briefed the committee about the Licensing Team's activity for the year 2023/2024.

**Resolved that the committee:**

1. noted the content of the report and note future work for 2024-

2025.

*(Moved by Councillor L Wood and seconded by Councillor R Kingstone)*

The Chair thanked the Officers for their hard work over the past year.

**54 EXCLUSION OF THE PRESS AND PUBLIC**

That in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012, and Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

*(Moved by J Wadrup and seconded by Councillor T Clements)*

**55 FITNESS OF INDIVIDUAL TO HOLD A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE**

Report of the Assistant Director, Growth and Regeneration to consider the fitness of individual to hold a Hackney Carriage and Private Hire Driver's Licence.

**Decision**

The Committee resolved to revoke the individual's licence to drive Hackney Carriage/Private Hire vehicles with Tamworth Borough Council, with immediate effect, as he is not a 'fit and proper person' to hold a licence.

The decision was unanimous

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Chair

Thursday, 25 July 2024

**Report of the Assistant Director - Growth & Regeneration****Taxi & Private Hire Licensing Policy Review****Exempt Information**

None

**Purpose**

To present to the Committee the responses to the informal review of the Council's Licensing Policy for Taxis and Private Hire Licences.

**Recommendations**

It is recommended that:

1. Members note the responses received.
2. Members approve the minor amendments proposed.

**Executive Summary**

Tamworth Borough Council introduced a new Taxi & Private Hire Licensing Policy in April 2023. Although the policy was for a 5 year period, officers committed to review the policy after it had been in force for 12 months.

The licensing team commenced an informal review of the Taxi and Private Hire Licensing Policy on 9<sup>th</sup> May 2024. All of Tamworth Borough Council's licenced Drivers, Vehicle Proprietors and Operators were invited to respond to the review. In addition the review was advertised on social media and sent to a Citizen Panel. Attached at Appendix 1 are details of the two responses received from the citizen panel.

Unfortunately no responses were received from the trade.

Officers also took the opportunity to review certain parts of the policy together with the Department of Transport's best practice guidance that was issued in November 2023. Attached at Appendix 2 is a matrix of changes proposed.

**Options Considered**

Committee could choose not to amend the current policy.

**Resource Implications**

None

**Legal/Risk Implications Background**

Although there is no legal duty on the Authority to publish a licensing policy for hackney carriage and private hire licences, the absence of a robust policy would leave the Authority open to legal challenge.

### **Equalities Implications**

A Community Impact Assessment has been completed and is attached at Appendix 4

### **Environment and Sustainability Implications (including climate change)**

None

### **Background Information**

The over-riding aim for Tamworth Borough Council ('the Council') when carrying out its functions relating to the licensing of Hackney (Taxi) or Private Hire Drivers, Vehicle Proprietors and Operators, is the protection of the public and others who use or have an interest in licensed Taxi and Private Hire services.

This is achieved by having in place a robust Taxi and Private Hire Licensing Policy which sets out the various standards and procedures to be followed in administering Taxi and Private Hire Licensing across the Borough. The policy provides an overview to the general public, existing licence-holders and new applicants, of how licence applications will be dealt with and how once a licence has been granted a licence-holder will be monitored.

Whilst each application for a licence will always be considered on its own merits, officers and elected members must have regard to the Council' taxi licensing policy, in addition to related legislation, associated regulations and guidance from Government, when determining an application.

The Council will only depart from its policy where it is considered appropriate to do so. This will normally be where there are exceptional circumstances which warrant a different decision and consideration. For example: an exemption to a particular policy requirement, such as the type or age of vehicle to be licensed.

The Council introduced the Taxi & Private Hire Licensing Policy in April 2023. It was intended that the Policy would be reviewed and re-published every 5 years, however officers committed to reviewing the policy after it's first year.

### **Report Author**

Sarah Gear – Senior Licensing Officer

### **List of Background Papers**

[Hackney Carriage and Private Hire Licensing Policy \(tamworth.gov.uk\)](https://tamworth.gov.uk)

[Taxi and private hire vehicle licensing best practice guidance for licensing authorities in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

### **Appendices**

Appendix 1 – Responses Received

Appendix 2 – Matrix of changes

Appendix 3 – Hackney Carriage & Private Hire Licensing Policy

Appendix 4 – Community Impact Assessment

## Responses from Citizen Panel



**Sent:** Wednesday, May 15, 2024 11:51 AM

**To:** Taxi Licensing <[Taxi-Licensing@tamworth.gov.uk](mailto:Taxi-Licensing@tamworth.gov.uk)>

**Subject:** Taxi and Private Hire Licencing Policy Review

Hi

Regarding feedback on your statement of licensing policy 2023-2025, here are my thoughts.

I have written previously about taxis sitting idling for long periods of time in busy areas, releasing excessive diesel fumes, carbon monoxide, nitrogen dioxide and polluting the air in town.

I believe this is an offence.

Staffordshire County Council state:-Air Aware Staffordshire is a campaign working with the public, schools and businesses across the 8 districts of Staffordshire to raise awareness of air pollution and the health impacts associated with poor air quality, and to encourage behaviour change to help improve air quality. Air pollution is the single biggest environmental risk and the fourth biggest risk to public health. It affects millions of people worldwide, causes 40,00 premature deaths per year in the UK and many hundreds in Staffordshire.

I received a reply from Susan Timms, the Environmental Health Officer in March regarding this where she stated 'Tamworth Borough Council's Taxi policy at present encourages and promotes the purchase of fully electric and zero emission capable vehicles to be licensed as Hackney Carriages. Where possible the Council will seek to implement a number of 'plug-in' points around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities. Tamworth Borough Council is also working on amending its taxi licensing policy to reduce taxi emissions, and it is looking at a number of options to address this. In the next review of Tamworth Borough's taxi policy measures against engine idling will be included. Officers are encouraging the trade not to idle by way of communication via the Taxi Diver's News letter and officers will request drivers when seen to be idling to switch off their engines. The current anti idling legislation is restrictive, however fines can be issued on refusal.

Have any fines or penalties been imposed on drivers who continue to idle?

I would also like to raise the need for taxi training regarding laws for overtaking cyclists. Tamworth buses are excellent at overtaking cyclists and allowing the 1.5m clearance, but I have had to report taxi drivers to the police for repeatedly doing dangerous close passing - what can be done about that?

Having read the policy I think the concerns I raise are referenced in

page 20:- Noise and Other Public Nuisance - However, when the Licensing Authority's decision making powers under the Act have been engaged following the receipt of relevant representations and where it is considered that there is the potential for noise (or other public nuisance such as that caused by light pollution, noxious smells and/or litter) and where it is considered that such statutory provisions do not provide for adequate protection with regard to public nuisance, consideration may be given to addressing those matters through the imposition of licence/certificate conditions.

page 45:- Responsible Authority - • the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health; • the body representing matters relating to the protection of children from harm;

Thanks for your time

Kind Regards

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Dear Sirs

The only recommendation I can make is Regards to driver qualifications and training.

I have witnessed in and around Tamworth, very poor taxi driving, this extends beyond Tamworth.

A professional taxi driver should demonstrate quality and courteous driving, also staying within the law and following and obeying standard road signs and speed limits etc.

I have been involved in driving Commercial vehicles, as well as maintenance.

I feel that Taxi drivers should undergo an equivalent to driver Certificate of Professional Competence training, i.e. 37 hours over 5 years. The same as HGV.

This would weed out the bad wood.



A commitment to taking the CPC, would show a level of Due diligence from the Taxi company and drivers.

I understand that even professional drivers have the odd lapse, but on the whole, this would improve the quality of this service.

In addition, Taxis should be subject to random stops, by the Vehicle and Drivers Standard Agency or Police, the same as HGVs and PSVs.

This would keep poor vehicles off the road and check driver IDs.

I have 42 years in the motor trade, and I have seen and been in some very suspect Taxis.

I hope this is of some assistance.

Let Tamworth set a precedent, for the whole country.

Regards

A black rectangular redaction box covering the signature of the sender.

This page is intentionally left blank

Matrix of proposed minor amendment changes to policy

Page number	Existing wording	Proposed wording
9	<p><b>Appointments</b>                      The Council operates an appointment system. Applicants will not be seen and applications will not be accepted without an appointment without prior agreement by a Council Officer. To assist drivers, vehicle owners and operators to make appointments in a timely manner, the Council will endeavour to notify all operators and proprietors of vehicles that their licence is due to expire at least <b>three months</b> before the actual expiry date of their licence</p>	<p><b>Appointments</b>                      The Council operates an appointment system <b>for some application processes</b>. Applicants will not be seen and applications will not be accepted without an appointment without prior agreement by a Council Officer. To assist drivers, vehicle owners and operators to make appointments in a timely manner, the Council will endeavour to notify all operators and proprietors of vehicles that their licence is due to expire at least <b>two months</b> before the actual expiry date of their licence</p>
13	<p>All applicants/Licensees are expected to act with honesty and integrity throughout the application process, and must therefore fully and accurately disclose any information that is requested. This includes information regarding previous cautions, convictions, warnings and reprimands, current investigations and pending criminal proceedings.</p>	<p>All applicants/Licensees are expected to act with honesty and integrity throughout the application process <b>and the lifetime of the licence</b> , and must therefore fully and accurately disclose any information that is requested <b>or submit any information that is required</b>. This includes information regarding previous cautions, convictions, warnings and reprimands, current investigations and pending criminal proceedings.</p>

19	<p>All medical examinations must be carried out by the Council's appointed Medical examiner who is a - General Practitioner (GP) registered with the General Medical Council. The Council reserves the right to refer any medical matters to its own appointed Medical Officer whose decision on the fitness (or otherwise) of a driver to continue as a licensed driver will be final.</p>	<p>All medical examinations must be carried out by a General Practitioner (GP) registered with the General Medical Council.</p>
20	<p>Medical exemptions involving the carriage of disabled persons and assistance dogs may apply to new applicants or licensed drivers who suffer from certain medical conditions. Where this is the case, the applicant/licensed driver must submit to a rigorous medical examination carried out by the Council's appointed Medical examiner who is a - General Practitioner (GP) registered with the General Medical Council and provide sufficient proof that they have a history of a specific health problem(s) that means they qualify for such a medical exemption. However, the Council reserves the right to refuse to grant a licence if deemed appropriate</p>	<p>Medical exemptions involving the carriage of disabled persons and assistance dogs may apply to new applicants or licensed drivers who suffer from certain medical conditions. Where this is the case, the applicant/licensed driver must submit to a rigorous medical examination carried out by a General Practitioner (GP) registered with the General Medical Council and complete the relevant application form that confirms they qualify for such a medical exemption. However, the Council reserves the right to refuse to grant a licence if deemed appropriate to do so</p>

35	<p>to do so</p> <p>Parking/waiting</p> <p>Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a private hire vehicle has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them. The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986</p>	<p>Parking/waiting</p> <p>Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a <del>private hire</del> vehicle has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them. The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986</p>
68/69	<p>Licence holders are required to notify the Licensing Authority within 48 hours of an arrest and release, charge or conviction of any sexual offence or alleged offence, any offence involving dishonesty or violence and any motoring offence. This includes being interviewed</p>	<p>Licence holders are required to notify the Licensing Authority within 48 hours of an arrest and release, charge or conviction of any offence or alleged offence. This includes being interviewed under caution by the police about any alleged offence. An arrest or interview under caution</p>

	<p>by the police about any such allegation. An arrest or interview under caution for any of these offences within this scope will result in a review by the licensing authority as to whether the licence holder is fit to continue to hold a licence. This does not mean that a licence will be automatically withdrawn, the licensing authority will consider what, if any, action in term of the licence should be taken based on the balance of probabilities. A failure by a licence holder to disclose an arrest that the licensing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.</p>	<p>for any offences will result in a review by the licensing authority as to whether the licence holder is fit to continue to hold a licence. This does not mean that a licence will be automatically withdrawn, the licensing authority will consider what, if any, action in term of the licence should be taken based on the balance of probabilities. A failure by a licence holder to disclose an arrest that the licensing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.</p>
71	<p>The Driver must when driving a Hackney Carriage not cause an obstruction when parked on a taxi rank and when the vehicle is the first vehicle on the rank be in constant attendance and be ready to be hired at once by any person.</p>	<p>The Driver must when driving a Hackney Carriage not cause an obstruction when parked on a taxi rank and when <b>the vehicle is the first vehicle</b> on the rank be in constant attendance and be ready to be hired at once by any person.</p>
76	<p>All bookings for Private Hire Vehicles must be made in advance. All Private Hire Vehicles must display door signs that state all bookings must be made</p>	<p>All bookings for Private Hire Vehicles must be made in advance. All Private Hire Vehicles must display door signs that state all bookings must be made</p>

	in advance, i.e. 'ADVANCE BOOKED ONLY'.	in advance, i.e. 'PRE-BOOKED ONLY'.
76	<ul style="list-style-type: none"> <li>• There is no smoking of electronic cigarettes/vaping equipment within the vehicle at all times. This applies to both drivers and passengers;</li> </ul>	<ul style="list-style-type: none"> <li>• There is no smoking of tobacco, electronic cigarettes/vaping equipment within the vehicle at all times. This applies to both drivers and passengers;</li> </ul>
76	Vehicle Licence proprietors are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution at a police station for any offence, which you are suspected of having committed.	Vehicle Licence proprietors are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution at a police station for any offence, which you are suspected of having committed.
80	<p>a. In subsequent years the owner of a hackney carriage or private hire vehicle, who has been granted a licence in accordance with the Exceptional Vehicle Age Policy at the last date of licensing, shall notify the Licensing Authority at least six months prior to submitting a renewal application, that he</p>	<p>b. The owner of a hackney carriage or private hire vehicle, who has been granted a licence in accordance with the Exceptional Vehicle Age Policy, shall notify the licensing team, that he/she intends to seek an extension to the operating life of the vehicle.</p>

	<p>intends to seek a further extension to the operating life of the vehicle.</p> <p>The examination and inspection of any vehicle in accordance with this policy shall take place on the second scheduled test date preceding the renewal date for the vehicle's licence. This applies to initial requests for consideration under this policy and all subsequent requests</p>	<p>The vehicle will then be subject to an examination and inspection by an authorised officer. This applies to initial requests for consideration under this policy and all subsequent requests</p>
83	<p>The Driver must have regard to Staffordshire Police's with regard to lost property. Any lost property found within or originating from the vehicle must be reported to Tamworth Borough Council's Licensing Team and if it were a pre booked journey, the operator.</p>	<p>The Driver must have regard to Staffordshire Police's policy with regard to lost property. Any lost property found within or originating from the vehicle must be reported to Tamworth Borough Council's Licensing Team and if it were a pre booked journey, the operator.</p>
83	<p>Driver Licence holders are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded, or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution at a police station for any offence which you are suspected of</p>	<p>Driver Licence holders are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded, or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution <del>at a police station</del> for any offence which you are suspected of</p>



	having committed	having committed
90	Operator licence holders are required to notify the licensing Authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of these offences within this scope should result in a review as to whether the licence holder is fit to continue to do so.	Operator licence holders are required to notify the Licensing Authority within 48 hours of an arrest and release, charge or conviction of any offence or alleged offence. This includes being interviewed under caution by the police about any alleged offence. An arrest or interview under caution for any offences will result in a review by the licensing authority as to whether the licence holder is fit to continue to hold a licence.
110	Failure to notify the licensing authority within 48 hours of an arrest, charge or conviction of any <del>sexual offence, any offence involving dishonesty or violence and any motoring offence.</del> This also includes being interviewed by the police under caution about any allegation.	Failure to notify the licensing authority within 48 hours of an arrest, charge or conviction of any <del>sexual offence, any offence involving dishonesty or violence and any motoring offence.</del> This also includes being interviewed by the police under caution about any allegation.
111	Using a mobile phone and/or electronic devices whilst driving as witnessed by an officer of the authority	Using a mobile phone and/or electronic devices whilst driving <del>as witnessed by an officer of the authority</del>
113	Failure to notify the Authority, in writing within 7 working days, of any motoring	Delete

	conviction or cautions during period of current licence	
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Addition to Drivers licence conditions:-

A driver should undertake a walkaround check before a vehicle is used. Drivers should retain the vehicle checklist as proof they have undertaken the required vehicle check. Drivers should be able to produce the vehicle checklist if required to do so by an authorised officer.

Addition to Penalty Points

Failure to conduct & evidence walkaround check 3 points

The addition of Appendix O – Information on Idling

## IDLING VEHICLES CONTRIBUTE TO AIR POLLUTION

### **Put a stop to idling engines**

Running your engine unnecessarily while your vehicle is stationary pollutes the environment. And it's against the law on a public highway.

### **What are the problems?**

An idling engine can produce up to twice as many exhaust emissions as an engine in motion.

Exhaust emissions contain a range of air pollutants such as carbon monoxide, nitrogen dioxide, and particulate matter. These can affect the air quality of the surrounding environment and the air we breathe.

### **Why is idling illegal?**

Vehicle idling is an offence against the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. The law states that it is an offence to idle your engine unnecessarily when stationary. If you fail to turn your engine off after being spoken to you may be issued with a fixed penalty notice.

### **Who does the legislation effect?**

The legislation covers all vehicles on public roads including buses, taxis and private cars. It does NOT apply to vehicles moving slowly due to road works or congestion; vehicles stopped at traffic lights; vehicles under test or repair; or defrosting a windscreen.

### **What can you do?**

- You can do your bit by switching off the engine if it looks like you could be waiting for more than a minute or two. Modern cars use virtually no extra fuel when they're re-started without pressing the accelerator so you won't waste lots of fuel switching the engine back on.
- Turn off your engine when stationary, for example - on a road at a shop, school, taxi rank and stands, whilst unloading / loading or when parked.
- Avoid idling whilst waiting in car parks, petrol stations, lay-bys, "set down" and "pick up points".

### **What are the benefits?**

- By turning off your engine you improve air quality, reduce fuels costs and comply with the law.
- Reducing air pollutants can help cut heart disease, reduce lung cancer and prevent asthma attacks.

### **Does starting an engine cause more pollution than idling?**

No. Turning off an engine and restarting it after a minute or two (or longer) causes less pollution than keeping the engine idling and uses less fuel.

### **Does the engine need to stay on to keep the battery fully charged?**

No. Modern batteries need less engine running time.

### **When it's cold I need to keep my vehicle warm or warm up my engine?**

It can take up to an hour for an engine to cool down. Turning off your engine, but keeping the ignition and the fan blowing will provide warm air for some time. If you are concerned about passenger comfort, keep the engine idling to an absolute minimum in warm and cold weather.

### **Don't catalytic converters need to be hot to work properly?**

Yes, but an idling engine does not keep a catalytic converter warm. They retain their heat for about 25 minutes after an engine is switched off anyway. Some useful Eco Driving Tips can be found at:

<http://www.energysavingtrust.org.uk/Travel/Driving>

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# **Hackney Carriage and Private Hire Licensing Policy**



**2023-2028**

# Taxi & Private Hire Licensing Policy

Document Status: Review

Originator: Sarah Gear

Updated: Sarah Gear

Owner: ?

Version: 01.01.01

Date: 1<sup>st</sup> April 2023

**Approved by Full Council**



## Document Location

This document is held by Tamworth Borough Council, and the document owner is Environmental Health

Printed documents may be obsolete; an electronic copy will be available on Tamworth Borough Council's Website. Please check for current version before using.

## Revision History

Revision Date	Version Control	Summary of changes
April 23	V1	A new policy underpinning the Taxi & Private Hire Licensing procedures

## Key Signatories

### Approvals Creation and Major Change, Minor Changes & Scheduled Reviews

Name	Title	Approved
Full Council	New Policy	21 <sup>st</sup> March 2023

### Approval Path

#### Major Change & Scheduled Reviews

##### Action

Originator	Environmental Health
Licenisng Committee	Corporate Approval
Consultation	Consultative Group
Licensing Committee	Corporate Approval
Full Council	Council Approval

#### Minor Change

Originator	Environmental Health
Licensing Committee	Corporate Approval

### Document Review Plans

This policy/ procedure will be reviewed on a 5 yearly basis. However it will be the subject of continuous evaluation and if necessary formally reviewed at any time.

### Distribution

The document will be available on the Website.

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## **PART 1 – INTRODUCTION**

The Borough Council of Tamworth (“the Council”) is the licensing authority for the private hire and hackney carriage regime in the Borough of Tamworth.

In carrying out its Taxi and Private Hire licensing function the Council seeks to promote the following objectives:

- Protection of the Public
- Safety and health of drivers and the public;
- High standards of vehicle safety, comfort and access;
- Prevention of crime and disorder and the protection of the consumers;
- Ensure that the decision making processes are transparent, and the resulting decisions are fair, proportionate and consistent;
- Equality and accessibility in service provision.

The Council expects all applicants, drivers, proprietors and operators to demonstrate commitment to promoting these objectives.

In addition, this Policy attempts to encompass the Councils vision:-

**‘Tamworth – celebrating our heritage, creating a better future’**

The Policy seeks to ensure that transport for those with a disability will be provided.

The Policy adheres to statutory guidance issued in July 2020 by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 to protect children and vulnerable adults from harm when using taxi and private hire services.

The main types of licence are:

- Dual Hackney Carriage and Private Hire Drivers’ Licence - All drivers of Hackney Carriages and Private Hire Vehicles (‘Drivers’) must hold a Dual Hackney Carriage and Private Hire Drivers’ Licence issued by the Borough Council of Tamworth;
- Private Hire Vehicle Licence - Private Hire Vehicles must be licensed by the Council, as must the Driver and the Private Hire Operator who is responsible for taking the bookings. All three licences must be issued by the same Council.
- Private Hire Operator Licence - Private Hire Operators must be licensed by the Council, as must the Drivers and Vehicles they operate.
- Hackney Carriage Vehicle Licence - Hackney Carriages (Taxis) must be licensed with the Council as must the driver. Both licences must be with the same Council.

The rules on Taxis and Private Hire Vehicles can be complex. This document is intended to make it clear how the Council operates its licensing service.

Please note that the following vehicles are not required to be licensed:

- vehicles owned by funeral directors wholly or mainly for the purpose of funerals

- ambulances and voluntary vehicles
- vehicles used solely for the purpose of weddings.

## Scope

The Hackney Carriage and Private Hire Licensing Policy is applicable to the licensing of hackney carriage and private hire drivers and vehicles and to the licensing of private hire operators. This policy supersedes all previous Council policies relating to Hackney Carriages, Private Hire Vehicles, Operators and Drivers.

## Purpose

The fundamental purpose of licencing is to protect the safety and welfare of the public who live, work and visit Tamworth. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of Tamworth local economy is recognised; however, the safety and welfare of the public is the over-riding principle that will be considered when matters are dealt with under this Policy.

Hackney Carriage and Private Hire vehicles have an important role to play in any integrated public transport system. They are able to provide services in situations where other forms of public transport are either restricted, not available, or outside normal hours of operation, and assist those with mobility problems.

The main concerns for the Council are to ensure:

- the safeguarding of children, young persons and adults at risk of abuse and neglect;
- that in order to promote the welfare of children and to protect them from harm, prospective and licensed drivers and operators who have dealings with children and families have a duty to report matters of concern that could relate to the safety and/or welfare of children and vulnerable persons to the relevant authorities (refer to Tamworth BC's Safeguarding Policy, and Appendix A for further information);
- that any person who applies to be a hackney carriage or private hire vehicle, driver or operator is a fit and proper person and does not pose a threat (in any form) to the public.

The Council also use the phrase 'safe and suitable' in place of 'fit and proper' as an aid to interpret what is meant by it. The tests that the Council will use to determine whether an individual is considered fit and proper/safe and suitable to hold a licence are below:

- For drivers: "Would you allow your child, spouse or partner, parent, grandchild or any other person for whom you care, to get into a vehicle with this person alone at any time of day or night?"
- For private hire operators: "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"
- For vehicle proprietors: "Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without

arousing suspicion and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”.

- that the public are safeguarded from dishonest persons; that vehicles used to convey
- passengers are safe and fit for the purpose for which they are licensed; and
- that the impact on the environment is reduced in line with European and national guidelines.

The Policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not restricted to:

- persons who wish to apply for hackney carriage and private hire vehicle, drivers or operator licences; persons who hold existing licences, including those that are the subject of review;
- the Council, in its capacity as the licensing authority, including licensing officers and members of the public protection committee;
- service users who have concerns relating to an operator, vehicle or driver; licensing consultants, solicitors and barristers advising and/or representing applicants/licence holders; and
- Magistrates’ and judges hearing appeals against Council decisions.

The Policy is also designed to put the Council’s licensing requirements into context.

## **Consultation and Communication**

In determining this Policy, the views of relevant stakeholders have been taken into consideration.

In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders. In particular, the Council welcomes the opportunity to communicate and consult with representatives of the hackney carriage and private hire trade to enable and encourage the exchange of views and information in relation to the Policy, conditions, changes in the law and reviews. The specific methods to achieve this communication and consultation will be determined as required.

The views of relevant stakeholders will be considered in any major changes to this Policy.

## **Review**

The policy will be formally reviewed after 5 years. However, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of each review relevant stakeholders will be consulted.

Minor changes would be made without consultation where:

- they are to correct an administrative error
- they are a change needed because something is no longer possible or legal
- there is no foreseeable detrimental effect to licensee’s interests.

## Legislative framework

The operation of the Council's licensing service is undertaken in accordance with relevant legislation, applicable licence conditions, the Regulators' Code (BRDO 14/705 April 2014) and the Secretary of State for Transport Statutory Taxi and Private Hire Vehicle Standards July 2020, and such other guidance that may be issued from time to time by the Department for Transport and other Government departments.

The primary legislation relating to hackney carriage and private hire licensing, at the time this policy comes into force, is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and may be subject to change with any new and/or amended legislation. This policy reflects the changes to hackney carriage and private hire licensing introduced by the Deregulation Act 2015 and Immigration Act 2016, and the provisions contained within the Equality Act 2010. It also encompasses provisions from other pieces of legislation such as (but not exclusively) the:

- Road Safety Act 2006
- Road Traffic Acts (Various)
- Criminal Justice & Public Order Act 1994
- Transport Act 1985

In addition, the service is provided in accordance with all relevant Council policies, but in particular the following which mirror the framework of policies which under section 177(4) of the Policing and Crime Act 2017 the authority must have regard to when exercising its licensing functions:

- Diversity & Equality Scheme
- Information Security policy
- Corporate Enforcement policy

The General Data Protection Regulations ("GDPR") and the Data Protection Act 2018 ("DPA18") covers the collection, storage, processing and distribution of personal data. It also gives certain rights to individuals about whom information is recorded. The Council aims to fulfil its obligation under the legislation to the fullest extent by only processing personal data for the purposes of legitimate interests pursued by the Council or legal requirements imposed on the Council. The DPA18 obliges local authorities to comply with the below data protection principles. The principles state that the information shall be:

- used fairly, lawfully and transparently
- used for specified, explicit purposes
- used in a way that is adequate, relevant and limited to only what is necessary
- accurate and, where necessary, kept up to date
- kept for no longer than is necessary
- handled in a way that ensures appropriate security, including protection against unlawful or
- unauthorised processing, access, loss, destruction or damage

Further information about GDPR and DPA18 can be obtained at the Information Commissioner's website ([www.ico.gov.uk](http://www.ico.gov.uk)). Enquiries regarding the Council's use of personal data should be addressed to the Councils Data Protection Officer at [data-protection@tamworth.gov.uk](mailto:data-protection@tamworth.gov.uk)

The Policy and associated conditions do not address health and safety at work requirements. Drivers and operators are required to ensure compliance with all relevant health and safety at work provisions. This is likely to impact on the health and safety requirements associated with transporting passengers with disabilities, e.g. those who need to carry oxygen for medical purposes or those with assistance dogs. This may have implications on the extent of the discretion that drivers have to refuse to carry passengers with certain disabilities.

## **Conditions**

The Council will adopt any reasonable conditions that it deems necessary and appropriate to ensure that proprietors, operators, drivers and vehicles comply with relevant legislation and the fundamental purpose of the guidance, i.e. to protect the safety and welfare of the public and in particular children and vulnerable adults.

Any licensed driver, vehicle proprietor or operator may request a review of any condition or any element of this Policy at any time. Requests will be dealt with on their individual merits.

Initiatives that lead to the improvement of any element of the service in particular enhancing the safety of the public are actively sought.

## **Our approach**

The Council aim to balance protection of the public against requirements which are too onerous. Requirements which are too onerous may ultimately reduce the availability and increase the cost of taxis/private hire vehicles. We aim to be pragmatic and work with the trade to improve the service provided to the public.

The Council are committed to being as open as possible in our dealings with the public and the trade. We will seek to put as much information as possible on the website in as user friendly form as possible

## **Public Register**

The Council will hold and maintain a register for all the licences which it issues. The information held on the register will be restricted to the name of the licence holder; a unique licence number; the date of commencement; and the date of the expiry of the licence. The register will be available for inspection by prior arrangement with the Councils Licensing team and where possible will be published on the Councils website



## **PART 2 – LICENSING PRINCIPLES, PROCESS AND DELEGATION**

### **Introduction**

The Council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 and, together with the provisions contained in the Town Police Clauses Act 1847, the Council carries out the licensing of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.

This part of the policy focusses on the principles the Council will follow when administering licence applications, reviewing conditions, setting fees and setting the table of fares. It explains the roles and duties of the Licensing Committee and officers of the Council.

The Council aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc. may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant but this will be balanced against the duty that the Council has to protect the safety and welfare of the public.

All licence applications will be considered and determined on their own individual merits, but with regard to the statutory guidance regarding the protection of children and vulnerable adults who use taxi and private hire services.

### **Licensing principles**

The Council aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc. may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant but this will be balanced against the over-riding duty that the Council has to protect the safety and welfare of the public.

All licence applications will be considered and determined on their own individual merits.

### **Licensing process and delegation of functions**

The Council has delegated its licensing function to the Licensing Committee, who have further delegated officers of the Council to determine all applications and take action in accordance with this Policy.

Whilst officers and the relevant committees will, in the majority of cases, follow the Policy. Where the policy is silent, the reasons for departing from the guidance will be made clear.

### **Committees**

#### Licensing Committee

This Committee is made up of 13 members of the Council. It deals with conditions of licence, the setting of fees and charges and hackney carriage fares.

## **Decisions**

The Council has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. In addition, the Council may choose to issue written warnings.

Any decision to refuse to grant or renew a licence or to suspend or revoke an existing licence, including the decision to suspend or revoke with immediate effect or to issue a written warning will be made in accordance with the Council's scheme of delegation and other relevant procedures.

Where applications are to be determined, the officer, and/or Licensing committee will take into consideration the facts of the application, any information and/or evidence provided by other interested parties including, but not restricted to, officers from the Council with responsibility for safeguarding and officers from Staffordshire Police together with the recommendation made by the licensing officer presenting the report. Applicants will be given the opportunity to submit written and/or verbal representations as appropriate.

Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made. This will include information on the right of appeal where appropriate.

## **Application/Renewal Decision**

Where the Council is minded to not approve the licence/renewal in the form applied for, it will give the applicant/licence holder a chance to make representations in person, by telephone or face to face, or in writing by letter or email before the decision is taken.

Where an application is incomplete or does not meet the application criteria the Council will reject the application. This will be confirmed in writing.

## **Decision to suspend/revoke a licence**

Suspension, Immediate Suspension, Revocation and Immediate Revocation of a dual drivers licence can be carried out by the Licensing Committee, or a duly authorised officer of the Council.

Where the Council is minded to suspend or revoke a licence it will give the applicant/licence holder a chance to make representations in person, by telephone or face to face, or in writing by letter or email before the decision is taken.

Suspension or Revocation of a vehicle licence can be carried out by the Licensing Committee or a duly authorised officer of the Council.

## **Appeals**

If the applicant/licence holder is aggrieved by the decision of the Council they may appeal to the relevant court (in most cases the Magistrates Court). The appeal needs to be made within 21 days of being notified in writing of the Council's decision and must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstance

## **Working in partnership**

The Council aims to work in partnership with other relevant agencies/bodies when dealing with hackney carriage and private hire licensing issues. Such partnerships will include, but are not restricted to, relevant hackney carriage and private hire trade associations, neighbouring local authorities, Staffordshire Police, Driver and Vehicle Standards Agency (DVSA), Revenues and Benefits teams, Safeguarding Partnerships and consumer groups.

The Borough Council of Tamworth regularly meets and shares information with other enforcement authorities including Staffordshire Police and Staffordshire Trading Standards through the Tamworth Responsible Bodies Group (RBG) and Stoke on Trent and Staffordshire Responsible Bodies Group (SSRBG).

The Council, as primary regulator, will ensure that all relevant provisions relating to the effective administration of licensing functions are robustly enforced in order to ensure protection of the public

Where licensing staff do not consider that this policy is being correctly applied they are able to raise this for investigation, and remedial action if required, through the Council's internal whistleblowing procedure.

## **PART 3 – LICENSABLE ACTIVITIES**

### **Introduction**

This part of the Guidance focusses on the licensable activities and the necessary steps required to obtain and to hold such a licence. These steps will include the standards that applicants must attain and the conditions that apply. Where appropriate, any reference to 'applicant' is deemed to include existing licence holders.

The following are applicable to all licence types:

- Where an applicant has failed to declare relevant information or provided false information the application is likely to be refused; where this relates to an existing licence, the licence is likely to be suspended or revoked. Applicants are reminded that it is an offence to knowingly or recklessly make a false declaration or omit any material particularly when giving information required by the application for a licence;
- All licence fees are payable at the time of application in full. Where a licence is not granted, i.e. the applicant withdraws their application a portion of the fees may be returned to the applicant. The actual amount of the refund will depend upon the progress of the application at the time the applicant withdraws;
- In the event that an application for a licence is paid by cheque, the licence will not be valid until such time as the cheque has cleared. In the event that the cheque does not clear and the licence has been issued, the licence will be null and void with immediate effect;
- The application process must be completed within 6 months unless prevented from doing so by matters that are outside the applicant's control, e.g. external delays in the DBS process, otherwise the application process will cease to progress further until such time as the applicant provides all the required information. Applications not completed within 6 months without a justified reason for the delay will be considered abandoned. A refund may be made for abandoned applications depending on the level of work that has already been carried out.
- Where a licence has lapsed, been surrendered or revoked a new application must be submitted in accordance with the relevant new licence procedures before the Council will consider the application;
- When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application, unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

### **Appointments**

The Council operates an appointment system. Applicants will not be seen and applications will not be accepted without an appointment without prior agreement by a Council Officer. To assist drivers, vehicle owners and operators to make appointments in a timely manner, the Council will endeavour to notify all operators and proprietors of vehicles that their licence is due to expire at least three months before the actual expiry date of their licence. This is to allow sufficient time for DBS checks to be undertaken and returned, and any necessary

training or other requirements to be completed.

IMPORTANT: However, it is the licence holder's responsibility and the onus is on them to ensure that a renewal application is made in good time. Under no circumstances will a licence be issued without satisfactory completion of all required checks.

### **Disclosure & Barring Service (DBS) data and other relevant information**

The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (November 2015) and will retain a copy of the certificate in line with the Council's data retention policy and data protection legislation.

DBS certificates must be in the correct workforce (i.e. 'Other Workforce') and for the correct job role (i.e. Taxi Driver or Taxi Licensing). Further information about the DBS can be found at:

<https://www.gov.uk/government/organisations/disclosure-and-barringservice/about>

The Council will accept an Enhanced DBS disclosure report issued as part of an application made through a separate organisation provided:-

- It is for 'other workforce';
- It includes both of the Barring checks
- It is for the same job role (Taxi Driver or Taxi Licensing)
- It is presented to the Council for verification within 3 months of issue date of the certificate
- the applicant has subscribed to the DBS Update Service; and
- the applicant has authorised the Council to access the relevant online record

Further information can be found at:

<https://www.gov.uk/dbs-update-service>

The Council will make regular use of the DBS update service provided by the DBS and, where this shows changes to a licence holders record, a new DBS disclosure will be required. The licence holder is required to pay the appropriate fee before the new DBS disclosure application is submitted.

Where an applicant has spent an extended period of time overseas and hence their DBS record is incomplete the authority will require an applicant for a licence to provide data on their criminal record or a Certificate of Good Character issued by the relevant Embassy or High Commission.

The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Further information on this can be found at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Drivers who undertake work for a County Council transport contract, e.g. school contracts, are advised to contact the Transport Unit at the County Council in order to ascertain the level

of criminal record disclosure required and any other requirements in this respect. Information will be shared between the County Council and the Borough Council about individuals and businesses that apply and/or tender to deliver passenger transport contracts.

In addition to information via the DBS service the authority maintains close links with the local police licensing unit ensuring that information held by either party, relevant to taxi and private hire driver licensing, is efficiently and effectively shared under existing protocols. Where the local authority obtains or holds relevant information not known to the DBS service or the local police they will refer this to either or both organisations in order that the information they hold is up to date and complete. This will include information regarding licences which the authority has refused, revoked or suspended them, on the basis that they believe the individual presents a risk of harm to a child or vulnerable adult.

The authority will also share information with other local licensing authorities regarding licences they refuse, suspend or revoke and with the national register maintained by the National Anti-Fraud Network known as the 'NR3' register.

### **Counter-Terrorism and Security Act 2015**

The Council has a duty under the Counter-Terrorism and Security Act 2015 ("CTSA") to have due regard to the requirement to prevent people from being drawn into terrorism. The applicant/licence holder shall facilitate the Council's compliance with its duty pursuant to the CTSA and the applicant/licence holder shall have regard to the statutory guidance issued under section 29 of the CTSA and in particular to ensure that they:

- understand what radicalisation means and why people may be vulnerable to being drawn into terrorism;
- are aware of extremism and the relationship between extremism and terrorism;
- know what measures are available to prevent people from becoming drawn into terrorism and how to challenge the extreme ideology that can be associated with it; and
- obtain support for people who obtain support for people who may be exploited by radicalising influences.

Where the applicant/licence holder identifies or suspects that someone may be engaged in terrorist related activity, the applicant/licence holder must refer such person or activity to the police. For more information please see:

<https://www.gov.uk/government/publications/counter-terrorism-support-for-businesses-andcommunities>

<https://www.gov.uk/government/publications/prevent-duty-catalogue-of-training-courses>

### **Immigration Act 2016**

As of 1st December 2016 the Council are obliged to ensure that all drivers and operators have the right to work within the UK prior to issuing them a licence. All applicants will be treated in line with the government guidance that can be found here:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

As part of the new/renewal application process the individual will have to provide the Council with ones of the documents listed in Annex A of the Government Guidance.

Where an applicant cannot provide a current proof of their right to work in the UK then a licence will not be issued to them. Where an applicant has a time limited right to work in the UK then the Council will only issue a licence up until the expiry date of that document.

### **3a. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS**

#### **Summary**

Any person who drives a hackney carriage must hold the appropriate vehicle driver's licence. Hackney carriage vehicle driver's licences are issued in accordance with section 46 of the Town Police Clauses Act 1847.

Any person who drives a private hire vehicle licence must hold the appropriate vehicle driver's licence. Private hire vehicle driver's licences are issued in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

The Council issues a dual Hackney Carriage and Private Hire licence entitling the driver to drive both vehicles.

#### **Fit and proper person**

The Licensing Authority has a duty to ensure that any person who is granted a drivers licence is 'fit and proper' to hold a drivers licence. Once granted, they must remain a 'fit and proper' person for the duration of that licence.

The term "Fit and Proper Person" for the purposes of taxi and Private Hire licensing is not legally defined. However, in determining whether a person is fit and proper to hold a licence, those tasked with determining licences / applications are effectively asking the following question of themselves:

"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"

If the answer to the question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person. If, on the balance of probabilities, the answer is 'no' the individual should not hold a licence. An applicant or licence holder should not be 'given the benefit of doubt'.

The fitness and propriety of a driver will be monitored / assessed, throughout the period that the licence is held, by the Licensing Authority with assistance from Partner Agencies.

All applicants/Licensees are expected to act with honesty and integrity throughout the application process, and must therefore fully and accurately disclose any information that is requested. This includes information regarding previous cautions, convictions, warnings and reprimands, current investigations and pending criminal proceedings.

The application and compliance procedures are designed to ensure high standards are maintained, monitored and non-compliance is appropriately enforced.

Licensing authorities have to make difficult decisions but the safeguarding of the public is paramount.

The Council will use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked a taxi or PHV driver licence. It will record any cases within Tamworth Borough and check the database for all licence applications and renewals. The Licensing Authority will record the reasons for any refusal, suspension or revocation and



provide those to other authorities as appropriate.

In order to assess the suitability of an applicant the Licensing Authority will undertake any checks and apply whatever processes it considers necessary to determine whether an applicant is 'fit and proper' to hold a licence and ensure that licences are not issued to, or used by, unsuitable people.

In assessing the suitability of an applicant or licence holder, the Licensing Authority will consider the following factors:

- Criminality including cautions
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work
- Medical fitness
- Standard of driving / driving ability
- General conduct / standards of behaviour (including online behaviour)
- The conduct of the applicant in making the application (e.g. whether they have acted with honesty and integrity during the application process).
- The previous licensing history of existing / former licence holders (including honesty and integrity).
- Theoretical knowledge of issues and matters related to the work of a licensed driver.

The Council may at any time request a DVLA check code from an applicant or licensed driver, in order to access DVLA records. The DVLA check code must be provided within 7 days of such a request.

### **Disclosure & Barring Service Check**

As referred to above, hackney carriage and private hire vehicle drivers are required to undertake an enhanced criminal record disclosure (DBS check) and due to the nature of the occupation such drivers are deemed to be an exempt occupation under the provisions of the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act (Exceptions) Order 2003.

The effect of this, in relation to hackney carriage and private hire drivers, is to render the Rehabilitation of Offenders Act 1974 inapplicable and therefore convictions are deemed never to be spent. As a result, all convictions, including cautions, will be taken into account when considering a person's suitability to hold a driver's licence. Consequently, applicants are required to provide details of all convictions and cautions, including driving endorsements and disqualification periods relating to 'major' traffic offences.

Although cautions are generally not as serious as convictions, they do require an admission of guilt before they can be issued and are therefore a valuable indication as to an applicant's character and whether they are a fit and proper person to hold or be granted a licence.

A criminal record does not automatically bar an applicant from holding a driver's licence; however, it will be a significant factor when determining whether a licence ought to be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out in **Appendix H**. However, the over-riding consideration will always be to ensure the safety and welfare of the public.

Applicants must have a UK traceable DBS record of at least 5 years or if the applicant has not been resident in the UK for an unbroken period of at least 5 years have obtained a Certificate of Good Character from the Consulate of the applicant's country of origin. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.

## **Period of licence**

Licences will be issued at a standard length of 3 years. Any shorter duration licence will only be issued if a licensee has requested this and it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holders leave to remain in the UK is time-limited) or when the licence is only required to meet a short term demand. Licences will not be issued on a probationary basis, in accordance with the Statutory Taxi and Private Hire Vehicle Standards.

## **Application process**

The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information / documentation and will be informed that the application will not be accepted until such time as all required information/documentation is provided.

The full fee for the licence is payable at the time the application is submitted.

In addition to submitting the application form and fee an applicant must:

- Be over 21 years of age
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 1 years.
- Provide an enhanced DBS certificate including checks against the barring lists, issued:
  - within the previous 3 months or
  - be Registered with the DBS update service with a relevant up to date certificate.
- Authorise the Council to access the relevant online record via the DBS update service;
- Provide one (1) passport sized photograph
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices;
- Pass the Council's knowledge test;
- Pass CSE & Disability Equality Training approved by the Council

- Undergo Group 2 medical examination and provide the medical certificate issued by the Medical Practitioner;
- Pass the practical driving standards assessment test
- Provide a DVLA online check code
- Provide a Tax check code

## **Arranging DBS**

Appointments are made by the applicant booking an appointment with the Council's Customer Services department with the applicant to complete a DBS application form.

Applicants must subscribe to the DBS Update Service, proof of subscription reference number and the last DBS certificate number must be provided. DBS certificate checks will be made every 6 months. Failure to subscribe to the update service will result in unnecessary additional fees.

## **Knowledge test**

New applicants for a licence to drive a hackney carriage or private hire vehicle will be required to take and pass the Council's knowledge test. This test is aimed at assessing the driver's knowledge of the conditions licensed drivers must adhere to, streets, locations, attractions, entertainment venues and general geography of the Council's administrative area in order to satisfy the Council that they will be able to convey passengers who may be unfamiliar with the locality. This test will be conducted in English. Details of what is required in the knowledge test are provided within the application pack.

Normal examination conditions will apply during the knowledge test. Any person found to be using unfair means during the test will be excluded from the test and will be required to take a fresh test and pay the appropriate fee. This may also affect their fitness and propriety to be granted a licence.

The charge for the initial knowledge test is included in the licence fee. Where an applicant fails the knowledge test there is an additional fee for every subsequent test and every missed test. Once an appointment has been allocated for the test, the applicant must give 2 clear working days' notice to cancel an appointment otherwise they will be required to pay the test fee. In such circumstances the Council will deem that the applicant has failed the test.

An applicant is permitted to take the knowledge test up to a maximum of 3 times per application, subject to the additional re-test fees being paid. Where an applicant fails the knowledge test three times, the application will be refused. The applicant will not be permitted to re-apply for a drivers licence until the expiry of a 12 month period from the date of the last failed knowledge test.

The holder of a driver's licence may be required to satisfactorily undertake a further knowledge test or tests at the discretion/request of the Council.

Failure to submit to or pass any knowledge test will permit the Council to refuse to grant or renew a driver's licence or to revoke or suspend the licence as required.

## **Medical requirements**

The Council is permitted to satisfy itself that an applicant for a licence is physically fit and

remains so during the currency of any licence. Consequently, all applicants for a hackney carriage or private hire vehicle driver's licence are required to undertake a medical examination on initial application, at defined intervals thereafter and at any other such time as the Council requires to ensure their fitness to drive. The standards required are set out in the DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to Drive' (May 2014). The standard required is the 'Group 2 Entitlement'. No grandfather rights are given by the Council in relation to medical matters.

Applicants must undertake the medical examination and provide a satisfactory medical certificate before a licence is issued. Every 5 years up to the age of 45, or sooner if stipulated by the examining doctor.

Applicants aged 45 to 65 will be required to undertake a medical examination every 3 years, or sooner if stipulated by the examining doctor. Applicants must provide satisfactory medical certificate.

Applicants over the age of 65 must undertake a medical examination and provide a satisfactory medical certificate annually, or sooner if stipulated by the examining doctor.

Age up to 45	Every 5 Years
Age 45 to 65	Every 3 Years
Age over 65	Every Year

In particular, applicants must consider the medical conditions listed in **Appendix I** as the Council may refuse to grant an application or revoke an existing licence where an applicant has any of the listed conditions. Where relevant, the applicant must comply with the additional requirements detailed in **Appendix I**.

If once licensed, the driver's medical circumstances change during the currency of the licence, the driver must inform the Council within 10 working days. The Council may require the driver to immediately undertake a further medical examination and provide an approved medical certificate confirming the outcome of this examination and the driver's fitness (or otherwise) to continue as a licenced driver. The cost of this additional test will be met by the driver.

Should an authorised officer of the Council have reason to believe that a licensed hackney carriage or private hire vehicle driver has a medical condition that renders them unfit to drive, a further medical examination will be requested.

All medical examinations must be carried out by the Council's appointed Medical examiner who is a - General Practitioner (GP) registered with the General Medical Council. The Council reserves the right to refer any medical matters to its own appointed Medical Officer whose decision on the fitness (or otherwise) of a driver to continue as a licensed driver will be final.

The Council will not grant or renew, as the case may be, any driver's licence unless the foregoing provisions are complied with and the driver can demonstrate that they are medically fit to hold a drivers licence.

With respect to current licence holders, if it is deemed necessary to do so, a licence may be revoked or suspended in the interests of protecting the public until further medical examination(s) has/have been carried out or if the licence holder is unable to demonstrate

that they are medically fit to hold a drivers licence. The cost of any further medical examinations are to be met by the licence holder.

Medical exemptions involving the carriage of disabled persons and assistance dogs may apply to new applicants or licensed drivers who suffer from certain medical conditions. Where this is the case, the applicant/licensed driver must submit to a rigorous medical examination carried out by the Council's appointed Medical examiner who is a - General Practitioner (GP) registered with the General Medical Council and provide sufficient proof that they have a history of a specific health problem(s) that means they qualify for such a medical exemption. However, the Council reserves the right to refuse to grant a licence if deemed appropriate to do so.

### **DVLA and other relevant driving licences**

A person applying for a drivers licence must be at least 21 years old and have held a full DVLA/EC/EEA category B driving licence for at least 1 year at the time of application. This includes European Union (EU), European Economic Area (EEA) and Northern Irish licences.

Throughout the currency of the licence, the driver must possess a full driving licence in accordance with the above requirements.

Applicants are required to produce the original of their driving licence. Copies will not be accepted.

All applicants holding driving licences issued by agencies other than the DVLA must produce a certificate to show a driving record from the country of issue.

The Council will not provide photocopies of any driver's driving licence from Council records.

The Council will use the online Government Driving Licence Checker to check driving licences. [www.gov.uk/view-driving-licence](http://www.gov.uk/view-driving-licence).

All applicants for and holders of a Hackney Carriage & Private Hire Combined Drivers Licence will be required to have an annual check of their DVLA driver licence record.

### **Practical Driving Standards Assessment Test.**

The Council approved provider has been employed to carry out the practical driving Assessment Test. Applicants are required to pass an assessment before a licence is issued. Acceptable Photographic identification is required before the test can be commenced.

Applicants who fail the Practical Driving Assessment Test will be allowed to re-do the assessment. All re-tests will be charged in accordance with the fees set by the Council and are non-refundable in the event of failure.

No refund will be provided for any cancellations with less than 24 hours' notice in writing.

If applicants fail three successive Practical Driving Assessments they will be required to wait at least 12 months (from the date of the most recent failure) before being permitted to take further tests.

A third failure may lead to the application being refused on the grounds that the applicant does not have the required skills to deal with the public in the role of a Combined Hackney Carriage and Private Hire driver. At this point of the application only the grant fee will be

refunded.

## **English speaking**

The applicant is expected to complete the knowledge test without any translation being offered. And must be able to show they are capable of completing a receipt.

## **Renewal applications**

On renewal of an existing licence, applicants must:

- Submit a completed application form
- Pay the appropriate fee
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS update service with a relevant up to date certificate.
- Authorise the Council to access the relevant online record via the DBS update service;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices;
- Pass CSE & Disability Equality Training approved by the Council
- Undergo Group 2 medical examination and provide the medical certificate issued by the Medical Practitioner if required
- Provide a DVLA online check code
- Provide a Tax check code

Providing the above are satisfied, the Council will renew the licence subject to the receipt of a satisfactory enhanced DBS report and satisfactory reports through Staffordshire Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.

To allow continuous driving, a licence application must be received by the Council by 1 month before the expiry date to allow the Council sufficient time to process the renewal application. Once a licence expires, is revoked (subject to a statutory appeal process) or surrendered, it ceases to exist.

Once a licence ceases to exist, a renewal application will not be accepted by the Council and the applicant must submit a new drivers licence application which will be processed in accordance with the Council's new application procedures. If a new application is received within 12 months of the expiry date, not all elements of a new application will be required.

## **Licence conditions**

The applicable conditions with which a driver holding a hackney carriage and private hire drivers licence must comply are set out at **Appendix B**. These conditions are in addition to any matters set out within the main body of the Policy

## Main legal requirements

### Production of documents

The driver must, on request, produce for inspection their driver's, licence or forthwith within 5 days to the Council's offices, or other suitable location as directed by the Licensing Team.

### Driver's badges and licences

There are two badges issued. One must be worn by the driver at all times when driving the licensed vehicle and the badge must be plainly and distinctly visible. The second badge must be displayed in a prominent position within the vehicle to be seen by members of the public

All drivers of vehicles licensed for hackney purposes of which they are not the operator, must before commencing driving that vehicle, deposit a copy of their drivers licence with the operator for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

On ceasing to be a licensed driver through suspension, revocation, refusal to renew or expiry of the driver's licence, the licence holder must return the badge & licence to the Council within 7 days (or earlier if the Council so demands) of the suspension, revocation, refusal to renew or expiry becoming effective

### Journeys

Drivers must not unnecessarily prolong a journey, in distance or in time. Vehicles permitted to be driven for private hire and hackney carriage purposes. Only vehicles licensed by the Council are permitted to be used for hackney carriage and private hire purposes

### Driving licensed vehicles

Once a vehicle is licensed it is classed as licenced at all times. Only drivers who are licensed by Tamworth Council are permitted to drive vehicles that are licensed by this authority. The only exceptions to this are when the vehicle is undergoing a fitness test and needs to be driven by the MOT examiner or it is being driven by a qualified mechanic for the purposes of a vehicle service, recovery or maintenance or otherwise permitted by legislation

### Touting

A proprietor or driver of a hackney carriage, when standing or plying for hire, must not call out or otherwise importune any person to hire such vehicle and must not make use of the services of any other person for this purpose.

### Plying for hire

Drivers of private hire vehicles must NOT 'ply for hire'. The Council's interpretation of 'plying for hire' is set out at **Appendix G** and is based on relevant legislation and case law.

### Transporting children

As a minimum, drivers must comply with the requirements set out in the table below. For clarity children should not travel in a push chair

Category	Front seat	Rear seat	Who is responsible?
<b>Child under 3</b>	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
<b>Child from 3<sup>rd</sup> birthday up to 135 cm in height (or 12<sup>th</sup> birthday, whichever they reach first)</b>	The right child restraints must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint is not available: in a taxi; for a short distance in an unexpected necessity; if two occupied child restraints prevent fitting of a third.	Driver

Category	Front seat	Rear seat	Who is responsible?
<b>Child 12, 13, or over 135 cm in height</b>	Seat belt (or child restraint) must be worn if fitted	Seat belt (or child restraint) must be worn if fitted.	Driver
<b>All Passengers 14 years and over</b>	Seat belt must be worn if fitted	Seat belt must be worn if fitted.	Passenger

### Smoking in vehicles

Drivers must not, at any time, smoke or permit passengers to smoke in their vehicle as required by the Health Act 2006 and the Smoke-Free (Exemptions and Vehicles) Regulations 2007. This includes e-cigarettes and vaping and any similar paraphernalia. No smoking signs shall be displayed clearly visible to passengers.

### Refusing to convey passengers

A driver of a hackney carriage who is waiting at a rank/stand must not refuse to carry a passenger with or without a reasonable excuse.

### Overcharging

Drivers of hackney carriages must not charge more than is permitted under the current table of fares

### Persons riding without consent



Drivers of hackney carriages must not permit persons to be carried in the vehicle unless they have the consent from the person who is actually hiring the vehicle.

#### Unauthorised drivers

Licensed drivers of hackney carriages must not allow any persons to drive a hackney carriage unless they are authorised to do so by the proprietor and hold an appropriate license to do so.

#### Unattended vehicles

Hackney carriage drivers must not leave their vehicle unattended in any street or public place or venue or Taxi Rank, or in contravention to parking regulations.

#### Obstruction

Hackney carriage drivers must not obstruct other hackney carriage drivers/vehicles from undertaking their normal hiring and driving activities.

### **3b. HACKNEY CARRIAGES**

#### **Summary**

Hackney carriages are licensed in accordance with the provisions contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Commonly known as 'taxis', hackney carriages are licensed to stand for hire at a taxi rank or can be hailed in the street when within the administrative area of the council with which it is licensed. Hackney carriages may also undertake pre-booked journeys anywhere in the country.

All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair if designated as a Wheelchair Accessible Vehicle by the Council.

Section 167 of the Equality Act 2010 requires Local Authorities to maintain and publish a list of all designated Wheelchair Accessible taxis and Private Hire Vehicles. The duties on drivers apply to drivers of vehicles in this list include:

- (a) to carry the passenger;
- (b) To carry their wheelchair/mobility aids
- (c) not to make, or propose to make, any charge for carrying out these duties;
- (d) to take reasonable steps to carry the passenger in safety and reasonable comfort;
- (e) to provide reasonable mobility assistance

The Council will not licence a vehicle for hire and reward which is licensed by another local authority or allow or permit a hackney carriage identification plate issued by another authority to be displayed on the vehicle.

The Council does not limit the number of hackney carriage vehicle licences that it will issue.

#### **Relevant licensable area**

The Council will not operate separate zones for licensing of hackney carriages and the relevant licensable area will be the whole administrative area of the Council.

#### **Intended use of vehicles**

A person applying for a licence for a hackney carriage vehicle should do so with the intention of using the vehicle in the administrative area of Tamworth Borough Council. Where the intention is to use a hackney carriage licensed vehicle in another council's area for private hire, then the applicant should apply to that council for an appropriate licence.

In accordance with section 57 of the Local Government (Miscellaneous Provisions) Act 1976, a person applying for a hackney carriage licence will be required to indicate whether the vehicle will be used primarily within the administrative area of Tamworth Borough Council or outside the area. Details will be required as to the proportion of business that will be carried out both within and out of Tamworth Borough Council's administrative area. In addition, details of the location of business carried on outside the Council's area will be required. Applications received where the primary use of the vehicle is or is likely to be outside the Council's area will be refused.

#### **Period of licence**

Vehicle licences will be issued for 12 months.

## Vehicle Specifications

Upon first application all vehicles must be a purpose built hackney carriage or wheelchair accessible, or converted to conform with European type approval, and be less than 12 years old. Vehicles up to 4 years old will require an annual fitness test and twice per year for vehicles over 4 years old.

The following upper age limits apply:

- No vehicle licence will be renewed on any vehicle that is of 12 years of age.
- There will be no upper age limit on Electric /hybrid vehicles.

Licence applications for vehicles in “exceptional condition” which are outside of the Council’s policy, for example by age and type of vehicle, will be subject to additional checks relevant to the type of vehicle. Applicants must request the vehicle be checked by the Licensing Team in order to assess if it meets the require standard. This vehicle check must be completed at least a month before the licence plate expires. The compliance test must show no advisory’s or minor defects. An additional fee will be charged for vehicles outside of the Council’s policies to cover additional administration.

Vehicles must

- a) seat not less than four (4) or more than eight (8) passengers (not including the driver) and;
- b) Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels. Unless licensed at the implementation of this policy, vehicles converted from being light goods vehicles (registered under the N1 tax classification) to being passenger carrying vehicles will not be considered suitable for licensing;
- c) Be fitted with a taximeter, calibrated to the Borough Council’s approved tariff
- d) Be fitted with an illuminated roof sign
- e) Provide sufficient means by which any person in the carriage may communicate with the driver;
- f) All paintwork must be maintained in a uniform colour and free from dents, scratches or rust;
- g) Have a watertight roof or covering;
- h) Provide at least two windows on each side of the vehicle of which one window on one side must have a means of opening/closing;
- i) Have fitted rear passenger windows that are not heavily tinted or blacked out and will allow a minimum of 35% transmission of light (tolerance of 2%) and must comply with the Road Vehicles (Construction & Use) Regulations 1986. No additional film will be permitted;
- j) Have seats that are properly cushioned and covered;
- k) Have a floor provided with a proper carpet, mat, or other suitable covering;
- l) Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service;

- m) Provide means for securing luggage if the carriage is so constructed as to carry luggage:
- n) Be fitted with an anti-lock braking system
- o) Where tilting passenger seats are fitted (except where these are part of the manufacturer's original vehicle specification), the seat must:-
  - be forward facing (with the exception of the fold down seats fitted onto the bulkhead/partition of a purpose built hackney carriage);
  - be designed for use by an adult;
  - have a three point seatbelt - as specified in the Road Vehicle (Construction and Use) Regulations 1986 (as amended).
- p) Have a minimum of four passenger doors, which may include the rear tailgate doors if they can be opened from inside the vehicle, including an entry/exit point for the driver:
- q) Be maintained in a sound mechanical and structural condition at all times;
- r) Have a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of their current a contract with a mobile tyre, replacement specialist (in any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety); all pneumatic tyres, including the spare, must comply with the vehicle manufacturer's specification and any relevant legislation;
- s) Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.
- t) Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes
- u) Minibuses and Multi-Purpose Vehicles (MPVs) must have a step fitted to assist passenger access through all rear passenger doors.
- v) Electric vehicles that are fitted with a range extension device are permitted, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.
- w) Vehicles must be able to accommodate at least one wheelchair using passenger.

Vehicles shall have a designated space capable of accepting a reference wheelchair, of at least 1200mm by 700mm (measured front to back and side to side) with a minimum headroom of 1350mm measured from the floor of the vehicle for each passenger who uses a wheelchair. The space(s) shall be immediately adjacent to a vehicle door which is fitted with wheelchair access equipment so that the passenger using a wheelchair can board the vehicle and use the anchoring equipment with the minimum of manoeuvring.

Wheelchairs can be loaded from either the side or the rear of the vehicle

A system for the effective anchoring of wheelchairs must be provided such that they only face forwards or rearwards when the vehicle is in motion. It is best practice to secure wheelchairs in a forwarding facing position.

A suitable restraint must be available to the occupant of the wheelchair.

A ramp or ramps, or other approved lifting device must be present and available for use to enable the safe loading and unloading of any passenger using a wheelchair, and be capable of supporting a wheelchair, occupant and helper. When deployed ramps must run flush with the vehicles interior floor level.

Any lifting device fitted must be regularly tested in accordance with any applicable health and safety regulations (e.g. Lifting Operations and Lifting Regulations 1998) for such devices and maintained in good working order.

Vehicles presented to be licensed as a Hackney Carriage for the first time must be wheelchair accessible. They may be purpose built 'London-type' taxis, or specifically converted from a passenger carrying vehicle with no wheelchair access to a passenger carrying vehicle that is capable of carrying a passenger in their wheelchair (typically known as an M1 conversion). Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval).

### **Application and Supporting Documentation**

The application process to licence a hackney carriage vehicle is the same for a new or renewal application.

The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted until such time as all the information/documentation is provided.

Any person wishing to licence a hackney carriage vehicle must submit:

- a) A completed application form;
- b) A Basic, Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) A Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions';
- d) The appropriate licence fee (in full at the time of application);
- e) A current vehicle fitness/garage test pass certificate (from the Council's Garage);
- f) A valid certificate of insurance for public hire, This must remain valid for the period of the licence and must be produced on demand to an authorised officer or Police, and in any case within 24 hours.
- g) The V5 registration certificate
- h) A valid certificate/report to confirm the vehicle is fitted with a taximeter in accordance with the requirements
- i) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations.);

Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB. Council officers will check that the provision of nonmechanical ramps is being maintained by the vehicle proprietor.); and

Where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

**Once all of the information has been provided it may take up to 10 working days to issue the licence.**

### **Taximeters**

Taximeters must be:

- certified by a notified body in accordance with the Measuring Instruments Directive (MID) (2004/22/EC), in particular Annex 007;
- fitted with a device, the use/action of which will bring the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter and such a device must be capable of being locked in a position such that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- calibrated against an appropriate standard to ensure the tariff charged does not exceed the maximum fares agreed by the Council;
- calendar controlled;
- fixed to the vehicle with appropriate seals/appliances to prevent any person from tampering with the meter except by breaking, damaging, or permanently displacing the seals/appliances; and
- have the word 'FARE' printed on the face of the meter in plain letters so as clearly to apply to the fare recorded thereon.

### **Fitness test requirements**

The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed.

Testing of all vehicles takes place at the Council's nominated Garage.

The frequency of testing is once per year for vehicles up to 4 years old and twice per year for vehicles over 4 years old. Vehicles can be presented for test up to 8 weeks prior to the Council issuing a renewed licence. An authorised officer of the Council may request that an additional test is carried out during the licence period.

All costs of the test are to be made by the vehicle proprietor. It is the proprietor's responsibility to organise the testing of the vehicle before the existing plate expires.

Where a vehicle licence is suspended as a result of an accident; a garage test will be required to confirm that it is roadworthy, once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness/garage test pass certificate will be required before the suspension can be lifted. Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for a re-inspection. If the garage deems the vehicle to be non repairable, it fails the re-inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.

- If a vehicle fails its fitness test the licence will be suspended. The licencing officer, in consultation with the proprietor of the vehicle will agree a time by which the vehicle must pass its fitness test. If it fails to pass by the agreed time the licence may be revoked.
- With respect to a licensed vehicle, in the event of a proprietor failing to present the vehicle for a fitness test (unless delayed or prevented by sufficient cause accepted and agreed in advance by the Council), the Council may suspend the licence and require the proprietor of that hackney carriage to return the plate to them within 72 hours. If the vehicle is not presented for its fitness test within 14 days of the suspension the licence may be revoked.

### **V5 registration certificate**

The Council accepts that a full V5 registration form in the new owner's name is not always available upon first licence; however, the V5/2 green section of the V5 form must be produced, or a bill of sale. Where the green section has been produced on first licensing the vehicle, a full V5 form in the new owner's name must be produced to the Council within 7 days of the form being received by the owner of the vehicle. A V5 form or proof of purchase must be produced upon transfer of a vehicle licence.

### **Renewal of a licence**

To allow the vehicle's licence to be renewed, a renewal application form must be received by the Council at least 10 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application. Once a licence expires, is revoked (subject to a statutory appeal process) or surrendered, it ceases to exist. In such circumstances the vehicle must not be used after the expiry date until the renewal plate has been issued.

Once a licence ceases to exist a renewal application will not be accepted by the Council and the applicant must submit a new vehicle licence application which will be processed in accordance with the Council's new application procedures.

### **Vehicle not fit for the conveyance of passengers**

Where a proprietor has notified the Council that damage has occurred to a vehicle, otherwise than in accordance with relevant road traffic legislation, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not. If not, the Council may at that time suspend the

licence and require the proprietor of the vehicle to return the vehicle's plate to them within 72 hours.

The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council, to be fit for conveying passengers. The Council will require the proprietor to arrange for a further fitness test to be undertaken and certificate produced before the vehicle will be permitted to operate.

## **Advertising**

Proprietors may advertise on hackney carriages in accordance with the conditions set out at **Appendix J**. This is subject to prior approval from the Council.

## **Closed circuit television (CCTV)**

Proprietors of hackney carriage vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. The relevant legislation must be adhered to. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. For further information:

<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-docouncils-stand>

## **Trailers**

Hackney carriages are permitted to tow trailers when undertaking the licensable activity, providing the conditions set out at **Appendix K** are complied with.

## **Ranks**

The Highways section of Staffordshire County Council will work with the hackney carriage trade, Licensing and Staffordshire Police to determine where ranks/stands ought to be situated.

Where a driver is plying for hire and is illegally parked or if, in the opinion of an officer of the Council or police officer, the driver is plying for hire in a dangerous location, the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action.

## **LPG converted vehicles**

The Council must be satisfied that any vehicle that has been converted to LPG has been converted correctly prior to a licence being issued. To this end, the Council will undertake checks with the UK LPG Vehicle Register.

With respect to new applications, where it is established that a conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will refuse the application.

In the event that an LPG conversion has been undertaken on a vehicle during a current licenced period and the proprietor of the vehicle fails to notify the Council within 7 days of the conversion and provide the LPG Association Conversion Certificate, the Council will suspend the vehicle licence until such time as the certificate is produced. If the certificate is



not produced within 28 days from the date the licence was suspended the Council will revoke the licence.

In the case of a conversion that has been undertaken on a vehicle during a current licenced period and it is subsequently established that the conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will suspend the licence until such time as the conversion has been undertaken correctly and/or it is demonstrated to the satisfaction of the Council that the vehicle is safe. If this does not occur within a period of 28 days from the date the licence was suspended the Council will revoke the licence.

### **Electric and Zero Emission Capable Vehicles**

The Council encourages and promotes the purchase of fully electric and zero emission capable vehicles to be licensed as Hackney Carriages. Where possible the Council will seek to implement a number of 'plug-in' points around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities. Hybrid vehicles will not be permitted as Hackney Carriages unless they also fulfil the Wheelchair Accessible Vehicle requirements. The Council support the use of electric vehicles that are fitted with a range extension device, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

### **Hackney carriage fares**

The hackney carriage trade will be expected to apply for any change to the hackney carriage fares. Any proposed changes will be notified to all hackney carriage licence holders, considered by Licensing Committee and advertised in the local press before they are adopted. This does not preclude the Council from putting forward changes to the fares or taking a decision not to accept the application from the trade.

### **Licence conditions**

The applicable conditions relevant to a hackney carriage licence are set out at **Appendix C**. These conditions are in addition to any matters set out within the main body of the Policy.

### **Main legal requirements**

Change of proprietor.

The proprietor must give notice to the Council of any transfer in his interest in the hackney carriage vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given, in writing, within 7 days specifying the name and address of the person to whom the vehicle has been transferred.

Change of address

The proprietor of a hackney carriage must notify the Council in writing, within 7 days, of any change of their address.

Retention of drivers licences

Where a Hackney Carriage is working for an Operator they must ensure that each driver's licence is lodged with the operator before the driver is employed to carry out work and must retain the licence in their possession for the period during which the driver remains in their employment. When a driver leaves their employment, the operator must return the driver's licence unless the licence holder has been guilty of misconduct in which case the operator may retain the licence and must issue a summons to have the cause of complaint

determined by the Courts. (Note: If the Courts find that the licence has been improperly retained they have the powers to order its return and to award compensation).

#### Inspection

The proprietor must present their hackney carriage for inspection/testing by the Council as required per year. The proprietor must provide, on request, the address where the hackney carriage is kept and allow the Council to inspect/test the vehicle at that address.

#### Accidents

The proprietor, notwithstanding their responsibilities under relevant road traffic legislation, must report to the Council any accident as soon as reasonably practicable. However, where the vehicle has suffered accident damage that materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of fare paying passengers, the driver must notify the Council within 72 hours. Failure to do so may result in penalty points being awarded.

#### Production of documents

The proprietor must, on request, produce for inspection the hackney carriage vehicle licence and insurance certificate within 7 days.

#### Return of identification plate

Where a licence is revoked, suspended or expires, the proprietor, when required by the Council to do so must return the identification plate within 7 days.

#### Transporting children

As a minimum, vehicles must be capable of complying with the requirements set out in the table below. For clarity children should not travel in a push chair.

Category	Front seat	Rear seat	Who is responsible
<b>Child under 3</b>	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
<b>Child from 3<sup>rd</sup> birthday up to 135 cm in height (or 12<sup>th</sup> birthday, whichever they reach first)</b>	The right child restraint must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint is not available: in a taxi; for a short distance in an unexpected necessity; if two occupied child restraints prevent fitting a third.	Driver
<b>Child 12 or 13, or over 135 cm in height</b>	Seat belt (or child restraint) must be worn if fitted.	Seat belt (or child restraint) must be worn if fitted.	Driver
<b>All Passengers 14 and over</b>	Seat belt must be worn if fitted.	Seat belt must be worn if fitted.	Passenger

## Ranks

Hackney carriage ranks/stands are provided in accordance with the Local Government (Miscellaneous Provisions) Act 1976. The Council may appoint ranks/stands for hackney carriages. It is not a mandatory statutory requirement for the Council to do so. Before providing ranks/stands the Council will liaise with the police and the highways department of Staffordshire County Council.

## Fares

Drivers undertaking journeys ending outside the Council's area and in respect of which no fare and no rate of fare was agreed before the journey commenced must not charge more than that indicated on the taximeter or more than the current table of fares allows. Where a hackney carriage is used for a private hire contract the fare charged must not exceed the fares set down in the current table of fares.

## Parking/waiting

Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a private hire vehicle has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them. The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986

### **3c. PRIVATE HIRE VEHICLES**

#### **Summary**

Private hire vehicles are licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976. Private hire vehicles must not have the appearance of a hackney carriage vehicle.

When considering whether a vehicle is a private hire vehicle by the nature of the work it does, Tamworth Borough Council shall have regard to the document Private Hire Vehicle Licensing - A note for guidance from the Department for Transport (August 2011)

The Council does not limit the number of private hire vehicle licences that it will issue.

The Council will not licence a vehicle for hire and reward which is licensed by another local authority or allow or permit a private hire vehicle identification plate issued by another authority to be displayed on the vehicle.

All private hire vehicles shall be capable of providing for at least one wheelchair if designated as a Wheelchair Accessible Vehicle by the Council.

Section 167 of the Equality Act 2010 requires Local Authorities to maintain and publish a list of all designated Wheelchair Accessible taxis and Private Hire Vehicles. The duties on drivers apply to drivers of vehicles in this list include:

- (a) to carry the passenger;
- (b) To carry their wheelchair/mobility aids
- (c) not to make, or propose to make, any charge for carrying out these duties;
- (d) to take reasonable steps to carry the passenger in safety and reasonable comfort;
- (e) to provide reasonable mobility assistance

#### **Period of licence**

Vehicle licences will be issued for 12 months.

#### **Vehicle Specifications**

Upon first application all vehicles must be less than 10 years old. Vehicles up to 4 years old will require an annual fitness test and twice per year for vehicles over 4 years old.

The following upper age limits apply:

- No vehicle licence will be renewed on any vehicle that is of 10 years of age.
- There will be no upper age limit on Electric /hybrid vehicles.

Licence applications for vehicles in “exceptional condition” which are outside of the Council’s policy, for example by age and type of vehicle, will be subject to additional checks relevant to the type of vehicle. Applicants must request the vehicle be checked by the Licensing Team in order to assess if it meets the require standard. This vehicle check must be completed at least a month before the licence plate expires. The compliance test must show no advisory’s or minor defects. An additional fee will be charged for vehicles outside of the Council’s policies to cover additional administration.

## Vehicles must

- a) seat not less than 4 or more than eight passengers (not including the driver) and:
- b) Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels. Vehicles converted from being light goods vehicles (registered under the N1 tax classification) to being passenger carrying vehicles will be considered subject to paragraph (e) below;
- c) It must not be of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage
- d) To be licensed for Private Hire the vehicle must have uniform coloured paintwork.
- e) The Council encourages vehicles presented to be licensed for Private Hire for the first time to be wheelchair accessible but they do not have to be. Where the vehicles are wheelchair accessible they may be purpose built, or specifically converted from a passenger carrying vehicle with no wheelchair access to a passenger carrying vehicle that is capable of carrying a passenger in their wheelchair (typically known as an M1 conversion). Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval).
- f) Provide sufficient means by which any person in the carriage may communicate with the driver;
- g) All paintwork must be maintained to a high standard and be free from dents, scratches and rust other than can be attributed to general wear and tear in the life of a licensed vehicle.
- h) Have a watertight roof or covering;
- i) Provide at least two windows on each side of the vehicle of which one window on one side must have a means of opening/closing;
- j) Have fitted rear passenger windows that are not heavily tinted or blacked out and will allow a minimum of 35% transmission of light (tolerance of 2%) and must comply with the Road Vehicles (Construction & Use) Regulations 1986. No additional film will be permitted;
- k) Have seats that are properly cushioned and covered;
- l) Have a floor provided with a proper carpet, mat, or other suitable covering;
- m) Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service;
- n) Provide means for securing luggage if the carriage is so constructed as to carry luggage:
- o) Be fitted with an anti-lock braking system
- p) Where tilting passenger seats are fitted (except where these are part of the manufacturer's original vehicle specification), the seat must:-
  - be forward facing (with the exception of the fold down seats fitted onto the

- bulkhead/partition of a purpose built hackney carriage);
- be designed for use by an adult;
- have a three point seatbelt - as specified in the Road Vehicle (Construction and Use) Regulations 1986 (as amended).
- q) Have a minimum of four passenger doors, which may include the rear tailgate doors if they can be opened from inside the vehicle, including an entry/exit point for the driver:
- r) Be maintained in a sound mechanical and structural condition at all times;
- s) Have a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of their current a contract with a mobile tyre, replacement specialist (in any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety); all pneumatic tyres, including the spare, must comply with the vehicle manufacturer's specification and any relevant legislation;
- t) Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.
- u) Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes
- v) Minibuses and Multi-Purpose Vehicles (MPVs) must have a step fitted to assist passenger access through all rear passenger doors.
- w) Electric vehicles that are fitted with a range extension device are acceptable, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

### **Wheelchair Accessible Vehicles**

Vehicles must be able to accommodate at least one wheelchair using passenger.

Vehicles shall have a designated space capable of accepting a reference wheelchair, of at least 1200mm by 700mm (measured front to back and side to side) with a minimum headroom of 1350mm measured from the floor of the vehicle for each passenger who uses a wheelchair. The space(s) shall be immediately adjacent to a vehicle door which is fitted with wheelchair access equipment so that the passenger using a wheelchair can board the vehicle and use the anchoring equipment with the minimum of manoeuvring.

Wheelchairs can be loaded from either the side or the rear of the vehicle

A system for the effective anchoring of wheelchairs must be provided such that they only face forwards or rearwards when the vehicle is in motion. It is best practice to secure wheelchairs in a forwarding facing position.

A suitable restraint must be available to the occupant of the wheelchair.

A ramp or ramps, or other approved lifting device must be present and available for use to enable the safe loading and unloading of any passenger using a wheelchair, and be capable

of supporting a wheelchair, occupant and helper. When deployed ramps must run flush with the vehicles interior floor level.

Any lifting device fitted must be regularly tested in accordance with any applicable health and safety regulations (e.g. Lifting Operations and Lifting Regulations 1998) for such devices and maintained in good working order.

## **Application and Supporting Documentation**

The application process to licence a Private Hire vehicle is the same for a new or renewal application.

The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted until such time as all the information/documentation is provided.

Any person wishing to licence a Private Hire vehicle must submit:

- a) A completed application form;
- b) A Basic, Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) A Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions';
- d) The appropriate licence fee (in full at the time of application);
- e) A current vehicle fitness/garage test pass certificate (from the Council's Garage);
- h) A valid certificate of insurance for private hire, This must remain valid for the period of the licence and must be produced on demand to an authorised officer or Police, and in any case within 24 hours.
- g) The V5 registration certificate
- h) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations.);

Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB. Council officers will check that the provision of non mechanical ramps is being maintained by the vehicle proprietor.); and

Where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

**Once all of the information has been provided it may take up to 10 working days to issue the licence.**

### **Fitness test requirements**

The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed.

Testing of all vehicles takes place at the Council's nominated Garage.

The frequency of testing is once per year for vehicles up to 4 years old and twice per year for vehicles over 4 years old. Vehicles can be presented for test up to 8 weeks prior to the Council issuing a renewed licence. An authorised officer of the Council may request that an additional test is carried out during the licence period.

All costs of the test are to be made by the vehicle proprietor. It is the proprietor's responsibility to organise the testing of the vehicle before the existing plate expires.

Where a vehicle licence is suspended as a result of an accident; a garage test will be required to confirm that it is roadworthy, once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness/garage test pass certificate will be required before the suspension can be lifted. Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for a re-inspection. If the garage deems the vehicle to be non repairable, it fails the re-inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.

- If a vehicle fails its fitness test the licence will be suspended. The licencing officer, in consultation with the proprietor of the vehicle will agree a time by which the vehicle must pass its fitness test. If it fails to pass by the agreed time the licence may be revoked.
- With respect to a licensed vehicle, in the event of a proprietor failing to present the vehicle for a fitness test (unless delayed or prevented by sufficient cause accepted and agreed in advance by the Council), the Council may suspend the licence and
- require the proprietor of that hackney carriage to return the plate to them within 72 hours. If the vehicle is not presented for its fitness test within 14 days of the suspension the licence may be revoked.

### **V5 registration certificate**

The Council accepts that a full V5 registration certificate in the new owner's name is not always available upon first licence; however, the V5/2 green section of the V5 form must be produced. Where the green section has been produced on first licensing the vehicle, a full V5 form in the new owner's name must be produced to the Council within 7 days of the form being received by the owner of the vehicle. A V5 form or proof of purchase must be produced upon transfer of a vehicle licence.



## **Renewal of a licence**

To allow the vehicle's licence to be renewed, a renewal application form must be received by the Council at least 10 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application. Once a licence expires, is revoked (subject to a statutory appeal process) or surrendered, it ceases to exist.

Once a licence ceases to exist a renewal application will not be accepted by the Council and the applicant must submit a new vehicle licence application which will be processed in accordance with the Council's new application procedures.

## **Vehicle not fit for the conveyance of passengers**

Where a proprietor has notified the Council that damage has occurred to a vehicle, otherwise than in accordance with relevant road traffic legislation, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not. If not, the Council may at that time suspend the licence and require the proprietor of the vehicle to return the vehicle's plate to them within 72 hours.

The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council, to be fit for conveying passengers. The Council will require the proprietor to arrange for a further fitness test to be undertaken and certificate produced before the vehicle will be permitted to operate.

## **Advertising**

Proprietors may advertise on private hire vehicles in accordance with the conditions set out at **Appendix J**. This is subject to prior written approval from the Council.

## **Closed circuit television (CCTV)**

Proprietors of private hire vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. The relevant legislation must be adhered to. . If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. For further information:

<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

## **Trailers**

Private hire vehicles licensed by the Council are permitted to tow trailers when undertaking the licensed activity providing that the conditions set out at **Appendix K** are complied with at all times.

## **Meters**

Private hire vehicles will not require a meter. However if a meter is fitted, it must be:

- certified by a notified body in accordance with the Measuring Instruments Directive (MID) (2004/22/EC), in particular Annex 007;

- fitted with a device, the use/action of which will bring the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter and such a device must be capable of being locked in a position such that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- calibrated against an appropriate standard to ensure the tariff charged does not exceed the maximum fares agreed by the Council;
- calendar controlled
- fixed to the vehicle with appropriate seals/appliances to prevent any person from tampering with the meter except by breaking, damaging, or permanently displacing the seals/appliances; and
- have the word 'FARE' printed on the face of the meter in plain letters so as clearly to apply to the fare recorded thereon.

### **LPG converted vehicles**

The Council must be satisfied that any vehicle that has been converted to LPG has been converted correctly prior to a licence being issued. To this end, the Council will undertake checks with the UK LPG Vehicle Register.

With respect to new applications, where it is established that a conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will refuse the application

In the event that an LPG conversion has been undertaken on a vehicle during a current licenced period and the proprietor of the vehicle fails to notify the Council within 7 days of the conversion and provide the LPG Association Conversion Certificate, the Council will suspend the vehicle licence until such time as the certificate is produced. If the certificate is not produced within 28 days from the date the licence was suspended the Council will revoke the licence.

In the case of a conversion that has been undertaken on a vehicle during a current licenced period and it is subsequently established that the conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will suspend the licence until such time as the conversion has been undertaken correctly and/or it is demonstrated to the satisfaction of the Council that the vehicle is safe. If this does not occur within a period of 3 months from the date the licence was suspended the Council will revoke the licence.

### **Electric and Zero Emission Capable/Hybrid Vehicles**

The Council encourages and promotes the purchase of fully electric and zero emission capable or hybrid vehicles to be licensed as Private Hire Vehicles. Where possible the Council will seek to implement a number of 'plug-in' points around the district which will be available for vehicle proprietors to use, and also to actively target funding opportunities. The Council support the use of electric vehicles that are fitted with a range extension device, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

## Licence conditions

The applicable conditions relevant to a private hire vehicle licence are set out at **Appendix C**. These conditions are in addition to any matters set out within the main body of the Policy. Main legal requirements

### Change of proprietor

The proprietor must give notice to the Council of any transfer in his interest in the private hire vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given, in writing, within 7 days specifying the name and address of the person to whom the vehicle has been transferred.

### Change of address

The proprietor of a hackney carriage must notify the Council in writing, within 7 days, of any change of their address.

### Retention of drivers licences

Where a Private Hire is working for an Operator they must ensure that each driver's licence is lodged with the operator before the driver is employed to carry out work and must retain the licence in their possession for the period during which the driver remains in their employ. When a driver leaves their employment, the operator must return the driver's licence unless the licence holder has been guilty of misconduct in which case the operator may retain the licence and must issue a summons to have the cause of complaint determined by the Courts. (Note: If the Courts find that the licence has been improperly retained they have the powers to order its return and to award compensation.)

### Inspection

The proprietor must present their private hire vehicle for inspection/testing by the Council as required, up to a maximum of 2 times per year. The proprietor must provide, on request, the address where the private hire vehicle is kept and allow the Council to inspect/test the vehicle at that address.

### Accidents

The proprietor, notwithstanding their responsibilities under relevant road traffic legislation, must report to the Council any accident as soon as reasonably practicable. However, where the vehicle has suffered accident damage that materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of fare paying passengers, the driver must notify the Council within 72 hours.

### Production of documents

The proprietor must, on request, produce for inspection the private hire vehicle licence and insurance certificate within 7 days.

### Return of identification plate

Where a licence is revoked, suspended or expires, the proprietor, when required by the Council to do so must return the identification plate within 7 days.

### Transporting children

As a minimum, private hire vehicles must be capable of complying with the requirements set out in the table below. For clarity children should not travel in a push chair.

Category	Front seat	Rear seat	Who is responsible?
<b>Child under 3</b>	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
<b>Child from 3<sup>rd</sup> birthday up to 135 cm in height (or 12<sup>th</sup> birthday, whichever they reach first)</b>	The right child restraint must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint is not available: In a taxi; for a short distance in an unexpected necessity; if two occupied child restraints prevent a third.	Driver
<b>Child 12 or 13, or over 135 cm in height</b>	Seat belt (or child restraint) must be worn if fitted	Seat belt (or child restraint) must be worn if fitted.	Driver
<b>All Passengers 14 years and over</b>	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Passenger

### **Ranks/stands**

A private hire vehicle must not wait on any rank/stand. It is an offence to do so and may result in enforcement action being taken against the driver.

### **Parking/waiting**

Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a private hire vehicle has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them.

The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986.

### **Private Hire Vehicle Exemption Certificates**

The Local Government (Miscellaneous provisions) Act 1976 requires that a District must issue a private hire vehicle with an identity plate or disc and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate or disc as directed by the Council.

The Local Government (Miscellaneous provisions) Act 1976 s75 (3) gives the District Council the discretion to grant a proprietor an exemption from displaying the licence plate on their private hire vehicle.

Executive hire vehicles are private hire vehicles with an additional application to be made for an exemption to display the licence plate and side identification stickers. They are high value, prestige vehicles that are used by companies for transporting special guests or senior

members of staff in luxury. Executive hire vehicles are styled more as chauffeur driven vehicles than standard private hire vehicles.

Each application for an executive hire vehicle will be considered on its own merits. The overriding consideration will be public safety. The clear identification of a licenced vehicle is considered such a safety aspect, particularly when visiting such places as airports, seaports and the centre of large towns.

Exemptions will not be granted as a matter of course. A clear case for the exemption will have to be made by the proprietor to the authority.

In determining an application it will normally be the executive nature of the work that will indicate whether or not the exemption should be granted, as well as the specification and high quality of the vehicle being used.

If the applicant for an executive Hire Vehicle has ever been cautioned or convicted by any authority of unlawfully plying for hire, the council may refuse to allow the applicant to have a vehicle licensed for executive hire.

Separate conditions apply to Executive Hire Vehicles with the exemption to display the vehicle plate. These are set out in Appendix D.

Executive Hire Vehicles should have the following features as a minimum in order to be considered for licensing, this list is not exhaustive:-

- High quality vehicle in terms of brand and condition, with no visible defects, dents or blemishes to the external bodywork or trim
- Luxury or prestige vehicle
- Engine size of 2000cc or greater
- Automatic transmission
- Minimum specification of air conditioning/climate control to front and rear seats, all electric windows, central locking and suitable front and rear headrests for all passengers.

Executive hire vehicles are to be used for purposes such as corporate bookings to transport employees and clients on business related journeys, and bookings where customers have asked to book a vehicle without obvious private hire plates or signage. The Council closely monitors the use of executive hire vehicle, such vehicles are not to be used as standard private hire vehicles.

On the grant of an executive hire licence the council will issue an executive hire window badge for display in the front and rear window.

The drivers of executive hire vehicles are exempted from the requirement to wear a drivers badge. However the Council would expect the badge to be carried in the vehicle and to be available for inspection by an authorised officer of the council or a police officer.

### **Limousines, Novelty Vehicles and Vintage Vehicles**

For the purpose of licensing a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres to extend the length of the vehicle. The vehicle shall be capable of carrying up to, but not exceeding,

eight passengers. Applicants are directed towards the VOSA (now DVSA) 'Guidance for Operators of Stretch Limousines' (March 2011).

Limousines will be licensed by the Council however, the over-riding consideration will be the safety of the vehicle. Such types of vehicle will only be licensed as private hire vehicles. They will be subject to the production of specific documents, in original form or as copies certified by the vehicle builder (uncertified photocopies will not be accepted), and to conditions as set out in Appendix E. These are in addition to the documents required and the conditions applicable to standard private hire vehicle licensing. Proprietors may submit an application for a Private Hire Vehicle Exemption Certificate.

The following documentation must be produced prior to licensing:

- a. Evidence of compliance through the Individual Vehicle Approval Scheme (IVA) or a Qualified Vehicle Modifier (QVM) certificate; this is issued by the vehicle builder.
- b. Public Liability Insurance documentation for a minimum of £5,000,000 and, where drivers other than the proprietor are used, Employer Liability Insurance documentation for a minimum of £10,000,000.
- c. Documentation recording the overall weight of the vehicle (as displayed on the vehicle.)

In addition to stretched limousines, novelty vehicles, e.g. fire engines, and vintage vehicles will also be considered for licensing. Such vehicles do not have to comply with the European Emission Standards or the New Car Assessment Programme rating but will be dealt with by a case by case basis and referred to the Council's Licensing Committee for determination

### **3d. PRIVATE HIRE OPERATORS**

#### **Summary**

Private hire operators are licensed in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any person who wishes to take bookings, in the course of a business, for a private hire vehicle must hold a private hire operator licence.

#### **Period of licence**

Licences will be issued at a standard length of 5 years. Any shorter duration licence will only be issued if a licensee has requested this and it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holders leave to remain in the UK is time-limited) or when the licence is only required to meet a short term demand. Licences will not be issued on a probationary basis in accordance with the Statutory Taxi & Private Hire Vehicle Standards.

#### **Application process**

The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information/documentation and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.

The application process to licence a private hire operator is the same for a new or renewal application.

Any person (including a sole trader, partnership or company) wishing to become a licensed private hire operator must submit:

- a completed application form (where the application relates to a partnership or a company, the application form must provide the name, address and date of birth of all partners, directors/company secretaries, as appropriate); A check of the Companies House register may be undertaken to confirm these details;
- Tax check code
- Proof of Right to Work
- the appropriate licence fee;
- a list of the vehicles and drivers which they operate
- a basic DBS certificate issued within the last 3 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process); for each director, partner and company secretary;
- Relevant insurance documentation
- a schedule of all employees indicating those staff who take bookings and dispatching vehicles;
- details of their policy regarding the employment of ex-offenders

The schedule of employees must be kept up to date with any changes notified in writing to

the licensing authority.

Any changes of director, partner or company secretary must also be notified in writing to the Licensing Authority

### **Disclosure & Barring Service Check**

All applicants (including sole traders, partnerships and companies) for a private hire operator's licence must prove that they are a fit and proper person to hold an operator's licence.

The applicant must also prove that all employees that work for them and who take bookings, dispatch vehicles, or have access to booking records are fit and proper people to be employed in such positions. They must provide evidence that they have seen a basic DBS for such employees who are not Tamworth Borough Council licensed drivers and also evidence that it is a condition of their employment that they will inform the employer of any criminal convictions they receive during their employment.

Where the applicant or employee already holds a valid Hackney Carriage & Private Hire Drivers Licence a DBS certificate will not be required. If the applicant or employee is not a licensed driver then they will be required to submit a Basic DBS certificate. For a Basic Certificate: Applicants can apply to the DBS online at <https://www.gov.uk/government/organisations/disclosure-and-barring-service> or through a Responsible Organisation.

A DBS check on all relevant persons will be made annually unless the holder of a valid dual drivers licence whereby the check will be made every 6 months, therefore we recommend subscribing to the DBS update service to save incurring unnecessary extra costs.

Enquiries may be made through Staffordshire Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from

The Council adopts the same principles when determining whether an applicant is a fit and proper person to hold a private hire operator's licence as it does to persons applying for a drivers licence. In this respect, applicants are required to have due regard, as appropriate, to the requirements and information set out at section 3a of this Policy.

Applicants must have a UK traceable DBS record of at least 5 years or if the applicant has not been resident in the UK for an unbroken period of at least 5 years have obtained a Certificate of Good Conduct from the Consulate of the applicant's country of origin (at their own cost). The certificate must be translated.

Further information can be found at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided.

Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>



The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.

### **Operator's premises**

The Council will not grant an operator's licence unless the operator can demonstrate to the Council that they have the appropriate planning consent required to operate their business.

The Council will only grant operator licences applicable to the physical premises from which the operator's business will be run.

The Council will not grant an operator's licence to apply to any physical premises that falls out of the administrative area of Tamworth Borough Council.

There are a number of specific conditions set out in the operator licence conditions that apply to premises. Operators must be particularly mindful of complying with these and should they fail to do so the Council will consider revoking the operator's licence.

Where the base is accessible to the public, either for booking or waiting, the Council will expect the premises to be clean, adequately ventilated and heated and that all laws have been complied with, including the Equality Act 2010.

### **Insurance**

Any premises that provide access to members of the public must be covered by Public Liability insurance for a minimum of £5,000,000.

The operator must also obtain information as to any requirement for them to have Employers Liability indemnity; if there is such a requirement, it must be for a minimum of £1,000,000.

### **Record keeping**

Operators must keep records in accordance with the conditions attached to their licence. Such records must be available upon request from an authorised officer of the Council or a police officer

Under the conditions the operator is required to keep a number of different forms of record namely:

- Booking records (to include which member of staff took the booking when the booking is taken by a person and not a computerised method);
- Operator vehicle schedule;
- Operator driver schedule;

Each of these records must be kept up to date and retained by the operator for a period of at least 12 months (as per conditions of licence).

### **Closed circuit television (CCTV)**

Operators are permitted to install closed circuit television (CCTV) systems in premises to which the public have access to make bookings or to wait providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the operator must prominently display signs indicating that CCTV is in use in the vehicle.

## Complaints Procedure

Operators are required to have in place a complaints procedure and must maintain a record of all complaints received, including details of any investigation and/or actions taken as a result of a complaint.

The complaints procedure and compliant records must be made available to the licensing authority or Staffordshire Police on request and will be audited and checked by an authorised officer of the Council as appropriate.

## Licence conditions

Applicable conditions relevant to a private hire operator licence are set out at Appendix F. These conditions are in addition to any matters set out within the main body of the Policy

## Child Sexual Exploitation and Disability Awareness

All new operators are required to complete Child Sexual Exploitation training and Disability awareness training and existing operators are required to complete refresher training every 3 years.

Failure to complete the training within the required time, could result in the licence being suspended until the required training has been completed.

## Main legal requirements

### Contract

Every contract for the hire of a private hire vehicle is deemed to be made with the operator who accepted the booking.

### Transporting children

As a minimum, operators must ensure the vehicles they operate are capable of complying with the requirements set out in the table below. For clarity children should not travel in a push chair

Category	Front seat	Rear seat	Who is responsible?
<b>Child under 3</b>	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
<b>Child from 3<sup>rd</sup> birthday up to 135 cm in height (or 12<sup>th</sup> birthday, whichever they reach first)</b>	The right child restraint must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint not available: in a taxi; for a short distance in an unexpected necessity; two occupied child restraints prevent fitting of a third.	Driver
<b>Child 12 or 13, or over 135 cm in height</b>	Seat belt (or child restraint) must be worn if fitted	Seat belt (or child restraint) must be worn if fitted.	Driver
<b>All Passengers 14 and over</b>	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Passenger

## **PART 4 – COMPLIANCE, ENFORCEMENT AND COMPLAINTS**

This part of the Policy sets out the manner in which the Council approaches compliance and enforcement, including the way in which complaints will be dealt with, as it relates to hackney carriage and private hire licensing.

### **Compliance and enforcement**

The Council's licensing officers will work closely with the hackney carriage and private hire trades to achieve compliance with the relevant legislation and the Council's conditions of licence. The Council will do so in accordance with the Council's Corporate Enforcement Policy. In addition, hackney carriage and private hire vehicle drivers and operators must comply with all reasonable requests made by officers of Tamworth Borough Council, other local authorities and the police.

The Council will work closely with other enforcement authorities, particularly Staffordshire Police when dealing with licensed and unlicensed vehicles and drivers, especially concerning cross boundary related issues.

Licence holders are strongly encouraged to cooperate with officers of all other local authorities. Failure to cooperate may lead to the suspension or revocation of their drivers licence.

Breaches of the driver code of conduct and/or vehicle and operator licence conditions will be dealt with in accordance with the Councils enforcement policy and will be referred to the duly authorised officer. Repeated breaches of licence conditions will result in the matter being referred to the Licensing Committee.

The Council operates a points system for any breaches of conditions. If any driver/proprietor reaches 12 points within a 3 year period they will automatically be referred to the Licensing Committee. Further points within the same period will automatically result in a committee hearing. If any driver/proprietor breaches the exact same condition 3 times in a 3 year period it will automatically result in a committee hearing. If any operator reaches 12 points in a 12 month period it will automatically result in a committee hearing.

The points list is not exhaustive and the licencing officer may decide to have a committee hearing for any driver/proprietor should the officer feel the offence is serious enough to warrant it.

A driver can appeal any points awarded by writing to the Head of Environmental Health.

The Council has a Corporate Enforcement Policy which it will take into account before taking any enforcement action. The Licensing Team must be familiar with the requirements of the policy and appropriate training will be provided, where required.

Authorised Officers will be authorised to take enforcement actions relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.

Where there is a shared enforcement role with other agencies, e.g. the Police, we will liaise with and co-operate with them to ensure there is no conflict of interest or unnecessary duplication of enforcement.

The Council will investigate all valid complaints with regard to drivers, vehicles and operators/proprietors. It will also do spot checks and undercover checks. Investigations will be focused and targeted on businesses that do not comply and/or in those areas of the Borough where complaints have identified potential problems. Those individuals or businesses will face proportionate and meaningful sanctions. Complaints are frequently made against hackney carriage and private hire drivers. Such complaints will be considered first by the licensing officer as to the nature of the complaint being serious enough to be forwarded to an authorised officer of the Council or Licensing Committee.

An authorised officer of the Council /Licensing Committee will consider the history of all complaints made against the driver to assess any patterns. If a problem is inherent, then the Council will consider whether the driver is a fit and proper person to hold such a licence.

Complaints may be investigated by way of an interview under caution in compliance with the Police and Criminal Evidence Act 1984.

Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences show a lack of responsibility whilst driving, either due to the maintenance and safety of their vehicles, or in the manner of their driving. The Council expects all licence holders to adhere to the specifications set out in this Policy and in any relevant legislation. Any complaints that relate to misconduct will be fully investigated and appropriate action will be taken where deemed necessary.

Licence holders are expected to co-operate fully with all requests made of them by an authorised officer of the Council. Failure to do so and/or obstruct an officer in their duty will lead to appropriate action being taken where deemed necessary. This includes, but is not limited to, attending interviews and vehicle inspections, and producing documentation upon request.

### **Enforcement Options**

Licence application and enforcement decisions will always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria will be considered including the:-

- seriousness of any offences;
- driver or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- danger to the public.

Having considered all relevant information and evidence, the choices for action are:-  
Licence Applications:

- grant licences subject to the Council's Standard Conditions;
- refuse to grant a licence.
- Grant for a limited time period

- take no action;
- take informal action;
- suspend a licence;
- revoke a licence;
- use simple cautions;
- prosecute;

Where an officer is unable to determine an application/licence, where an applicant has declared convictions, or when the Council have become aware of convictions the application/licence may be referred to the Licensing Committee.

This Council will have regard to the Convictions Guidelines at Appendix H.

### **Informal Action**

Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and written requests for action. Verbal warnings will be confirmed in writing.

Such informal enforcement actions may be appropriate in any of the following circumstances:-

- the act or omission is not serious enough to warrant more formal action;
- from the individual driver or operator's past history it can be reasonably expected that informal action will achieve compliance;
- confidence in the operator's management is generally high;
- the consequences of non-compliance will not pose a significant risk to the safety of the public.
- Failure to notify of a conviction that would not in itself breach the guidance on determining the suitability (Appendix H) outlined in this policy

Details of any informal action will be recorded on the councils' records. This will form part of the history which will be reviewed when considering the appropriate action to take if further enforcement action is prompted. When a licence holder has received three warnings in a 3 year rolling period their licence will be referred to the Licensing Committee to determine whether any further action is required.

### **Appearance before the Licensing Committee**

An offending individual or company may be summoned before the Licensing Committee to answer allegations of breaches of relevant legislation, or conditions attached to licences.

The Licensing Committee have the option of deciding the application on its merits, and may:

- Take no action;
- Give a written warning;

- require the production of driving licences or other specified documentation at the Council's office or other suitable location as communicated by the Licensing Team;
- suspend the licence, upon setting conditions, or for a period of time;
- revoke the licence;
- recommend prosecution action.

Details of the appeals procedure will be set out in the written notification of action sent by the Council.

The Licensing Committee will have regard to the guidance on convictions shown at Appendix H of this policy.

### **Suspension Notices under section 68 of the Local Government (Miscellaneous Provisions) Act 1976**

An authorised officer may serve notice in writing for a hackney carriage, private hire vehicle or taximeter attached to a licensed vehicle, requiring the vehicle or taximeter to be examined at the Council's garage at a time specified in the notice.

This notice will only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as the officer is satisfied with the condition of the hackney carriage or private hire vehicle.

This action will only be taken when the officer has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passengers and/or other road users. Details of the appeals procedure will be set out in the written notification of action sent by the Council.

### **Prosecution**

The decision to prosecute is a very significant one. Prosecution will, in general be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. Decisions to prosecute will be made in a consistent manner, and be proportionate to the circumstances.

The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:-

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a
- disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers or
- other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;

- where a particular contravention has caused serious public alarm.

Officers will take account of the Corporate Enforcement Policy when circumstances have been identified which may warrant a prosecution.

### **Simple Cautions**

A simple caution may be used as an alternative to a prosecution in certain circumstances.

### **Complaints**

Where appropriate, complainants will be encouraged to raise complaints with the relevant licence holder or business concerned. However, the Council will also respond to complaints in line with its Enforcement Policy and will use complaint information to assist in the determination of licensing decisions.

The authority will maintain a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Data held within the system will be used to target compliance and enforcement activity as well as to provide a picture of the potential risks a licence holder may pose. It will also be used as part of the 'balance of probabilities' assessment required in any licence review undertaken as a result of multiple or serious complaints.

## **PART 5 - FARES & FEES**

The Council's policy is that the fees charged by the authority should meet the cost to the authority to administer the service. The service provided in relation to hackney carriages and private hire vehicles should not make a profit or a loss. Any surplus produced would of course be put back into the service. This is in line with Council's charging policy.

### **Review and Setting of fees**

The Council may review the licence fees annually. The Council is committed to working with the trade to identify ways in which savings/efficiencies can be made to avoid increasing the burden on the trade.

### **Private hire rates**

The Council has no power to regulate the rate for private hire vehicles. However the conditions set out the requirement that the amount charged shall be no more than the agreed fare. In addition the Council expects all drivers to meet their legal obligation not to prolong a journey.

### **Hackney carriage tariffs**

The Council sets the Table of Fares (or Tariffs) for hackney carriage journeys and they are the maximum charges that Hackney Carriages can charge for journeys wholly within the Borough's administrative area and the rate at which the taximeters must be calibrated to in order for them to calculate journey fares. These will be reviewed upon request by the trade, with a view to any changes coming into effect within 6 months of the review. The Council recognises the importance of these tariffs being fair (both to the public and to the trade). This is particularly the case as Hackney Carriages used for private hire can only charge at the Council set rates by virtue of section 67 of the Local Government (Miscellaneous Provisions) Act 1976.

The licensing conditions set out the requirement that the amount charged shall be no more than the agreed fare. In addition the Council expects all drivers to meet their legal obligation not to prolong a journey

The Table of Fares (or Tariffs) is published on the Council's website.

It is an offence to charge more than the maximum metered fare for any journey that starts and ends within the Borough. A fixed price can be agreed before the journey commences but it must not exceed the maximum metered fare.



## **PART 6 – LICENSING CONTACT DETAILS**

### **Contact details**

For information, advice and guidance relating to hackney carriage and private hire licensing please contact:

Tamworth Borough Council, Growth & Regeneration, Licensing Team, Marmion House  
Lichfield Street Tamworth Staffordshire B79 7BZ

Telephone: 01827 709709

Email: [taxi-licensing@tamworth.gov.uk](mailto:taxi-licensing@tamworth.gov.uk)

# CHILD SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE

## Introduction

Set out below is information for hackney carriage and private hire vehicle drivers and operators to help them report, to the relevant authorities, matters of concern that could relate to the safety of children and vulnerable persons in relation to child sexual exploitation and trafficking.

## General information

Tamworth Borough Council's Licensing Service is helping to tackle child sexual exploitation and trafficking by working together with key partners particularly Staffordshire Police, Children and Adult Services within the County Council and the Staffordshire Safeguarding Children Board.

Through agencies working together and sharing information, we aim to identify and prevent sexual exploitation, disrupt the activities of perpetrators, protect children and young people and prosecute perpetrators of sexual exploitation. Sharing information with Staffordshire Police and Staffordshire Children Social Care First Response Service helps to protect young people from harm. Safeguarding children and young people is everyone's business and everyone's responsibility.

Child sexual exploitation is a crime that can affect any child, anytime, anywhere regardless of their social or ethnic background. Sexual exploitation of children and young people involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

Child sexual exploitation involves perpetrators grooming children and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.

## **How hackney carriage and private hire vehicle drivers and private hire operators can help tackle child sexual exploitation.**

Drivers of hackney carriages and private hire vehicles as well as private hire operators are in a good position to help identify victims of sexual exploitation because, through the transport services they provide, drivers and operators regularly come into contact with children and young people. This means that licenced drivers and private hire operators are in an ideal position to help protect young people. In particular, drivers should ask themselves the following questions when picking up a fare:

- Does your customer appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?

- Do you think that they are under the influence of alcohol or drugs?
- Are you taking them to a hotel, party or secluded location? If so, ask yourself why?
- Are children/young people being taken regularly to the same localities? If so, ask yourself why?

**If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported**

**If you have reason to suspect that a child is being abused or at risk of abuse it is your responsibility to report your concerns and share information with Staffordshire Police (Tel: 101) and Staffordshire Children Social Care First Response Service (Tel: 08001313126).**

**If a child is in immediate danger phone 999**

Further information about Safeguarding Children can be found at:

[Home - Staffordshire Safeguarding Children Board \(staffsscb.org.uk\)](http://staffsscb.org.uk)

All drivers and operators are expected to attend Child Sexual Exploitation (CSE) training and any updates provided throughout their licence period. Tamworth Borough Council provides training in (CSE). Attendance of this training is compulsory on initial application and compulsory refresher training every 3 years is required.

### **HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVERS LICENCE - CONDITIONS OF LICENCE**

Hackney Carriage & Private Hire (Combined) Driver Licences are issued subject to the following conditions. Drivers are advised to study these conditions carefully, and are warned that their licence may be revoked for non-compliance.

All the offences listed in the Penalty Points Scheme are included as relevant conditions.

The Driver must behave in a professional and courteous manner at all times when carrying out his or her duties, and not act in a manner to a passenger, member of the public or other licence holder that may:

- Cause any person to feel uneasy or take offence at their actions
- Cause any person to believe their actions are inappropriate (this may include the use of social media, whether in the context of work or otherwise)
- Cause any person to fear for their physical safety
- Cause any person to doubt their integrity; and
- Bring into disrepute the integrity of the Council for having issued a licence to such person.

The Driver must be clean and presentable in appearance, and if one is supplied wear the uniform provided by the employer.

The Driver must wear the driver badge issued by the Council in a position that is clearly visible to passengers, and if requested produce it on demand to the passenger or Authorised Officer.

The Driver must display their dashboard licence on the vehicle dashboard. It shall be in a safe position as to be plainly and distinctly visible to the hirer(s), but not so that it affects the driver's view of the road.

The Driver must not at any time lend or give their badge or licence to any other person, except for the copy of the licence that is required by these conditions to be given to the Private Hire Operator.

The Driver must report the loss of the licence and/or badge(s) to the Licensing Team as soon as such loss becomes known, and arrange for the issue of any replacement and make payment for any appropriate fee.

The Driver must, before commencing to drive the vehicle, deposit a copy of their Hackney Carriage & Private Hire Driver licence with their Private Hire Operator for retention by the Operator until such time as they cease to be permitted or employed to drive the vehicle or any other vehicle used by the same Operator.

The Driver must not drive a licensed vehicle without the licence plate being securely attached to the backing plate supplied by the Council and positioned either directly above or below the rear vehicle registration number plate (except for those Private Hire Vehicles that have been granted an Exemption Notice) or as determined by an authorised officer.

The Driver must ensure that before the vehicle is used, that copies (either physical or electronic) of the Certificate of Insurance, Log Book and vehicle licence are available within the vehicle, so as to be available to an Authorised Officer upon request.

The Driver must not carry any other person in the vehicle without the permission of the hirer.

The Driver must if asked by the passenger, indicate the route they are going to take, subject

to any directions given by the hirer.

The Driver must deliver the passenger to their chosen destination as agreed when the booking was made, unless he or she has exceptional cause, or is otherwise directed by the hirer.

The Driver must:

- Take a reasonable amount of luggage including wheelchairs and children's pushchairs (the pushchair shall be folded and secured in the luggage area of the vehicle);
- Give reasonable assistance in loading and unloading luggage;
- Give reasonable assistance in removing luggage to or from the entrance of any building, station or place at which he or she takes up or sets down passengers.
- Offer reasonable assistance to elderly, vulnerable or disabled persons with entering or getting out of the vehicle, and any other reasonable assistance during the course of the journey.

The Driver must offer and provide any necessary assistance to wheelchair users when entering or getting out of the vehicle, and any other reasonable assistance during the course of the journey. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver of a vehicle which has been hired, by or on behalf of a blind or partially sighted person, or a disabled person, who is accompanied by his / her assistance dog, or by a person who wishes a blind or partially sighted person, or a disabled person to accompany him / her in the vehicle must, carry the passenger and his/her dog. They should ask the passenger where they want themselves and their dog to sit in the vehicle and allow it to remain with the passenger if requested and not make any additional charge. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver must, if the hirer of a vehicle is accompanied by any animal(s) make sure that it is securely contained to the satisfaction of the driver, if he or she agrees to carry the passenger and his/her animal(s). The driver is not compelled to convey any other type of animal than an assistance dog.

The Driver must, if asked to transport an unaccompanied child and/or if a passenger requests that the Driver wait until they are safely inside the building, agree to such requests.

The Driver of a Private Hire vehicle must provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This enables all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

The Driver must provide a written receipt to the hirer if requested to do so. The receipt will detail the date and time the journey started, the starting and finishing address, the cost or fare charged, the driver's full name and Tamworth Borough Council issued driver/badge Number.

The Driver must immediately after the termination of any hiring of the vehicle or as soon after as practicable carefully search the vehicle for any property which may have been accidentally left there.

Licence holders are required to notify the Licensing Authority within 48 hours of an arrest and release, charge or conviction of any sexual offence or alleged offence, any offence involving dishonesty or violence and any motoring offence. This includes being interviewed by the police about any such allegation. An arrest or interview under caution for any of these offences within this scope will result in a review by the licensing authority as to whether the

licence holder is fit to continue to hold a licence. This does not mean that a licence will be automatically withdrawn, the licensing authority will consider what, if any, action in term of the licence should be taken based on the balance of probabilities. A failure by a licence holder to disclose an arrest that the licensing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

The Driver must notify the Licensing Officer in writing, within 5 working days, of any change in his or her details that have occurred since the most recent application made to the Licensing Officer (i.e. home address, telephone number, etc), and pay the appropriate fee for his/her record to be amended accordingly.

The Driver must notify the Council in writing as soon as possible and in any event within 10 working days of any illness or injury affecting his fitness to act as a driver, and if requested by an Authorised Officer must agree to a Medical Examination being carried out to ensure such illness / injury would not give rise to concerns for public safety at the Council's third party approved provider.

The Driver must notify the Council in advance, in writing, if he or she is to be away from the address shown on the licence (and recorded as the home address on the records of the Licensing Authority) for a period of more than 7 days.

The Driver must notify the Council in writing of the acceptance of any fixed penalty received within 5 working days. The driver must subsequently inform the Council immediately following its endorsement.

The Driver must declare all relevant motoring endorsements, and all offences, cautions and convictions on any application to renew the licence. No caution or conviction should be omitted from any application. Failure to inform the Licensing Authority of these during the licensing period may result in suspension, revocation and/or any other course of action deemed appropriate by the Licensing Authority.

The Driver must have regard to Staffordshire Police's policy in relation to lost property. Any lost property found within or originating from the vehicle must be reported to the Tamworth Borough Council's Licensing Team and if it was a pre-booked journey, the Operator.

The Driver must not sound the vehicle horn when arriving at an address to pick up passengers.

The Driver must not play any radio or other sound reproducing equipment in the vehicle, except for the purpose of sending or receiving messages in connection with the operation of the vehicle, without the express consent of the hirer.

The Driver must not eat or drink (with the exception of water) in the vehicle whilst a passenger or passengers are on-board.

The Driver must not at any time use electronic cigarettes and/or vaping equipment) or permit any passenger to use electronic cigarettes/ vaping equipment) in any licensed Hackney Carriage or Private Hire vehicle.

The Driver must not wilfully obstruct any Authorised Officer, or fail to comply with any requirement made by such a person without reasonable cause, or fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.

The Driver must not whilst driving or in charge of a Private Hire Vehicle offer the vehicle for immediate hire whilst the driver is on a road or other public place except where such an offer is first communicated from the Private Hire Operator to the driver by telephone, radio, or other such apparatus fitted to the vehicle.

The Driver must not whilst driving or in charge of a Private Hire Vehicle park in a "prominent position" (i.e. where people are likely to congregate, locations with a high level of footfall,

within sight of a taxi rank), and be in attendance of the vehicle without a booking having been made for him or her to be at such a location, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate public hire.

The Driver must not whilst driving or in charge of a Private Hire Vehicle, contact the Private Hire Operator to request a booking be made on behalf of any person.

The Driver of a vehicle equipped with a taximeter must ensure that the table of fares is displayed in a clearly visible position in the vehicle, provide an explanation of the table of fares if so requested by the passenger, and make available upon request to any Authorised Officer.

The Driver must when driving a Hackney Carriage vehicle equipped with a taxi-meter ensure that during any hiring the face of the taxi-meter is at all times plainly visible to the passengers.

The Driver must when driving a Hackney Carriage vehicle equipped with a taxi-meter set the meter into operation when the hirer starts her or his journey

The Driver must if the vehicle is involved in an accident, inform the vehicle proprietor as soon as practicably possible, in order that the vehicle proprietor and/or vehicle driver may contact the Licensing Officer within 72 hours of the incident occurring.

The Driver must if the vehicle is involved in an accident, complete an accident report form providing his or her name and address and any other reasonable details, the vehicle proprietors name and address, details of the vehicle insurance, and the licence number and registration number of any vehicle affected.

The Driver must when driving a Hackney Carriage to a taxi rank and finding that the taxi rank is occupied by the full number of Carriages, proceed to another stand, and not park on or near a taxi rank that is full.

The Driver must when driving a Hackney Carriage on arriving at a rank that is not fully occupied station the vehicle immediately behind the last Hackney Carriage so as to face in the same direction. When the Hackney Carriage immediately in front of the vehicle moves forward, the Driver shall also move forward to allow more Hackney Carriages to join the rank.

The Driver must when driving a Hackney Carriage not cause an obstruction when parked on a taxi rank and when the vehicle is the first vehicle on the rank be in constant attendance and be ready to be hired at once by any person.

The Driver must when driving a Hackney Carriage not park on a rank in the Tamworth Borough for any purpose other than for standing for hire.

The Driver must carry a copy (either physical or electronic) of these conditions within the vehicle and make them available for inspection by the hirer or any passenger, or Authorised Officer upon request, and be familiar with the conditions of the Hackney Carriage & Private Hire (Combined) Driver licence, and of the Enforcement Procedures as detailed in the Councils Policy on the Relevance of Warnings, Offences, Cautions and Convictions.

The Driver will complete Safeguarding, (including Child Sexual Exploitation and County Lines) and Disability Awareness training and a refresher every three years.

### **HACKNEY CARRIAGES & PRIVATE HIRE VEHICLES: CONDITIONS OF LICENCE**

Hackney Carriage and Private Hire Vehicle licences are issued subject to the following conditions. You are advised to study these carefully and you are warned that for non-compliance with any one condition, the licence may be revoked or suspended.

All the offences listed in the Penalty Points Scheme are included as relevant conditions.

The vehicle licence will be valid for a period of up to 12 months and must be renewed on or before the anniversary of the original licence until the vehicle is either replaced or reaches the upper age limit.

The Proprietor of a licensed vehicle must not cause or allow the vehicle to be used unless:

- The Driver of the vehicle holds a Hackney Carriage & Private Hire (Combined) Driver Licence issued by Tamworth Borough Council, and is insured by the proprietor, to drive the vehicle.
- The number of the vehicle licence is fixed and displayed on the vehicle at all times during which the vehicle is licensed, by means of the Licence Plate and bracket issued by the Council to the Proprietor.
- The Licence Plate is fixed and displayed outside on the rear of the vehicle with the particulars thereon facing outwards, in such a position that the vehicle's registration mark is not obscured.
- The Licence Plate is clearly visible in daylight from the road at the rear of the vehicle.

The Licence Plate referred to in these Conditions will remain the property of the Council and must be returned within 7 days to the Licensing Team, at Marmion House, if the Proprietor no longer holds a vehicle licence issued by the Council which is in force in respect of the vehicle, or has been suspended or revoked.

The Proprietor of a licensed vehicle shall report the loss of any plate or licence to the Licensing Team as soon as such loss becomes known.

The Proprietor must ensure that vehicles are maintained in a good mechanical and structural condition at all times and be capable of satisfying the Council's mechanical and structural inspection at any time whilst the vehicles are licensed with this Authority.

The vehicle must be a single uniform colour.

The interior and exterior of the vehicle must be kept in a clean condition and maintained in a safe condition by the Proprietor.

The Proprietor of a licensed vehicle must not cause or permit the vehicle to be used unless it complies with the Council's vehicle specification and the conditions attached to the licence.

The Proprietor must permit an Authorised Officer or any Police Constable to inspect the



vehicle at all reasonable times.

The Proprietor must present the vehicle for inspection and testing, to an Authorised Officer, at any time and place within the Borough of Tamworth as specified in a notice, provided that the Council shall not under the provisions of this condition require the Proprietor to present the vehicle for inspection and testing on more than three separate occasions during any period of twelve months.

If, upon completion of the inspection, the Authorised Officer or Police Constable is not satisfied as to the condition of the vehicle for use as a hire vehicle, the Proprietor shall be asked to remove and surrender the Licence Plate from the vehicle. This will be kept by the Authorised Officer or Police Constable until such time as the condition of the vehicle is satisfactory, when it will then be returned to the Proprietor.

All accidents must be reported to the Licensing Team, in writing, within 72 hours of the accident occurring. Such a responsibility is that of the Vehicle Licence Holder and the Driver of the vehicle at the time of the accident.

The proprietor of a Hackney Carriage or Private Hire Vehicle, in the event that following an accident, he or she does not believe that the vehicle requires taking out of service / replacing, and who wishes to continue to use the vehicle as a licensed Hackney Carriage or Private Hire Vehicle shall make the vehicle available to the Authorised Officer, who will inspect the vehicle and decide whether the vehicle is fit to continue in service.

If the Authorised Officer considers the damage to be such that the vehicle may continue in service until such time as a permanent repair is undertaken, these must be undertaken within 28 days of the damage occurring and a letter authorising the use of the vehicle for a maximum period of 28 days will be issued by the Authorised Officer and shall be retained within the vehicle during the permitted period.

If any damage is considered by the Authorised Officer to be extensive enough to affect the safety or general appearance of the vehicle, the vehicle licence will be suspended.

The vehicle must be repaired before the plate is re-affixed and the suspension can be lifted and the vehicle can return to service. In the case of any dispute as to fitness for service the vehicle will be taken to the Council nominated testing station where a qualified mechanic will give a binding decision, which will be final. The owner will pay the fee for such examination.

A Hackney Carriage Vehicle must have an illuminated sign on the roof of the vehicle bearing the word "TAXI" on the front and on the rear, unless a sign is manufactured into the body work of the vehicle.

A Private Hire Vehicle must display signs on the front doors of the vehicle identifying the Private Hire Firm, giving the name and telephone number. Magnetic signs to cover the permanent signs are only permitted if a driver operates for an additional licensed Operator and are not permitted in any other circumstance. The use of magnetic door signs on a vehicle which carries an exemption from displaying signage is forbidden.

A Private Hire Vehicle must not display any sign or notice:

- which consists of or includes the words 'TAXI', 'TAX' or 'CAB' whether in the singular

or plural or as part of another word; or

- which consists of the words 'FOR HIRE'; or
- Where the form of wording is in any such way as to suggest that the vehicle on which it is displayed is presently available to pick up any passengers wishing to hire it or would be so available if not already hired.

General advertising must be in accordance with Appendix J.

Wheelchair Access Vehicles have spaces reserved for the carrying of wheelchairs. The restraining mechanisms are designed purposely for the restraint of wheelchairs only.

Pushchairs must be folded and secured in the luggage compartment of the vehicle, infants should be safely restrained in a passenger seat in compliance with the seat belt regulations. Infants must not be transported in a pushchair.

Only items belonging to passengers may be carried in the luggage space of the vehicle, (i.e. no cleaning products, oils etc. belonging to the vehicle or driver may be carried).

Animals belonging to the Proprietor or the driver must not be allowed to ride in the vehicle when the vehicle is working. Any animal of the hirer is to be conveyed in the rear of the vehicle with the exception of guide or assistance dogs which will remain with the hirer at all times (even if they are in the front) and which must be carried free of charge.

The Proprietor of a licensed Hackney Carriage or Private Hire Vehicle in which a taximeter is installed shall not cause or permit the vehicle to be used unless the taximeter is so constructed, attached to the vehicle and maintained as to comply with the following requirements:

- The taximeter is fitted with a key or other device, so that the taximeter can be switched on and the word "hired" will appear;
- Such key or device shall be capable of being locked so that the taximeter can be switched off and no fare recorded;
- When the taximeter is in operation, the fare shall be recorded in figures clearly legible and free from ambiguity.

The Hackney Carriage fare shall not exceed the rate of fares set by the Council;

The taximeter shall be placed so that all letters and figures on its face can be seen by passengers in the vehicle and for that purpose, the letters and figures shall be capable of being suitably illuminated during any period of hiring.

The Proprietor of a licensed Hackney Carriage must not allow the vehicle to be used unless the table of fares fixed by this Council is displayed clearly inside the vehicle. Where other fares are programmed into the meter there must also be a table of fares displayed for the additional fares.

The Proprietor of a licensed Private Hire Vehicle in which a taximeter is installed must not allow the vehicle to be used unless there is on display the table of fares fixed by him which he proposes to charge.

If the proprietor wishes to surrender the licence at any time, he or she must do so by way of written confirmation to the Licensing Team, and the vehicle licence and licence plate be returned to the Licensing Team within 7 days of the notification of surrender.

Should the licensed vehicle be sold to another person the vehicle licence will be required to be transferred. An application together with certificate of insurance and vehicle log book will be required to be submitted within 7 days of the sale.

The Proprietor of a licensed vehicle shall ensure that copies (either physical or electronic) of the following documents are kept in the vehicle at all times whilst it carries out licensable duties, and that all Drivers are aware of the documents are located, should they be asked to produce it to an Authorised Officer:

- Vehicle Log Book
- Valid Certificate of Insurance
- Vehicle Licence

And the Proprietor shall produce the following original documents at the request of an Authorised Officer of the Council (either straight away or at the main Council Offices or other suitable location as communicated by the Licensing Team, within five working days of the request being made):

- Vehicle Log Book
- Valid Certificate of Insurance
- Vehicle Licence

At all times the proprietor of a licensed vehicle must keep in force in relation to the use of the vehicle, a Policy of Insurance complying with the requirements of Part VI of the Road Traffic Act 1988.

Any change of vehicle on insurance must be notified to the Council on or before the change takes place.

On changing address the Proprietor of a licensed vehicle must return the licence, for amendment, to the Licensing Team within 7 days of the change, together with the appropriate fee.

The licence must be returned to the Licensing Team upon expiry, revocation or suspension, within 7 days.

The Proprietor of a licensed vehicle must maintain a list of names and addresses of all drivers of the vehicle, and maintain a record that provides information as to which driver has use of the vehicle at all times, and produce this information to the Licensing Team on request.

Where the vehicle is licensed as a Private Hire Vehicle or Hackney Carriage with another Authority during the period of this licence, the Licensing Team must be notified and the licence with this Authority will be subject to revocation.

The Proprietor of a licensed vehicle who has agreed, undertaken, or has been hired to be in attendance with the vehicle at an appointed time and place must, unless prevented because of some unavoidable reason, cause the vehicle to attend at such appointed time and place.

Private Hire Vehicles must not ply for hire or stand on a taxi rank for any reason which includes the picking up or dropping off passengers.

All bookings for Private Hire Vehicles must be made in advance. All Private Hire Vehicles must display door signs that state all bookings must be made in advance, i.e. 'ADVANCE BOOKINGS ONLY'.

The Proprietor must ensure that any radio equipment fitted to the licensed vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

The Proprietor/Driver of a licensed vehicle must ensure that:

- There is no smoking of electronic cigarettes/vaping equipment within the vehicle at all times. This applies to both drivers and passengers;
- and No smoking signs are displayed within the vehicle. One on each rear passenger door window and one on the front dash.

Vehicle Licence proprietors are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution at a police station for any offence, which you are suspected of having committed.

The proprietor must notify the Council in writing of the acceptance of any fixed penalty endorsement within 5 working days. The proprietor must subsequently inform the Council immediately following its endorsement.

The proprietor of a licensed vehicle must within 7 days of any request made by an Authorised Officer, make available any records or other information that would reasonably assist with an investigation.

The proprietor of a licensed vehicle must not wilfully obstruct an Authorised Officer, or without reasonable excuse fail to comply with any requirement made by such a person, or without reasonable cause, fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.

The proprietor of a Hackney Carriage or Private Hire vehicle must provide the Private Hire Operator to whom he or she supplies the vehicle to undertake journeys with a copy of his or her Vehicle Licence during the period that the vehicle is utilised so.

The proprietor of a Hackney Carriage or Private Hire vehicle must notify the Council in advance, in writing, if he or she is to be away from the address shown of the licence, for a period of more than 7 days.

The proprietor of a Hackney Carriage or Private Hire Vehicle must ensure information is displayed within the vehicle, clearly visible on how customers are able to make complaints

to Tamworth Borough Council.

The vehicle proprietor will complete Safeguarding, (including Child Sexual Exploitation and County Lines) and Disability Awareness training and a refresher every three years.

The proprietor of a Hackney Carriage or Private Hire vehicle must ensure that a copy (either physical or electronic) of these conditions are retained within the vehicle and made available for inspection by the hirer or any passenger, or Authorised Officer upon request.

Requirements of the Hackney Carriage Byelaws, the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

### **Hackney Carriage Byelaws**

1. Throughout these byelaws "the Council" means the Mayor Aldermen and Burgesses of the Borough of Tamworth, acting by the Council, and "the district" means the Borough of Tamworth.

2.

a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto. (Plate provided for outside and Tariff Card provided for inside).

b) A proprietor of a hackney carriage shall:

not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;

not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

3. The proprietor of a hackney carriage shall:

provide sufficient means by which any person in the carriage may communicate with the driver;

cause the roof or covering to be kept water tight;

provide any necessary windows and a means of opening and closing with not less than one window on each side;

cause the seats to be properly cushioned or covered;

cause the floor to be provided with a proper carpet, mat, or other suitable covering;

cause the fittings and furniture generally to be kept in a clean condition well maintained and in every way fit for public service;

provide means of securing luggage if the carriage is so constructed as to carry luggage;

provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;

provide at least two doors for the use of persons conveyed in such carriage

and a separate means of ingress and egress for the driver;

cause the carriage to be fitted with a "TAXI" sign which shall be capable of illumination and which shall be illuminated during the hours of darkness only when the carriage is standing or plying for hire within the Borough. For the purpose of this Byelaw "the hours of darkness" shall be the hours in which lighting up times operate in the Borough. The sign shall be attached to the roof or rack, and be of overall size not less than 9 inches long and 4 inches high and showing the work "TAXI" to the front of the carriage in letters not less than 3 inches high and of proportionate width;

cause the carriage to be fitted with an interior light of sufficient brightness to reasonably illuminate the interior of the carriage;

cause the carriage to be provided with a spare wheel and tyre in such a condition that it is readily available for use in the case of a punctured or damaged tyre or wheel together with all the necessary tools and equipment for readily effecting the replacement.

- 4 The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached and maintained as to comply with the following requirements, that is to say:
- a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the work "HIRED" to appear on the face of the taximeter;
  - b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;
  - d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
  - e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
  - f) the taximeter and all the fittings thereof shall be so affixed to the carriage with

seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

5. A proprietor of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
6. A proprietor of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
7. The proprietor of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place, shall unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
8. A proprietor of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons determined by the Council and specified on the plate attached to the outside of the carriage.
9. Every proprietor of a hackney carriage who knowingly conveys in the carriage the dead body of any person shall immediately thereafter notify the fact to the Medical Officer of Health/Consultant for Communicable Disease Control via Tamworth Borough Council.
10. The Proprietor of a hackney carriage shall not permit the exhibition of any advertisement in or upon such carriage, unless it shall have been previously approved by the Council.
11. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate of fare prescribed by the Council in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 the rate or fare being calculated by distance unless the hirer expresses at the commencement of the hiring his desire to engage by time.

Where a hackney carriage furnished with a taximeter is hired by distance the proprietor shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

12. 12.

- a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- b) The proprietor of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any

time while the carriage is plying or being used for hire.

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

### Penalties

Any person contravening the byelaws shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale and in the case of a continuing offence to a further fine of two pounds for each day after written notification of the offence has been given by the Council.

### Exceptional Age Policy

Hackney Carriages vehicles licensed by Tamworth Borough Council can continue to have their licenses renewed until they reach 12 years of age from the date of registration. Private Hire vehicles licensed by Tamworth Borough Council can continue to have their licences renewed until they reach 10 years of age from the date of registration.

If the licence holder wishes to continue to renew the vehicle licence after its standard working life then application can be made for an annual extension to the licence as follows:

- a. The owner of a hackney carriage or private hire vehicle whose vehicle is approaching 12 years or 10 years of age respectively will be required to notify the Licensing Authority in writing at the time of making an application for the grant of a licence that they wish to extend the operating life of their existing vehicle by twelve months in accordance with the Exceptional Vehicle Age Policy.
- b. In subsequent years the owner of a hackney carriage or private hire vehicle, who has been granted a licence in accordance with the Exceptional Vehicle Age Policy at the last date of licensing, shall notify the Licensing Authority at least six months prior to submitting a renewal application, that he intends to seek a further extension to the operating life of the vehicle.
- c. The examination and inspection of any vehicle in accordance with this policy shall take place on the second scheduled test date preceding the renewal date for the vehicle's licence. This applies to initial requests for consideration under this policy and all subsequent requests.



- d. The criteria detailed below are in addition to all current vehicle test criteria requirements.
- e. The Licensing Authority's test station shall be authorised to examine and approve the vehicle's mechanical condition in accordance with this policy.
- f. A duly authorised officer of the Licensing Authority or its nominee will undertake an inspection of the vehicle to assess its general condition and appearance in accordance with the criteria detailed below: -

**Criteria**

- a) The vehicle must have a full, unbroken, continuous history of testing for its Certificate of Fitness
- b) In order for a vehicle to be considered suitable for an operating extension under this policy it must have successfully passed two of its last three fitness tests on first submission in the twelve months preceding the second scheduled test date.
- c) The bodywork of the vehicle must be in near perfect condition with no substantial dents, damage or corrosion being evident.
- d) Paintwork should be unblemished and have a good overall colour match.
- e) The interior and exterior trim must be complete.
- f) All interior fittings must be in place and working.
- g) No excessive loose wiring should be evident hanging from the dashboard.
- h) All carpets, where provided, must be in a clean well-fitted and secure state with no unduly worn areas.
- i) The boot and luggage compartment must be clean, uncluttered and watertight.
- j) There shall be no evidence of leakage of fuel from the vehicles fuel filler cap.

### **PRIVATE HIRE VEHICLE – EXECUTIVE VEHICLE SUPPLEMENTARY CONDITIONS OF LICENCE**

Hackney Carriage & Private Hire (Combined) Driver Licences are issued subject to the following conditions. Drivers are advised to study these conditions carefully, and are warned that the licence may be revoked for non-compliance. These conditions only apply when driving an Executive Hire Vehicle with Plate Exemption.

Not all the offences listed in the Penalty Points Scheme are included as relevant conditions, only those that are applicable.

The Driver must behave in a professional and courteous manner at all times when carrying out his or her duties, and not act in a manner to a passenger, member of the public or other licence holder that may:

- Cause any person to feel uneasy or take offence at their actions
- Cause any person to believe their actions are inappropriate (this may include the use of social media, whether in the context of work or otherwise)
- Cause any person to fear for their physical safety
- Cause any person to doubt their integrity; and
- Bring in to disrepute the integrity of the Council for having issued a licence to such person.

The Driver must be clean and presentable in appearance, and if one is supplied wear the uniform provided by the employer.

The Driver must carry the driver badge issued by the Council and if requested produce it on demand to the passenger or Authorised Officer.

The Driver must carry their dashboard licence and if requested produce it on demand to the passenger or Authorised Officer.

The Driver must not at any time lend or give his/her badge or licence to any other person, except for the copy of the licence that is required by these conditions to be given to the Private Hire Operator.

The Driver must report the loss of the licence and/or badge(s) to the Council as soon as such loss becomes known, and arrange for the issue of any replacement and make payment or any appropriate fee.

The Driver must, before commencing to drive the vehicle, deposit a copy of his Hackney Carriage & Private Hire (Combined) Driver licence with his/her Private Hire Operator for retention by the Operator until such time as he/she ceases to be permitted or employed to drive the vehicle or any other vehicle used by the same Operator.

The Driver must not drive a licensed vehicle without the windscreen/rear window identification notice being attached.

The Driver must ensure that before the vehicle is used, copies (either physical or electronic)

of the Certificate of Insurance, Log Book and vehicle licence are available within the vehicle, so as to be available to an Authorised Officer upon request.

The Driver must not carry any other person in the vehicle without the permission of the hirer.

The Driver must if asked by the passenger, indicate the route they are going to take, subject to any directions given by the hirer.

The Driver must deliver the passenger to their chosen destination as agreed when the booking was made, unless he or she has exceptional cause, or is otherwise directed by the hirer.

The Driver must:

- Take a reasonable amount of luggage including wheelchairs and children's pushchairs (the pushchair shall be folded and secured in the luggage area of the vehicle);
- Give reasonable assistance in loading and unloading luggage;
- Give reasonable assistance in removing luggage to or from the entrance of any building, station or place at which he or she takes up or sets down passengers.
- Offer reasonable assistance to elderly, vulnerable or disabled persons with entering or alighting from the vehicle, and any other reasonable assistance during the course of the journey.

Driver must offer and provide any necessary assistance to wheelchair users when entering or getting out of the vehicle, and any other reasonable assistance during the course of the journey. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver of a vehicle which has been hired, by or on behalf of a blind or partially sighted person, or a disabled person, who is accompanied by his / her assistance dog, or by a person who wishes a blind or partially sighted person, or a disabled person to accompany him / her in the vehicle must, carry the passenger and his/her dog. They should ask the passenger where they want themselves and their dog to sit in the vehicle and allow it to remain with the passenger if requested and not make any additional charge. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver must, if the hirer of a vehicle is accompanied by any animal(s) make sure that it is securely contained to the satisfaction of the driver, if he or she agrees to carry the passenger and his/her animal(s). The driver is not compelled to convey any other type of animal than an assistance dog.

The Driver must, if asked to transport an unaccompanied child and/or if a passenger requests that the Driver wait until they are safely inside the building, agree to such requests.

The Driver of a Private Hire vehicle must provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This enables all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

The Driver must provide a written receipt to the hirer if requested to do so. The receipt will

detail the date and time the journey started, the starting and finishing address, the cost or fare charged, the driver's full name and Tamworth Borough Council issued driver/badge Number.

The Driver must immediately after the termination of any hiring of the vehicle or as soon after as practicable carefully search the vehicle for any property which may have been accidentally left there.

The Driver must have regard to Staffordshire Police's with regard to lost property. Any lost property found within or originating from the vehicle must be reported to Tamworth Borough Council's Licensing Team and if it were a pre booked journey, the operator.

The Driver must not sound the vehicle horn when arriving at an address to pick up passengers.

The Driver must not play any radio or other sound reproducing equipment in the vehicle, except for the purpose of sending or receiving messages in connection with the operation of the vehicle, without the express consent of the hirer.

The Driver must not eat or drink (except for water) in the vehicle whilst a passenger or passengers are on-board.

The Driver/Proprietor must notify the Licensing Officer in writing, within 7 days, of any change in his or her details that have occurred since the most recent application made to the Licensing Officer (i.e. home address, telephone number, etc), and pay the appropriate fee for his/her record to be amended accordingly.

The Driver must notify the Council in writing as soon as possible and in any event within 10 working days of any illness or injury affecting his fitness to act as a driver, and if requested by an Authorised Officer must agree to a Medical Examination being carried out to ensure such illness / injury would not give rise to concerns for public safety at the Council's third party approved provider.

The Driver must notify the Council in advance, in writing, if he or she is to be away from the address shown on the licence (and recorded as the home address on the records of the Licensing Authority) for a period of more than 7 calendar days.

The Driver must declare all relevant motoring endorsements, and all offences, cautions and convictions on any application to renew the licence. No caution or conviction should be omitted from any application.

Driver Licence holders are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded, or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution at a police station for any offence which you are suspected of having committed.

The proprietor must notify the Council in writing of the acceptance of any fixed penalty endorsement within 5 working days. The proprietor must subsequently inform the Council immediately following its endorsement

The Driver must not whilst driving or in charge of a Private Hire Vehicle offer the vehicle for immediate hire whilst the driver is on a road or other public place except where such an offer is first communicated from the Private Hire Operator to the driver by telephone, radio, or other such apparatus fitted to the vehicle.

The Driver must not whilst driving or in charge of a Private Hire Vehicle park in a “prominent position” (i.e. where people are likely to congregate, locations with a high level of footfall, within sight of a taxi rank), and be in attendance of the vehicle without a booking having been made for him or her to be at such a location, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate public hire.

The Driver must not whilst driving or in charge of a Private Hire Vehicle, contact the Private Hire Operator to request a booking be made on behalf of any person.

The Driver must carry a copy (either physical or electronic) of these conditions within the vehicle and make them available for inspection by the hirer or any passenger, or Authorised Officer upon request, and be familiar with the conditions of the Hackney Carriage & Private Hire (Combined) Driver licence, and of the Enforcement Procedures as detailed in the Councils Policy on the Relevance of Warnings, Offences, Cautions and Convictions.

All new proprietors, unless they are holders of a Hackney Carriage & Private Hire Combined Drivers Licence issued by Tamworth Borough Council are required to complete Safeguarding training (including Child Sexual Exploitation and County Lines) and complete refresher training every 3 years.

The vehicle licence will be valid for a period of up to 12 months and must be renewed on or before the anniversary of the original licence until the vehicle is either replaced or reaches the upper age limit.

The Proprietor of a licensed vehicle must not cause or allow the vehicle to be used unless:

- The Driver of the vehicle holds a Hackney Carriage & Private Hire (Combined) Driver Licence issued by Tamworth Borough Council,
- and is insured by the proprietor, to drive the vehicle.

The Proprietor must ensure that vehicles are maintained in a good mechanical and structural condition at all times and be capable of satisfying the Council's mechanical and structural inspection at any time whilst the vehicles are licensed with this Authority.

The vehicle must be a single uniform colour.

The interior and exterior of the vehicle must be kept in a clean condition and maintained in a safe condition by the Proprietor.

The Proprietor of a licensed vehicle must not cause or permit the vehicle to be used unless it complies with the Council's vehicle specification and the conditions attached to the licence.

The Proprietor must permit an Authorised Officer or any Police Constable to inspect the vehicle at all reasonable times.

The Proprietor must present the vehicle for inspection and testing, to an Authorised Officer, at any time and place within the Borough of Tamworth as specified in a notice, provided that the Council shall not under the provisions of this condition require the Proprietor to present the vehicle for inspection and testing on more than three separate occasions during any period of twelve months. If, upon completion of the inspection, the Authorised Officer or Police Constable is not satisfied as to the condition of the vehicle for use as a hire vehicle,

the Proprietor shall be asked to remove and surrender the Licence Plate from the vehicle. This will be kept by the Authorised Officer or Police Constable until such time as the condition of the vehicle is satisfactory, when it will then be returned to the Proprietor.

All accidents must be reported to the Licensing Team, in writing, within 72 hours of the accident occurring. Such a responsibility is that of the Vehicle Licence Holder and the Driver of the vehicle at the time of the accident

The proprietor of a Private Hire Vehicle, in the event that following an accident, he or she does not believe that the vehicle requires taking out of service / replacing, and who wishes to continue to use the vehicle as a licensed Hackney Carriage or Private Hire Vehicle shall make the vehicle available to the Authorised Officer, who will inspect the vehicle and decide whether the vehicle is fit to continue in service.

If the Authorised Officer considers the damage to be such that the vehicle may continue in service until such time as a permanent repair is undertaken, these must be undertaken within 28 days of the damage occurring and a letter authorising the use of the vehicle for a maximum period of 28 days will be issued by the Authorised Officer and shall be retained within the vehicle during the permitted period.

If any damage is considered by the Authorised Officer to be extensive enough to affect the safety or general appearance of the vehicle, the vehicle licence will be suspended.

The vehicle must be repaired before the suspension can be lifted and the vehicle can return to service. In the case of any dispute as to fitness for service the vehicle will be taken to the Council nominated testing station where a qualified mechanic will give a binding decision, which will be final. The owner will pay the fee for such examination.

General advertising is not permitted on any licensed vehicle that has been granted an exemption.

If the proprietor wishes to surrender the licence at any time, he or she must do so by way of written confirmation to the Licensing Team, and the vehicle licence and licence plate be returned to the Licensing Team within 7 days of the notification of surrender.

Should the licensed vehicle be sold to another person the vehicle licence will be required to be transferred. An application together with certificate of insurance and vehicle log book will be required to be submitted within 7 days of the sale.

At all times the proprietor of a licensed vehicle must keep in force in relation to the use of the vehicle, a Policy of Insurance complying with the requirements of Part VI of the Road Traffic Act 1988.

Any change of vehicle on insurance must be notified to the Council on or before the change takes place.

The licence must be returned to the Licensing Team upon expiry, revocation or suspension, within 7 days.

The Proprietor of a licensed vehicle must maintain a list of names and addresses of all drivers of the vehicle, and maintain a record that provides information as to which driver has use of the vehicle at all times, and produce this information to the Licensing Team on request.

Where the vehicle is licensed as a Private Hire Vehicle with another Authority during the period of this licence, the Licensing Team must be notified and the licence with this Authority will be subject to revocation.

The Proprietor of a licensed vehicle who has agreed, undertaken, or has been hired to be in attendance with the vehicle at an appointed time and place must, unless prevented because of some unavoidable reason, cause the vehicle to attend at such appointed time and place.

Private Hire Vehicles must not ply for hire or stand on a taxi rank for any reason which includes the picking up or dropping off passengers.

All bookings for Private Hire Vehicles must be made in advance.

The Proprietor must ensure that any radio equipment fitted to the licensed vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

The Proprietor/Driver of a licensed vehicle must ensure that: There is no smoking of electronic cigarettes/vaping equipment within the vehicle at all times. This applies to both drivers and passengers; and No smoking signs are displayed within the vehicle.

The proprietor of a licensed vehicle must within 5 working days of any request made by an Authorised Officer, make available any records or other information that would reasonably assist with an investigation.

The proprietor of a licensed vehicle must not wilfully obstruct an Authorised Officer, or without reasonable excuse fail to comply with any requirement made by such a person, or without reasonable cause, fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.

### LIMOUSINE CONDITIONS OF LICENCE

These additional conditions are attached to the licenses issued by the Borough Council of Tamworth under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (“the 1976 Act”) in relation to limousines and special event vehicles.

For the purpose of licensing a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres to extend the length of the vehicle.

The Borough Council of Tamworth has carefully considered the following conditions and has decided that they are reasonably necessary.

The licence holder (the owner of the vehicle) must meet all the conditions of this licence, including those for private hire vehicles generally.

Breach of the conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.

The additional conditions attached to the licence are as follows:

The vehicle will be presented for, and successfully complete, a garage test at the Council testing station every 6 months.

The vehicle will be licensed for a maximum number of 8 passengers.

The vehicle will not be subject to an age restriction for the purposes of licensing.

Adequate three point seat belt installations must be in place for the equivalent number of passengers and driver.

Must provide a certificate of compliance through the Individual Vehicle Approval Scheme (IVA, formerly known as the Single Vehicle Approval Scheme (SVA)).

Must provide proof of manufacturer’s alterations approval for the vehicle

Children under 135cm tall or 12 years (whichever they reach first) can not travel in a sideways facing seat

Standard council identification plates must be displayed



### PRIVATE HIRE OPERATOR LICENCE - CONDITIONS OF LICENCE

All of the offences listed in the Penalty Points Scheme are included as relevant conditions.

The Operator must keep a record and maintain such a record at his/her premises detailing the particulars of all vehicles operated by him or her, which shall include the following:

- the licence plate numbers;
- the registration numbers;
- the names and addresses of the proprietors;
- the names and addresses of drivers;
- the licence (badge) numbers of drivers;
- copies of licences for all licensed vehicles and drivers; and copies of insurance certificates for all licensed vehicles.

The Operator must, before a hiring starts, record in a suitable book the pages of which are numbered consecutively, or by use of a suitable computer programme the following particulars:

- the date and time of the booking;
- the name and contact telephone number / email address (if either are available) of the hirer and, where the booking is received from another operator, the name of that operator;
- the manner in which the booking was made (i.e. whether by telephone, in person, or by electronic means);
- the time and place at which it is intended that the passenger shall be collected;
- the destination (which may be recorded electronically at the conclusion of the journey using GPS tracking);
- the time at which the driver was allocated the booking;
- the registration number and licence plate number of the vehicle allocated to the booking;
- the name and driver licence number of the driver who will attend the booking;
- where the booking is passed onto another operator by way of “sub-contracting”, the name and address of that operator, together with the Operator’s licence number and issuing authority;
- the name of the individual responding to the booking request; the name of the individual that dispatched the vehicle.

The Operator must keep the records referred to in the above conditions and make available for inspection on request by an authorised Officer of the Council or a Police Officer for a period of not less than 12 months. If the records are maintained by the use of a computer,

the operator shall ensure that a print-out of any record kept can be provided at any time the business is in operation, on request by an authorised officer of the Council or a Police Officer for a period of not less than 12 months.

A register of all staff that will take bookings or dispatch vehicles will be retained for a period of not less than 12 months.

The Operator must within 5 working days of any request made by any Authorised Officer, make available any records or other information that would reasonably assist with an investigation. Any failure to comply with the reasonable request of an Authorised Officer will be considered relevant when assessing the suitability of the applicant to continue to hold a Private Hire Operator licence.

The Operator must have a complaints procedure in place which can be audited and checked by the licensing authority upon request.

The Operator must not invite or accept a booking for a Licensed Vehicle, or control or arrange a journey to be undertaken by such vehicle, without first making available in writing, or giving orally, or by means of electronic communication to the person making the booking information as to the basis of charge for the hire of the vehicle.

The Operator must not charge a higher price for any journey, for a person who requires "mobility assistance" than would otherwise be charged for a person without such a need for "mobility assistance" for the same journey.

The Operator must not accept a booking for a vehicle to carry more passengers than the vehicle is licensed to carry.

The Operator must not take any bookings requested directly by the driver of any licensed vehicle.

The Operator must, when accepting a booking for a vehicle to attend at an appointed time and place, ensure that unless delayed or prevented by some sufficient cause, a suitable vehicle attends at that appointed time and place. If an Operator sub-contracts a booking ( under the Deregulation Act, 2015 ) the operator shall inform the customer prior to the vehicles arrival at the pick-up point, of the details of the sub- contractor that will be conducting the journey and give them the contact number and licensed name of that Operator.

The Operator must provide, and ensure that any vehicle that is fitted with a taxi-meter carries and displays a list of the tariffs charged by the Operator.

The Operator must take all necessary measures, including those requested by an Authorising Officer or Police Officer to prevent vehicles in its employment, from parking or congregating in such a manner as to cause a nuisance to any reasonable person.

The Operator must make all necessary measures to ensure drivers in their employment do not park in a prominent position that may encourage unlawful hire.

The Operator must maintain an adequate supply of livery, and provide such livery upon request to the driver of a Licensed Vehicle in his or her employ should such livery be found

to be absent, deteriorated or perished.

The Operator must not, knowingly or without the prior written consent of the Council, engage in partnership with, or allow or tolerate any involvement in the management of the licensed Operator by:

- any person who has been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or any other legislation relating to Private Hire and Hackney Carriage licensing; and
- any person who, for the purposes of Part II of the said Act, has been found by any Licensing Authority not to be a fit and proper person to hold a Hackney Carriage & Private Hire (Combined) Driver Licence or Private Hire Operator Licence.

Operator licence holders are required to notify the licensing Authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any monitoring offence. An arrest for any of these offences within this scope should result in a review as to whether the licence holder is fit to continue to do so.

This should not be seen as a direction that a licence should be withdrawn, it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. A failure by a licence holder to disclose an arrest that the licensing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation,

The operator must notify the Council in writing of the acceptance of any fixed penalty endorsement within 5 working days. The driver must subsequently inform the Council immediately following its endorsement.

The Operator must be responsible for the actions of any manager, supervisor or any other person appointed to run the Private Hire Operator business on his / her behalf.

If provision is made by the Operator on his or her premises for the reception of members of the public proposing to hire a vehicle, the Operator must ensure that the premises are in a clean and tidy condition at all times, and that adequate arrangements are made for the seating of customers within the premises.

The Operator must not permit any person who is behaving in a manner likely to give rise to concerns regarding the safety of other members of the public, to remain upon the premises in respect of which this licence is in force.

The Operator must understand that a Private Hire Operator licence is not transferable.

The Operator must notify the Council immediately (and in any case within 5 working days) of any change in the Operator's business address, in the vehicles operated by the Operator or in the drivers employed to drive them; and make payment of any associated fee for the re-issue of the licence following such amendments being made.

The Operator must ensure that every driver employed to drive the vehicles operated by the Operator holds a Hackney Carriage & Private Hire (Combined) Driver Licence and is acquainted with the conditions attached to such a driver licence.

The use of a driver who holds a PCV licence and the use of a public service vehicle such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the hirer.

The Operator must ensure that the holder of any Hackney Carriage Vehicle Licence or Private Hire Vehicle Licence relating to a licensed vehicle operating under his / her Operator licence is acquainted with the conditions attached to such a vehicle licence.

The Operator must inform the licensing authority if he/she intends to be absent or unavailable for 7 days or more, giving details of a responsible person.

The Operator will complete Safeguarding, (including Child Lines) Sexual Exploitation and Disability Awareness training and a refresher every three years on and County

### PLYING FOR HIRE

Only licensed hackney carriages are permitted to ply for hire and only in the administration area of the Borough Council with which they are licensed. It is **ILLEGAL** for a private hire vehicle to ply for hire. This means:

- a) Private hire vehicles **MUST NOT** carry passengers if the journey has not been pre-booked with a private hire operator by the passenger.
- b) All private hire vehicle journeys **MUST** be pre-booked through a licensed private hire operator.
- c) All bookings **MUST** be made by prospective passengers themselves directly with a private hire operator who will despatch the vehicle. Prospective passengers may instruct a third party, e.g. a restaurant manager, to make a booking on their behalf but this third party **MUST NOT** be the private hire vehicle driver.
- d) A driver of a private hire vehicle is **NOT** permitted to make the booking on behalf of a prospective passenger.
- e) Private hire operators **MUST NOT** accept any booking made by a driver on behalf of a passenger.
- f) Private hire vehicle drivers are **NOT** permitted to make their vehicles available for immediate hire. This means that private hire vehicle drivers **MUST NOT** physically position their vehicles in such a way as to be waiting in any area that is on view to the public to invite custom, e.g. allowing prospective customers to approach the vehicle and ask, 'Are you free?'
- g) In most cases, the vehicle will not be insured during a journey that has not been correctly pre-booked.
- h) Private hire vehicles **MUST NOT** wait at any taxi rank/stand.
- i) Private hire vehicle **MUST NOT** be hailed in the street.

Other circumstances may constitute unlawful 'plying for hire'; accordingly, each case of allegedly unlawful 'plying for hire' will be judged on its own facts. Nevertheless, attention is drawn to the Council's position as set out above.

Further information about the relevant legislation is available in the Town Police Clauses Act 1847, in particular Section 45, and in Part II of the Local Government (Miscellaneous Provisions) Act 1976, in particular Section 64.

### RELEVANCE OF CRIMINAL CONVICTIONS AND CAUTIONS

#### Introduction

The purpose of this appendix is to provide additional guidance to assist determine whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire vehicle drivers and/or an operator licence as it relates specifically to convictions and cautions.

The guidance has been produced to assist the Council in its decision-making and to maintain the consistency of the decisions made. It has also been formulated to provide clearer information to current and potential applicants, with a view to minimising the cost and time spent on the licensing process by both the Council and the applicant.

The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.

Each case is to be decided on its own individual merits and, where the circumstances demand, the decision making body may depart from the guidance in which case the reasons for this will be made clear.

#### Legislation

Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 sets out that the Council must not grant a driver's licence or an operator's licence unless they are satisfied that the person is a **fit and proper person** to hold such a licence.

Sections 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to suspend, revoke or refuse to renew a driver's licence if they have, since the grant of the licence, been convicted of an offence involving dishonesty, indecency or violence; or been convicted of an offence under or failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

Sections 62 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to suspend, revoke or refuse to renew an operator's licence if they have committed any offence under, or failed to comply with, the provisions of Part II of the Act; where any conduct appears to render the operator unfit to hold a licence; any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or any other reasonable cause.

Therefore, the wording of the legislation makes it clear that the Council may grant a licence **ONLY** if it is satisfied that the person is fit and proper; the onus is on the applicant to prove this, **NOT** the Council to demonstrate that they are not.

## **Defining a 'fit and proper person'**

There is no legal definition as to what definitively constitutes a 'fit and proper person'.

However, because of the potentially vulnerability of the passengers that drivers and operators may come into contact with, e.g. elderly people, unaccompanied children, the disabled, those who may have consumed excessive quantities of alcohol, lone females and foreign visitors, it is incumbent on the Council to take a very robust stance when deciding whether or not a person is fit and proper to hold a licence granted by the Council.

In essence, a fit and proper person will be:

- Honesty and trustworthy - drivers and operators have, for example, access to a large amount of personal information that could be misused and significant opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars.
- Not abusive, violent or threatening – abusive, violent or threatening behaviour is not acceptable conduct on the part of a driver/operator even when they are subjected to unpleasant or dishonest passenger behaviour.
- A competent and safe driver - they are expected to be professional drivers and must be fully aware of all road traffic legislation, conditions attached to their driving licence, the safety of their passengers and the safety of their vehicles at all times; passengers rely on their driver to get them to their destination safely and using the most direct route, therefore, a good knowledge of the area that they are working in is also appropriate.
- Able to communicate effectively with passengers.
- In good physical and mental health – to ensure they do not put passengers at risk through, for example, suffering a heart attack whilst conveying passengers.

## **The Council's approach when considering convictions**

The disclosure of any convictions or cautions will not necessarily mean an applicant is not a fit and proper person and, therefore, automatically prevented from being issued a licence. However, the Council will have regard to all convictions, spent or live, and they will be assessed accordingly. Consideration will be given, but not restricted to, the following:

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence (s) were.
- When the offence(s) were committed.
- The date of conviction.
- Circumstances of the individual concerned.
- The extent of any mitigating factors.

- Sentence imposed by the court.
- Whether the offence(s) form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
- Behaviour towards Council Officers.
- Any other character check considered reasonable, e.g. personal references.
- Any other factor that may be relevant.

**AND** to guide the Council's consideration, the implications of the answer to the following question will also be applied:

- Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?

If the Council has any doubts as to the fitness of an applicant/existing licenced driver, then an application must be refused or licence suspended/revoked until those doubts can be effectively allayed through the provision of further adequate evidence.

If the applicant or holder of a licence has notified the Council of a conviction but is appealing against it to a higher court the matter will be referred to the Licensing Committee for a decision as to whether the licence ought to be suspended until such an appeal is heard.

### **Patterns of behaviour**

A series of offences or a pattern of behaviour/conduct over a period of time is more likely to give cause for concern than an isolated conviction/incident. However, that is not to say that an isolated conviction/incident cannot give cause for concern in its own right, particularly where it relates to a serious matter. In such circumstances, the Council will give significant consideration to refusing to grant a licence or to suspending and/or revoking an existing licence.

A serious view will always be taken where an applicant shows any tendency towards criminal and/or unacceptable/inappropriate behaviour patterns. In such instances, the Council is unlikely to consider such an applicant/existing licence holder to be a fit and proper person to hold a licence and will give significant consideration to refusing to grant a licence or to suspending/revoking an existing licence.

### **Rehabilitation periods**

Detailed guidance (effective March 2014) on the Rehabilitation of Offenders Act 1974 is available on the GOV.UK website at <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>



A person with a conviction for an offence need not be automatically barred from obtaining a licence. However, they would be expected to remain free of conviction for an appropriate period of time (as set out in Tables A and B below) and demonstrate adequate evidence that they are a fit and proper person to hold a licence. The onus is on the person to produce such evidence.

**NB** Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person.

**Table A**

Sentence	Rehabilitation Period (applies from the end date of the sentence, including any licence period)
<ul style="list-style-type: none"> <li>• Sentence of imprisonment for life</li> <li>• Sentence of imprisonment, youth custody, detention in a young offender institution or corrective training of over four years</li> <li>• Sentence of preventive detention</li> <li>• Sentence of detention at Her Majesty's Pleasure</li> <li>• Sentence of custody for life</li> <li>• Public protection sentences* (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection an extended determinate sentences for dangerous offenders)</li> </ul> <p>*A public protection sentence (the provisions for which are set out in Part 12 of the Criminal Justice Act 2003 and Part 8 of the Armed Forces Act 2006) means a sentence of imprisonment or detention, as detailed above, imposed for specified sexual and violent offences</p>	Never spent
A custodial sentence of over 2 years months but not exceeding 4 years	7 years from the date on which the sentence (including any licence period is completed
A custodial sentence of over 6 months but not exceeding 2 years 6 months*	4 years from the date on which the sentence (including any licence period is completed
A custodial sentence of up to 6 months*	2 years from the date on which the sentence (including any licence period is completed
A sentence of service detention	1 year from the date on which the sentence was completed
Dismissal from Her Majesty's Service	1 year from the date of conviction

Sentence	Rehabilitation Period (applies from the end date of the sentence, including any licence period)
Fine	1 year from the date of the conviction in respect of which the fine was imposed
Community order or youth rehabilitation order	1 year from the last day on which the order has effect

**Table B**

Driving endorsements	5 years from the date of conviction
Driving disqualification	When the period of the disqualification has passed
Simple caution, youth caution	Spent immediately
Conditional caution, youth conditional caution	3 months of when caution ceases to have effect if earlier
Compensation order	On discharge of the order (i.e when it is paid in full) Proof of payment will be required
Absolute Discharge	Spent immediately
Relevant orders**(orders that impose a disqualification, disability, prohibition or other penalty)	The end date given by the order or, if no date given, 2 years from the date of conviction – unless the order states ‘unlimited’ ‘indefinitely’ or ‘until further order’ as in these cases it will remain unspent

\*Suspended custodial sentences are treated the same as custodial sentences for this purpose. It will be the length of the sentence imposed by the court, not the period it is suspended for that dictates when it will become spent

\*\*Relevant orders include conditional discharge orders, restraining orders, hospital orders, bind overs, referral orders, care orders and any order imposing a disqualification, disability, prohibition or other penalty not mentioned in the table.

Where a person does not satisfy the rehabilitation periods referred to in the tables above, then the Council will refuse to grant a new licence or revoke or suspend an existing licence until the applicant is in a position to satisfy them.

The specific periods of rehabilitation are not intended to be taken as definitive time periods by which an applicant/licence holder is automatically granted a licence simply on the basis that the rehabilitation period has elapsed. Rather they are intended to give parameters for consideration when taken with the overall history of an applicant/licence holder in order to assist the Council to determine whether an applicant/existing licence holder is a fit and proper person or not. The rehabilitation periods will not be considered in isolation.

In addition to the consideration of rehabilitation periods, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

## **Crimes resulting in death**

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

## **Exploitation**

Where an applicant or licensee has been convicted of a crime involving, related to, or has any Connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

## **Offences involving violence**

Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

## **Possession of a weapon**

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **Sex and indecency offences**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

## **Dishonesty**

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **Drugs**

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## **Discrimination**

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **Motoring convictions**

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

## **Drink driving/driving under the influence of drugs/using a handheld telephone handheld device whilst driving**

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs

Where an applicant has a conviction for using a held-hand mobile telephone or a handheld device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## **Other motoring offences**

A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **Hackney carriage and private hire offences**

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be

granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Vehicle use offences**

Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Licensing offences**

In addition to the consideration of rehabilitation periods, where an existing licence holder is found guilty of hackney carriage or private hire related offences such as, but not restricted to, plying for hire, over-charging, refusing to carry disabled persons or multiple breaches of licence conditions, licence holders will be referred to the Licensing Committee with a view to determining whether the licence ought to be suspended and/or revoked.

The Council operates a points system for any breaches of conditions. If any driver/proprietor reaches 12 points within a 3 year period they will automatically face a Committee hearing. Further points within the same period will automatically result in a committee hearing. If any driver/proprietor breaches the exact same condition 3 times in a 3 year period it will automatically result in a committee hearing. If any operator reaches 12 points in a 12 month period it will automatically result in a committee hearing.

The points list is not exhaustive and the licencing officer may decide to have a committee hearing for any driver/proprietor should the officer feel the offence is serious enough to warrant it.

A driver can appeal any points awarded by writing to the Head of Environmental Health.

### **Right of appeal**

Any applicant refused a driver's or operator's licence on the grounds that they are not a fit and proper person to hold such a licence, or who has had their licence suspended or revoked or had a condition attached with which they disagree has a right of appeal by way of written complaint, to the magistrates' court within 21 days of the notice of decision.

### **Conclusion**

Any applicant having a previous or current conviction should not, in principle, debar them from obtaining a hackney carriage or private hire driver's licence. However, previous convictions are a significant factor in the decision making process and it will inevitably be more difficult for such applicants to obtain a licence. It is this Council's policy to consider the protection of the public above all else by ensuring all licensed drivers are honest, will not be a threat to the public, in good health, are safe and competent drivers and are able to maintain their vehicles to a safe standard. In doing so, the Council will focus on the background of an applicant as a whole and will not consider individual offences and their rehabilitation periods identified above in isolation from other factors, in particular patterns of unacceptable or inappropriate behaviour and conduct that may not necessarily be linked to proven convictions.

### ADDITIONAL MEDICAL FITNESS GUIDANCE

The following conditions are a bar to the grant of a licence:

#### A. Epileptic Attack

Applicants must have been free of epileptic seizures for at least ten years and not have taken anti-epileptic medication during this ten year period.

#### B. Insulin Treated Diabetes

Applicants for a private hire or hackney carriage driver licence will be required to satisfy the Council that they meet the medical requirements which would allow a C1 (small lorry) Group 2 licence to be issued. If found to be suffering from Diabetes Mellitus, the applicant must provide a medical report from a hospital consultant specialising in diabetes confirming:

the applicant has been undergoing insulin treatment for over four (4) weeks;

during the 12 months prior to the date of the licence application, the applicant has not suffered a hypoglycaemic episode requiring the assistance of another whilst driving; and,

the applicant has a history of responsible diabetic control and is at minimal risk of a hypoglycaemic attack resulting in incapacity.

The applicant will also be required to submit a signed declaration that:

they will comply with the directions for treatment given to him/her by the doctor supervising that treatment;

immediately report to the Council in writing, any change in diabetic condition; and

provide to the Council as and when necessary, evidence that blood glucose monitoring is being undertaken at least twice daily and at times relevant to driving a hackney carriage or private hire vehicle during employment.

#### C. Eyesight

I. Applicants must be able to read in good daylight a number plate at 20.5 metres, (67 feet), and if glasses or corrective lenses are required to do so, these must be worn while driving. In addition applicants must have a visual acuity of at least 6/9 in the better eye; and visual acuity of at least 6/12 in the worst eye; and if these are achieved by correction the uncorrected visual acuity in each eye must be no less than 3/60.

II. A licence will also be refused or revoked if an applicant has uncontrolled diplopia, (double vision), or does not have a normal binocular field of vision.

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## D Other Medical Conditions

In addition to those medical conditions covered by legislation, applicants (or licence holders) are likely to be refused if they are unable to meet the national recommended guidelines in the following cases:

- Within 3 months of myocardial infarction, any episode of unstable angina, CABG or coronary angioplasty;
- A significant disturbance of cardiac rhythm occurring within the past 5 years unless special criteria are met;
- Suffering from or receiving medication for angina or heart failure;
- Hypertension where the BP is persistently 180 systolic or over, or 100 diastolic or over;
- A stroke or TIA within the last 12 months;
- Unexplained loss of consciousness within the past 5 years;
- Meniere's or other conditions causing disabling vertigo, within the past 1 year, and with a liability to reoccur;
- Recent severe head injury with serious continuing after effects, or major brain surgery;
- Parkinson's disease, multiple sclerosis or other 'chronic' neurological disorders likely to affect limb power or co-ordination;
- Suffering from psychotic illness in the past 3 years, or suffering from dementia;
- Alcohol dependency or misuse, or persistent drug or substance misuse or dependency in the past 3 years;
- Insuperable difficulty in communicating by telephone in an emergency;
- Any other serious medical condition which may cause problems for road safety when driving a Hackney Carriage or Private Hire Vehicle;
- If major psycho tropic or neuroleptic is being taken;
- Any malignant condition within the last 2 years likely to metastasise to brain or lung or malignant melanoma

### ADVERTISING ON HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Advertisements will not be permitted by Tamworth Borough Council if, in Tamworth Borough Council's reasonable opinion, the advertisement falls within any of the following categories:

- a. does not comply with the law or incites someone to break the law;
- b. does not comply with the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing;
- c. is likely to cause widespread or serious offence to members of the public on account of the nature of the product or service being advertised the wording or design of the advertisement or by way of inference;
- d. depicts men, women or children in a sexual manner or displays nude or semi-nude figures in an overtly sexual context (**NB** whilst the use of underdressed people in most underwear advertising may be seen as an appropriate context, gratuitous use of an overtly sexual nature will be unacceptable);
- e. depicts or refers to indecency or obscenity or uses obscene or distasteful language including that set out in a foreign language;
- f. relates to lap-dancing, 'gentlemen's clubs', escort agencies or massage parlours;
- g. depicts direct or immediate violence to anyone shown in the advertisement;
- h. condones or provokes anti-social behaviour;
- i. contains images or messages, which relate to matters of public controversy and sensitivity;
- j. refers to or portrays (or gives the impression of portraying) a living person unless the written consent of that person is obtained and is produced to Tamworth Borough Council;
- k. contains negative references to Tamworth Borough Council's services or those services provided or regulated by other local authorities;
- l. relates to a political party or parties or a political cause;
- m. relates to or advertises alcohol or tobacco;
- n. in the case of digital media, poses a health and safety risk an. In the case of digital media, poses a health & safety risk a result of flickering or other visual imagery



### CONDITIONS APPLICABLE TO THE USE OF TRAILERS

The use of trailers is only permitted for vehicles of the multi-passenger type (more than 4 passenger seats) and on pre-arranged journeys where passenger's luggage cannot be safely accommodated within the vehicle.

The licensed towing vehicle's insurance must cover the towing of a trailer. Trailers must not be left unattended anywhere on the highway.

The speed restrictions applicable to trailers must be observed at all times.

A spare wheel for the trailer and adequate tools to change a wheel must be carried at all times by a licensed vehicle whilst towing a trailer.

The towing of a trailer by a licensed vehicle shall only permit the conveyance of luggage and belongings owned by a passenger whilst the vehicle is hired by a passenger within the vehicle.

The tow bar must comply with the type approval regulations in respect of all tow bars fitted to cars after August 1998.

Drivers of vehicles towing trailers must ensure that they have the correct driving licence group to permit them to tow the relevant trailer, as per the DVLA guidance (info 30) Driving Licensing Requirements for Towing Trailers in Great Britain.

Trailers must be inspected at initial licensing and annually thereafter by a garage approved by the Council for that purpose.

An additional plate will be issued by the Council for each vehicle licensed to tow trailers and the relevant plate must be affixed to the rear of the trailer near the vehicle number plate. The cost for this additional plate will be paid for by the vehicle proprietor

Un-braked trailers shall be less than 750 KGs gross weight.

Trailers over 750 KGs gross weight shall be braked acting on at least two road wheels.

A suitable lid or other approved means of enclosure shall be fitted to secure the contents within the trailer when in use and to keep it watertight.

The maximum permissible length of the trailer shall be 7 metres including the drawbar and coupling.

The width of the trailer shall not be greater than the towing vehicle subject to no trailer being wider than 2.3 metres.

The maximum length for braked twin axle trailers is 5.54 metres.

The trailer must at all times comply with all Road Traffic legislation requirements, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986.

The trailer shall not display any form of sign or advertisement not required or approved by the Council or Road Traffic legislation.

### DRESS CODE

Drivers shall, as a minimum, wear a shirt or “T” shirt or blouse and tailored shorts (not denim), trousers, skirt. Denim jeans are acceptable as long as they meet all the other conditions.

The shirt, t-shirt, dress or blouse shall be of one colour except for any contrasting detail and piping. It should cover the shoulders and in the case of t-shirts, shirts and blouses be capable of being worn inside the shorts, trousers or skirt.

T-shirts, sweat tops, jumpers, blouses or dresses shall not carry any words or pictures apart from discreet logos and manufacturer names, the name of the operator or proprietor and the name of the driver.

Shirts or blouses worn as open neck shall have no more buttons open than the collar button and the next button.

“Tailored” In respect of shorts and trousers shall be defined as having a fly fastening. In respect of shorts, trousers and skirts be capable of being worn with a belt on the waist. In addition, shorts, trousers and skirts shall be of one colour with the exception of contrasting detail and piping which will be allowed. To avoid any doubt tracksuits, denim shorts and denim jackets are not permitted.

For safety reasons footwear for all drivers shall fit around the heel by an enclosed or sling back. To avoid any doubt mules or beach flip flops shall not be permitted.

All clothing shall be clean, free from holes, rips and snags and fastenings shall be in good order.

Drivers shall not wear any item of clothing or apparel which exhibits any of the following:

- Sports teams of any description
- Offensive language
- References to drunkenness or the use of recreational drugs
- Anything racist, sexist, discriminatory or otherwise offensive
- Any advertising that does not conform to the relevant codes of advertising practice.

To be clear examples of unacceptable standards of dress would include bare chests or shoulders, dirty, ripped or damaged clothing.

Exceptions related to faith or disability are accepted.

## **PRIVATE HIRE/HACKNEY CARRIAGE VEHICLE LICENSING – HIRE COMPANIES**

Applications for the grant of a private hire or hackney carriage vehicle licence will be accepted from Hire Companies, however special rules will apply.

A hire management company can only licence a vehicle if the accident vehicle is not roadworthy and has been suspended by the licensing team or the vehicle is off the road due to the accident repair work being carried out (proof from the garage will be required).

The application and all necessary documents must be in the name of the vehicle proprietor (Hire Management Company). The licence and plate will only be issued for a maximum period of 8 weeks.

The vehicle licence will lapse once the vehicle is handed back to the Hire Management Company.

All vehicles which are present to the Council for licensing and all vehicles whilst licensed must comply with the vehicle specifications contained within the appendices.

A replacement vehicle will only be issued on a like for like basis i.e., the number of seats.

### **Process**

The vehicle proprietor (Hire Management Company) must sign all applications for a new vehicle licence.

Any application not signed by the proprietor will not be accepted. In addition the operator of the firm for which the vehicle will be used must sign the application form for a new private hire, hire vehicle.

The following documentation is required for the issue of a vehicle licence:-

- Details of the licenced driver who will be responsible for the vehicle.
- Compliance test pass certificate not more than 14 days old.
- Vehicle insurance or cover note which must cover the vehicle for 'Public Hire' if hackney carriage or 'private hire' if private hire or in any case for 'hire & reward'
- Vehicle v5
- Fee

On the grant of the licence the following items will be issued:-

- Vehicle Licence
- Plate
- Conditions

The licence plates remain the responsibility of the accident management company and must be returned to the licensing office when the vehicle is handed back to them. The vehicle will be cancelled.

Failure to comply with these guidelines will result in future applications being rejected.

### **Reporting an accident**

Proprietors have 72 hours in which to report an accident. An authorised officer will assess the vehicle and if required will instruct the proprietor to take it to the nominated testing station for them to assess if the vehicle is roadworthy. Should the vehicle be roadworthy, but requiring repair – these repairs should be done within 28 days. Should the vehicle not be roadworthy then vehicle will be suspended until such a time that the testing station deem the vehicle to be roadworthy.

**PENALTY POINTS SCHEME**

The aim of the Driver Penalty Points Scheme is to help maintain and improve service standards. The Scheme seeks to provide a consistent approach to dealing with unacceptable conduct such as failures to abide by the Council's Code of Conduct, the licence conditions or minor offences where revocation, suspension, prosecution may be disproportionate.

Authorised officers of Tamworth Borough Council may record penalty points against a driver's record if they become aware of conduct that breaches this policy and the licence conditions and/or statutory provisions for the operation of Hackney Carriage and Private Hire driver/ vehicle licensing.

The authorisation to issue a warning and place points on a driver's licence record is given to Licensing Enforcement Officers, Licensing Officers, their managers and any other officers designated in the Scheme of Authorisation.

The points placed on record will be based on the published tariff. This tariff may be amended from time to time in order to maintain and improve service standards in changed circumstances.

A driver, who is discovered to have contravened any of the items listed in the tariff and licence conditions will be notified by an authorised officer of the contravention and the points that have/will be placed on record. A driver who disputes that they have contravened requirements will be invited to submit a written submission/representation. The driver will be asked to do this within 14 days of the warning being received. Any representation, whenever received, will be placed on file.

An officer authorised by the Head of Environmental Health will review the officer's report and any written submissions and may decide that the penalty points should be removed or a different number recorded. The driver will be informed of the outcome of this review. The officer reviewing the points allocation will not be the same officer who allocated the points. There is no further review or appeal against the warning and the placing of penalty points on record.

If, in any period of 3 years, twelve points or more have accumulated on a driver's record then an officer authorised by the Head of Environmental Health will review the driver's conduct record. They will refer the driver to the Licensing Committee for his/her fitness to hold a licence with Tamworth Borough Council to be considered unless this would be significantly disproportionate given the nature and incidence of the contraventions and the driver has provided evidence of meeting TBC requirements. The Licensing Committee will be provided with a report setting out the driver's record of conduct, the warnings issued and points awarded, any substantiating or corroborating evidence and any written submissions received.

Where there is CCTV footage of the incident/s being brought before the Licensing Committee, then the driver will have the opportunity to view the footage at the Council's offices before the hearing subject to such conditions as may be required to protect third parties rights under the Data Protection Act 2018. The driver will have the opportunity to make written and verbal submissions to the Licensing Committee. The Licensing Committee will review the driver's record and consider whether he/she is a fit and proper person to hold a licence and decide whether any action should be taken, for example suspension or

The driver has a right of appeal to the Magistrates Court against any decision of the Committee.

The Driver Penalty Points Scheme runs alongside the Council's system of enforcement for contraventions of statutes, rules, regulations and conditions. Enforcement measures include written notices, written warnings, suspension notices, and/or prosecution.

All the offences listed below form part of the driver, operator and vehicle licensing conditions. There will be no negative effect for driver's renewal applications in relation to the grant of a licence until the accumulation of 12 points on the driver's record, where this will be reviewed by an officer authorised by the Head of Environmental Health to determine.

The Penalty Points Policy & Procedure is published on the Tamworth Borough Council website and updated as and when required.

The Trade will be consulted on any significant changes.

#### The Driver and Operator's Penalty Points Scheme – Tariff

Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	6	Yes	Yes
Failure to notify the licensing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence or alleged offence, any offence involving dishonesty or violence and any motoring offence. This includes being interviewed by the police about any such allegation.	9	Yes	Yes
Failure to notify the licensing authority within 5 working days of receiving a Fixed Penalty Notice	6	Yes	Yes
Failure to notify the licensing authority as soon as possible and no later than 10 working days of any illness or injury affecting fitness to act as a driver	4	Yes	Yes
Failure to notify, in writing, the Authority of change of address within 5 working days	3	Yes	Yes
Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence condition.	4	Yes	Yes
Refusal to accept hiring without reasonable cause e.g. drunk or rude customer.	6	Yes	
Unreasonable prolongation of journeys or any misconduct regarding the charging of fares.	6	Yes	
Plying for hire by private hire vehicle	9	Yes	Yes

	Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
	drivers.			
	Using a mobile phone and/or electronic devices whilst driving as witnessed by an officer of the authority.	6	Yes	
	Using unlicensed vehicle for carrying passengers for hire or reward or a licensed vehicle without insurance.	12	Yes	Yes
	Failure to produce relevant documents within timescale, when requested by an authorised officer/ police officer	4	Yes	Yes
	Failure to maintain vehicle in a satisfactory condition – including interior or exterior.	4	Yes	Yes
	Failure to provide proof of insurance cover when requested.	6	Yes	
	Failure to produce hackney carriage or private hire vehicle for testing when required.	6	Yes	Yes
	Using a vehicle whilst subject to a suspension order issued by a Licensing Officer/Police Officer.	12	Yes	Yes
	Using a vehicle for which the licence has been revoked.	12	Yes	Yes
	Failure to get approval in writing from the licensing authority before CCTV equipment is installed and used in the vehicle.	4	Yes	Yes
	Carrying more passengers than stated on the vehicle licence.	12	Yes	
	Failure to display external/internal licence plate as required.	4	Yes	Yes
	Failure to correctly display authorised side identity stickers as required.	4 Per Sticker	Yes	Yes
	Incorrectly displayed advertisements	3 per advert	1	Yes
	Carrying an offensive weapon in the vehicle.	12	Yes	Yes
	Failure to notify the sale of private hire or hackney carriage vehicle or change of ownership.	4		Yes
	Failure to apply for prior approval for advertising signage on the outside of the vehicle.	3	Yes	Yes
	Failure to correctly display authorised no smoking stickers.	3 per missing sticker	Yes	Yes
	Displaying unsuitable or inappropriately sited signs or advertisements in or on the vehicle.	3	Yes	Yes
	Failure to display authorised Hackney Carriage roof sign	4	Yes	Yes
	Failure to use authorised roof light.	4	Yes	
	Failure to electronically connect authorised roof sign to taximeter	4	Yes	Yes



	Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
	Displaying unauthorised written or other material on any window.	4	Yes	Yes
	Failure to comply with a requirement, provide information or assistance to a Licensing Officer/Police Officer.	6	Yes	Yes
	Using a non-approved or non-calibrated taximeter	6	Yes	Yes
	Obstruction of Licensing Officer/Police Officer wishing to examine a licensed vehicle.	12	Yes	Yes
	Evidence of smoking in vehicle	3	Yes	Yes
	Failure to search the vehicle for lost property	3	Yes	
	Failure to declare lost property	6	Yes	
	Sounding horn when arriving at an address to pick up passengers	3	Yes	
	Playing a radio or other sound reproducing equipment which is a source of nuisance or annoyance to any person, whether inside or outside the vehicle	3	Yes	
	Playing a radio or other sound reproducing equipment against the request of the hirer and/or passenger(s)	4	Yes	
	Evidence of food or drink (excluding water) left in vehicle whilst working	3	Yes	Yes
	Displaying any feature on a private hire vehicle that may suggest that it is a taxi	6	Yes	Yes
	Using a vehicle the appearance of which suggests that it is a taxi	6	Yes	Yes
	Failure to carry an assistance dog without requisite medical exemption.	12	Yes	
	Driver not holding a current DVLA Driving licence.	12	Yes	Yes
	Failure to wear driver's personal badge, so it is visible to the public	4	Yes	
	Failure to correctly display dash badge	4	Yes	
	Failure to notify the Council, in writing, of a loss of identity badge or licence	4	Yes	
	Lending or giving of his or her badge or licence to another person	12	Yes	
	Failure to notify, in writing, a change in medical circumstances.	6	Yes	
	Unsatisfactory appearance of driver.	3	Yes	
	Failure to observe rank discipline (hackney carriage only).	4	Yes	
	Failure to maintain proper records of private hire vehicle.	3		Yes
	Failure to keep or produce records of private hire bookings or other documents required to be kept or	6		Yes

Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
produced.			
Misleading use of the words 'Taxi' or 'Cab' on advertising materials.	3		Yes
Failure to issue complete receipt on request.	3	Yes	
Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspension of such licence.	4	Yes	Yes
Unsatisfactory behaviour or conduct of driver	4	Yes	
Failure to notify the Authority, in writing, of any motoring or within 7 working days of said conviction or cautions during period of current licence	6	Yes	
Failure to behave in a civil and orderly manner	4	Yes	
Failure to take reasonable amount of luggage	3	Yes	Yes
Failure to give reasonable assistance to passengers entering or getting out of the vehicle or during the journey	3	Yes	
Failure to give assistance with loading/unloading luggage to or from any building, vehicle or place.	3	Yes	
Failure to display table of fares.	4	Yes	Yes
Failure to carry legal spare wheel or authorised suitable alternative and tools.	4	Yes	Yes
Failure to attend punctually at appointed time and place without sufficient cause.	4	Yes	Yes
Using a licensed vehicle with bald tyre(s).	4 per tyre	Yes	Yes
Failure to display a current licence plate.	4	Yes	Yes
Waiting or stopping in any area where parking is prohibited unless requested by a paying customer present in the vehicle.	3	Yes	
Drive where prohibited, unless directed by the hirer	3	Yes	
Failure to display within the vehicle information on how customers are able to make complaints to Tamworth Borough Council.	3	Yes	Yes
Failure to comply with any other licensing condition not detailed in the table. ** see below	3	Yes	Yes

\*\* Further conditions may be added as the policy is reviewed.

Certain infringements may result in drivers, proprietors or operators receiving penalty points.

Points may be awarded to one or several persons depending upon the nature of the infringement, however each case must be determined on its own merits.

Certain matters are specific to hackney carriages, private hire drivers or private hire operators.

Where enforcement action is taken and penalty points given, the driver/operator will be advised in writing of the reason for the enforcement action, and provided with details of the relevant conditions / standards / regulations that the licence holder has failed to comply with.

Licence holders may appeal the issue of any of the above, by way of writing to the Head Environmental Health, and providing evidence that supports any such appeal.

## **Hearings**

Where a hearing is required to determine the suitability of an applicant or current licence holder either for the accumulation of warnings, or owing to a single matter that breaches the licence conditions, or in contradiction to Appendix H Relevance of Criminal Convictions and Cautions a report will be provided ahead of the Hearing to the applicant / licence holder detailing the reasons why the matter requires such a hearing.

Where an application is to be heard by the Licensing Committee, the applicant will be given an opportunity to make representations, either in writing or orally at a meeting. All representations will be given full consideration prior to a decision being made in respect of the application.

The options available to the Committee include (but are not limited to):

- Suspension of the licence
- Revocation of the licence
- Head of Service Warning
- The imposition of additional conditions and / or requirements placed on the applicant / licence holder
- The grant / refusal of an application
- To take no further action

2

The Licensing Authority has the power to suspend/revoke the licence with immediate effect if it is necessary in the interests of public safety.

If a licensee or applicant is dissatisfied with a decision of the Licensing Authority, an appeal may be lodged with the local Magistrates Court but this must be within 21 days being notified.

Revocation / Suspension of a Hackney Carriage & Private Hire (Combined) Driver Licence including immediate

The Licensing Authority can suspend and/or revoke a licence in accordance with:

1. Section 60(1) Local Government (Miscellaneous Provisions) Act 1976 for vehicle licences;
2. Section 61(1) Local Government (Miscellaneous Provisions) Act 1976 for driver licences;

3. Section 62(1) Local Government (Miscellaneous Provisions) Act 1976 for operator licences.

If the Licensing Authority makes a decision to revoke or suspend a Hackney Carriage & Private Hire (Combined) Driver licence, it will be required to consider whether that revocation/suspension should take immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Authority can only suspend/revoke with immediate effect if it is in the interests of public safety to do so.

Before making determination, where it is practicable to do so, the Licensing Authority should provide the licence holder an opportunity to make representations. It may not be practicable to do so in circumstances where public safety is at risk.

The overriding consideration is the safety and protection of passengers and the general public. Matters such as employment status and personal circumstances should not be taken into account when determining whether an applicant is fit and proper to hold a licence and would not in any event outweigh the public safety factor.

Where the Licensing Authority has decided that a licence holder is no longer “fit and proper” to hold a licence, for public safety reasons, the presumption will be that the revocation of the licence shall have immediate effect.

If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, the Council will give notice to the driver, which includes a statement to that effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

In situations where there are concerns of public safety, the Licensing Authority will consider whether an immediate suspension and/or revocation is necessary in the circumstances. Where a decision is made to suspend and/or revoke with immediate effect, the driver cannot work during any appeal process.

A decision to refuse or revoke a licence on public safety grounds will also be referred to the Police.

### **Refusal to renew a licence**

If a decision is taken to refuse to renew a licence and the applicant is not satisfied with the decision then an appeal can be made to the Magistrates Court with 21 days of receiving notification.

### **Prosecution of licence holders**

The Licensing Authority reserves the right to prosecute licence holders for relevant offences.

### **Appeals**

Where a right to appeal exists, the appeal can be made to the local Magistrates Court but must be within 21 days of notification.

## **Service Requests and Complaints**

Members of the public can submit any service requests, complaints and/or concerns about licensed drivers, vehicles and/or operators in writing, or by email to the Licensing Team at:

Tamworth Borough Council Licensing Team  
Marmion House, Lichfield Street Tamworth,  
Staffordshire, B79 7BZ

Email: [taxi-licensing@tamworth.gov.uk](mailto:taxi-licensing@tamworth.gov.uk)

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# Community Impact Assessment

Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Taxi & Private Hire Licensing Policy	
Date Conducted	15 <sup>th</sup> July 2024	
Name of Lead Officer and Service Area	Sarah Gear – Environmental Health	
Commissioning Team (if applicable)		
Director Responsible for project/service area	Anna Miller – Environmental Health	
Who are the main stakeholders		
Describe what consultation has been undertaken. Who was involved and what was the outcome	Consultation with existing licence holders and a citizen panel of approximately 600 members No responses from the licence holders, two responses from the citizen panel .	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)	N/A	
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	X
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input type="checkbox"/>
	Existing	X
	Being reviewed	<input type="checkbox"/>
	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>

## Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

Tamworth Borough Council introduced a new Taxi & Private Hire Licensing Policy in April 2023. Although the policy was for a 5 year period, officers committed to review the policy after it had been in force for 12 months. Overriding objective is public safety.

Who will be affected and how?

Everyone associated with the taxi trade

Are there any other functions, policies or services linked to this impact assessment?

Yes  No

If you answered 'Yes', please indicate what they are?

## Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation )
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Disability	<input checked="" type="checkbox"/>		All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair if designated as a Wheelchair Accessible Vehicle by the Council. Section 167 of the Equality Act 2010 requires Local Authorities to maintain and publish a list of all designated Wheelchair Accessible taxis and Private Hire Vehicles. The duties on drivers apply to drivers of vehicles in this list include: (a) to carry the passenger; (b) To carry their wheelchair/mobility aids (c) not to make, or propose to make, any



			charge for carrying out these duties; (d) to take reasonable steps to carry the passenger in safety and reasonable comfort; (e) to provide reasonable mobility assistance
Gender Reassignment	<input type="checkbox"/>	<b>X</b>	
Marriage and Civil Partnership	<input type="checkbox"/>	<b>X</b>	
Pregnancy & Maternity	<input type="checkbox"/>	<b>X</b>	
Race	<input type="checkbox"/>	<b>X</b>	
Religion or belief	<input type="checkbox"/>	<b>X</b>	
Sexual orientation	<input type="checkbox"/>	<b>X</b>	
Sex	<input type="checkbox"/>	<b>X</b>	
Gypsy/Travelling Community	<input type="checkbox"/>	<b>X</b>	
Those with caring/dependent responsibilities	<input type="checkbox"/>	<b>X</b>	
Those having an offending past	<b>X</b>	<input type="checkbox"/>	Within the policy is a full list of offences and timescales that would preclude applicants with an offending past to be considered a fit and proper person.
Children	<input type="checkbox"/>	<b>X</b>	
Vulnerable Adults	<input type="checkbox"/>	<b>X</b>	
Families	<input type="checkbox"/>	<b>X</b>	
Those who are homeless	<input type="checkbox"/>	<b>X</b>	
Those on low income	<input type="checkbox"/>	<b>X</b>	
Those with drug or alcohol problems	<input type="checkbox"/>	<b>X</b>	
Those with mental health issues	<input type="checkbox"/>	<b>X</b>	
Those with physical health issues	<input type="checkbox"/>	<b>X</b>	
Social inclusion Please include refugees and asylum seekers,	<input type="checkbox"/>	<b>X</b>	
Social inclusion: Armed Forces The Armed Forces Covenant is a pledge that together we acknowledge and understand that those who have served in the armed forces, and their	<input type="checkbox"/>	<b>X</b>	

families, should be treated with fairness and respect and any impact should be considered			
Health and Wellbeing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Climate Change	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

#### Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications. this includes climate change considerations

This is the section in which to please outline any actions to mitigate negative or enhance positive impacts in terms of economic, environmental or wider societal considerations, and actions to review and monitor the overall impact of the change accordingly.

Impact Area	Details of the Impact	Action to reduce risk
<i>Eg: Families</i>	<i>Families no longer supported which may lead to a reduced standard of living &amp; subsequent health issues</i>	<i>Signposting to other services. Look to external funding opportunities.</i>
Those having an offending past	Within the policy is a full list of offences and timescales that would preclude applicants with an offending past to be considered a fit and proper person.	Policy is in line with Best Practice Guidance issued by The Institute of Licensing
Disability	All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair if designated as a Wheelchair Accessible Vehicle by the Council. Section 167 of the Equality Act 2010 requires Local Authorities to maintain and publish a list of all designated Wheelchair Accessible taxis and Private Hire Vehicles. The duties on drivers apply to drivers of	By effectively consulting on Policy and licence applications and ensuring compliance with the policy by conducting regular checks

	<p>vehicles in this list include: (a) to carry the passenger; (b) To carry their wheelchair/mobility aids (c) not to make, or propose to make, any charge for carrying out these duties; (d) to take reasonable steps to carry the passenger in safety and reasonable comfort; (e) to provide reasonable mobility assistance</p>	
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**Part 5 - Action Plan and Review**

Detail in the plan below, actions that you have identified in your Community Impact Assessment, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome
	Outcomes and Actions entered onto Pentana			

Date of Review (If applicable) .....

Guidance and form updated July 2023 following CMT approval.

Thursday, 25 July 2024

**Report of the Assistant Director - Growth & Regeneration****GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES****Exempt Information**

None

**Purpose**

The Council's current Statement of Principles under the Gambling Act 2005 took effect on 31st January 2023. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every three years. Therefore, a new Statement of Principles must be published by 31st January 2025.

As part of the process of preparing a Statement of Principles for the three-year period beginning on 31st January 2025, the Licensing Committee are now asked to approve a draft Statement of Principles for the purpose of consultation with relevant parties.

**Recommendations**

It is recommended that:

1. To approve the draft Statement of Principles shown at Appendix 2 for the purpose of consultation with relevant parties.

**Executive Summary**

Tamworth Borough Council currently has a Statement of Principles which is attached at Appendix 1. The draft Statement of Principles 2025 – 2028 has been created and updated by Tamworth Borough Council officers together with relevant government documents and is attached at Appendix 2. A summary matrix of the changes can be found at Appendix 3.

Consultation on the draft Statement of Principles will take place with all relevant parties including:

- The Chief Officer of Staffordshire Police
- The Gambling Commission
- All other responsible authorities identified under the Act
- Relevant Trade Associations
- Public Health
- Organisations working with people who are problem gamblers
- The general public
- Elected Borough Council Members

The consultation will also be made available for comment via the Council's website and publicised via social media and also through the local press. Given that the

proposed changes to the existing Statement of Principles are very minor, it is proposed that consultation take place over a period of 6 – 8 weeks.

Any responses received during the consultation exercise will be reported back to the Licensing Committee due to be held in October.

### **Options Considered**

Failing to prepare and publish a new Statement of Principles by 31st January 2025 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Gambling Act 2005.

### **Resource Implications**

There are no additional resource implications arising from this consultation. Resources required to fulfil the Council's duties in respect of the Licensing Process are met from the existing budget.

### **Legal/Risk Implications Background**

Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.

The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.

When preparing a Statement of Principles, the Council is required to consult with:-

- the Chief Officer of Police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- 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 this Act

### **Equalities Implications**

A Community Impact Assessment has been undertaken and is attached at Appendix 4

### **Environment and Sustainability Implications (including climate change)**

None

### **Background Information**

Tamworth Borough Council is a licensing authority in accordance with the provision of the Gambling Act 2005.

Each licensing authority is required before each successive three-year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority's Statement of Principles.

The Council's current Statement of Principles took effect on 31st January 2023 for a 3 year period. Due to the dates not aligning with the statutory dates set by the Gambling Commission a new Statement of Principles must now be prepared and published ready to take effect on 31st January 2025.

Since the current Statement of Principles took effect, there have been no significant amendments to the provisions of the Gambling Act 2005. Nor have there been any major changes made to the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) that licensed operators have to comply with or the Gambling Commission's statutory Guidance to Licensing Authorities (GLA).

However, in April 2023 the government did publish a long-awaited white paper entitled "High Stakes: Gambling Reform for the Digital Age." The White Paper sets out the government's plan for reform of gambling regulation, following the review of the Gambling Act 2005 that was first launched in December 2020.

The white paper contained a number of proposals for reforming gambling regulation in the following areas:

- Online protections – players and products
- Marketing and advertising
- The Gambling Commission's powers and resources
- Dispute resolution and consumer redress
- Children and young adults
- Land-based gambling

Whilst many of the proposed reforms are not directly relevant to the role that the Council plays in the regulation of gambling activities, there are some proposed changes that are directly relevant. These include:

- Proposals to relax the rules on the split of low and medium maximum stake machines in certain licensed gambling premises.
- A review of the premises licence fees cap for local authorities.
- Introducing new powers to local authorities to conduct cumulative impact assessments for gambling premises.
- Proposals to change the rules that allow under 18s to play Category D gaming machines that pay cash prizes.
- Proposals to make provisions within the Gambling Commission's code of practise on the siting of gaming machines in licensed premises legally binding.

Following the publication of the white paper, several different consultations have been undertaken by both the Department for Culture, Media and Sport and the Gambling Commission concerning the various proposals for legislative reform.

At this stage however, it is unclear when the government will bring forwards the required legislation to implement the proposed reforms.

This presents something of a dilemma for licensing authorities such as Tamworth Borough Council, as they are required before each successive three-year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. The Council's next statement of principles needs to be prepared and published before 31st January 2025.

As the timescales for legislation to be brought forward are unclear at this stage, officers are recommending that no substantive changes are made to the statement of principles at the present time and therefore very few changes are being proposed in the draft statement of principles that is shown at Appendix 2.

Indeed the only changes that officers believe need to be made at the present time are as follows:

- Updating the dates shown on the front page.
- Insertion and expansion of relevant sections.
- Updating the list of consultees at to include additional gambling and other relevant trade associations.

As well as having to prepare and publish a new statement of principles before every successive three-year period, licensing authorities are able to review their statements during those three-year periods and are able revise the statement at any point in time if they think it is necessary.

Therefore, whilst officers do not believe that any substantive changes are required to the statement of principles at the present time, it is considered highly likely that a revised statement of principles will need to be prepared and published between 31st January 2025 and 31st January 2028 in order to make any revisions that may be necessary as a result of any regulatory reforms enacted in connection with the proposals set out in the white paper.

For now officers are recommending that Members resolve to approve the draft statement of principles shown at Appendix 2 for the purpose of consultation.

#### **Report Author**

Sarah Gear – Senior Licensing Officer

#### **List of Background Papers**

[Gambling Act 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

[Guidance to licensing authorities \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk)

[High stakes: gambling reform for the digital age - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

#### **Appendices**

Appendix 1 – Current Statement of Principles

Appendix 2 – Draft Statement of Principles 2025 – 2028

Appendix 3 – Matrix of Changes

Appendix 4 - CIA



**STATEMENT OF PRINCIPLES**  
**GAMBLING ACT 2005**



**2023 – 2026**



*Revised with effect from 31st January 2023*

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## Statement of Principles – Gambling Act 2005

### 1. Introduction – Tamworth Borough Council

- 1.1 Tamworth Borough Council (the Council) is a Licensing Authority under the Gambling Act 2005 and therefore has responsibilities for the administration and enforcement of the Act within the Borough.
- The Borough of Tamworth is located in the south-eastern corner of Staffordshire, 15 miles north-east of Birmingham and covers an area of 3,095 hectares. It is situated at the confluence of two rivers, the river Tame and Anker. Tamworth is essentially urban in character, which includes a vibrant town centre and smaller centres within local districts
- 1.2 Tamworth’s resident population of around 78,600 (Source – Census 2021, ONS) makes it one of the main urban centres in Southern Staffordshire. As of 2021, Tamworth is the ninth most densely populated of the West Midlands’ 30 local authority areas, with around 18 people living on each football pitched sized area of land.
- 1.3 This statement accords with that vision in seeking to promote the licensing objectives set out in the Act which are central to the regulatory regime created by the Act. These are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way, and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.4 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as “the Act”) and having had regard to the Gambling Commission’s formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted.
- 1.5 This statement must be published at least every three years. The statement can also be reviewed from ‘time to time’ and any amended parts reconsulted upon
- 1.6 We intend that this document should provide information and guidance on the general approach that we will take in licensing. A series of advice sheets with more specific guidance is available from our website or will be sent on request; advice tailored to individuals is available by phone or to personal callers.
- 1.7 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on it’s merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, set out below

## **2. Gambling Act 2005**

2.1 This policy reflects and aims to support our strategic purposes and priorities, as set out in the Council Plan.

2.2 The Act provides for Gambling to be authorised in a number of different ways.

2.3 The Licensing Authority's main functions are to:

- license premises for gambling activities, including the issue of Provisional Statements,
- regulate and grant permits for gambling and gaming machines in clubs including commercial clubs,
- regulate gaming and gaming machines in premises licensed to sell alcohol.
- grant permits to family entertainment centres for the use of certain lower-stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for temporary use notices,
- receive occasional use notices for betting at tracks,
- register lotteries of small societies,
- maintain public registers, and
- provide information to the gambling Commission on the issue of licences.

2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. The "National Lottery" is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

## **3. The Gambling Commission**

3.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

3.2 The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.

3.3 In addition, the Commission's role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

3.4 Information about the Gambling Commission can be found on the Internet at: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or by phone: 0121 230 6666.

#### **4. Authorised Activities**

4.1 'Gambling' is defined in the Act as gaming, betting, or taking part in a lottery.

- 'Gaming' means playing a game of chance for a prize.
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not.
- A lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

## **5. General Statement of Principles**

- 5.1 In carrying out the licensing functions in accordance with the Act, particularly with regard to premises licences, the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be:
- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
  - in accordance with any relevant Guidance issued by the Gambling Commission;
  - in accordance with this Statement of Principles; and
  - reasonably consistent with the licensing objectives.
- 5.2 The Licensing Authority will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 5.3 The Licensing Authority will ensure that in dealing with applications under the Act the Licensing Authority will follow the required procedures and only take into account issues that are relevant. Specifically, the Licensing Authority will not have regard to “demand” when considering applications for gambling premises; nor will the Licensing Authority consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). The Licensing Authority will not reject an application on moral grounds. If the Licensing Authority does decide to reject an application, the Licensing Authority will make known the reasons for doing so.
- 5.4 The Council has delegated its licensing function to its Licensing Sub-Committee and Licensing Officers. In the remainder of this Statement of Principles they are referred to collectively as the ‘Licensing Authority’.
- 5.5 Where an application is for a new premises licence, the responsible authorities will usually visit to check that gambling facilities meet all necessary legal requirements.
- 5.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 5.7 If there are objections that cannot be resolved informally, or the Licensing Authority intends to impose extra conditions, the Licensing Authority will hold a public hearing at which the Licensing Sub-Committee will hear evidence and make a decision in accordance with the Act.
- 5.8 This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of

any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

## **6. Preventing Gambling from being a Source of Crime and Disorder**

- 6.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before the Licensing Authority will issue a licence to use premises for gambling.
- 6.2 The Licensing Authority will not issue a premises licence to someone who does not hold an operator's licence, and would not generally be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.
- 6.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Licensing Authority will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for door supervisors registered by the Security Industries Association.
- 6.4 'Disorder' is generally a matter for the Police; the Licensing Authority will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers. Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if Police assistance were required to deal with it; the Licensing Authority will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 6.5 When making decisions relating to disorder, the Licensing Authority will give due weight to comments made by the Police.

## **7. Ensuring Gambling is conducted in a Fair and Open Way**

- 7.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 7.2 As betting track operators do not need an operating licence from the Commission, the Licensing Authority may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

## **8. Protecting children and vulnerable people from being harmed or exploited by gambling**

- 8.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.
- 8.2 Codes of Practice – including advice about access by children and young persons – may be published by the Gambling Commission for specific kinds of premises. Applicants are expected to heed this advice where applicable.
- 8.3 The Licensing Authority expects steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 8.4 When determining a premises licence or permit the Licensing Authority will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.
- 8.5 In seeking to protect vulnerable people the Licensing Authority will include 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, perhaps due to a mental impairment, alcohol or drugs.
- 8.6 The Licensing Authority will always treat each case on its individual merits and when considering whether specific measures are required to protect children and other vulnerable people, will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.
- 8.7 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.

These principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area.
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 8.8 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Staffordshire Safeguarding Children Partnership for this purpose



## **9. Public Health and Gambling**

- 9.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.
- 9.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.
- 9.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.
- 9.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.
- 9.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.
- 9.6 The licensing authority will therefore engage with the local Public Health team in the further development of this Statement of Principles and the Local Area Profile. It is planned that the Public Health team will be able to help the Licensing Authority:
- Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
  - Make decisions that benefit and protect the health and wellbeing of local communities.
  - Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
  - Conduct a health-impact assessment of gambling in the local area or assess any existing information.

## **10. Local Risk Assessments**

- 10.1 Since 6 April 2016 it has been a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.
- 10.2 The Licensing Authority will expect the local risk assessment to consider, for example:
- whether the premise is in an area of deprivation;
  - whether the premise is in an area subject to high levels of crime and/or disorder;

- whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
  - the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
  - how vulnerable persons as defined within this Policy are protected.
- 10.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy.
- 10.4 Other matters that the risk assessment may include are, for example:
- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
  - Where installed, details of CCTV coverage and how the system will be monitored.
  - Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.
  - The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
  - Where only one staff member is employed – in the case of smaller premises, – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
  - Provision of signage and documents relating to games rules, gambling care providers.
  - The mix of gambling provided.
  - Consideration of primary gambling activity and location of gaming machines.
- 10.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary.
- 10.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence, to grant the licence with special conditions or to refuse the application.
- 10.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.
- 10.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a ‘Local Area Profile’. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that

locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.

- 10.9 The Licensing Authority expects local risk assessments to be kept under review and updated, as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

## **11. Premises Licences**

- 11.1 A premises licence can authorise the provision of facilities at the following:

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

- 11.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.

- 11.3 This will allow large multiple unit premises such as shopping malls or service stations to obtain separate premises licences, with appropriate safeguards in place. The Licensing Authority will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. The Licensing Authority will 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. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

- 11.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that separation of the premises is not compromised and people are not allowed to drift accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. The Licensing Authority will also expect customers to be able to participate in the activity named on the premises licence.

- 11.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and / or large casinos may be located. The Borough of Tamworth has not been identified as a suitable location for a casino, consequently the Authority is prevented from granting a licence for casino premises at present.

- 11.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were

considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.

- 11.7 The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 11.8 Other than an application for a betting premises licence for a track, the Licensing Authority are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 11.9 When considering applications for premises licences the Licensing Authority will not take into account the expected 'demand' for facilities; the likelihood of planning permission or building regulation approval being granted or moral objections to gambling. Equally, the grant of a premises licence will not prejudice or prevent any action which may be appropriate under the law relating to planning or building regulations.
- 11.10 The Licensing Authority will only issue a premises licence once it is satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of, or alterations to a premises are not yet complete, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 11.11 The Licensing Authority will apply a two-stage consideration process if there is outstanding construction or alteration works at the premises:
- Should the premises be permitted to be used for gambling?
  - Can appropriate conditions be imposed to cater for the situation that the premises is not yet in a state in which they should be before gambling takes place?
- 11.12 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 11.13 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 11.14 The Licensing Authority will maintain a public register of premises licence applications received which may be viewed at the Council offices during normal office hours which are generally Monday to Friday 9am – until 4.30pm.

## **12. Responsible Authorities**

12.1 Responsible authorities are identified in the legislation and have to be notified about licence applications so that they can identify any risk. The responsible authorities that the Licensing Authority currently recognises are as follows:

- The Gambling Commission.
- Staffordshire Police

- Fire & Rescue Service.
  - Tamworth Borough Councils Planning Department.
  - Tamworth Environmental Health Pollution
  - Children Protection
  - HM Revenue and Customs.
  - Home Office Immigration
  - Any other bodies identified in Regulation by the Secretary of State.
  - For vessels – the Environment Agency, British Waterways, Secretary of State.
- See Appendix C for full contact details

12.2 Contact addresses and telephone numbers for each of the responsible authorities identified are available on the Council's website and will be sent with application packs and on request.

12.3 Any concerns expressed by a responsible authority cannot be considered unless they are relevant to the application itself and to the licensing objectives. However, each representation will be considered on its merits.

### **13. Interested Parties**

13.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities (including existing gambling premises), or
- represents persons in either of the above two groups.

13.2 The Licensing Authority will generally require written evidence that a person/body, 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 representations is sufficient. Whilst this may not apply to elected Ward Members, Member of Parliament or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal minority.

13.3 In determining in whether a person lives sufficiently close to particular premises as to be affected, the Licensing Authority will take into account among other things:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the person making the representation;
- the nature of the complaint;
- the potential impact of the premises.

13.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:

- the size of the premises;
- the catchment area of the premises; and

- whether the person making the representation has business interests in the catchment area that might be affected.
- 13.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Licensing Authority would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 13.6 The Licensing Authority may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant;
  - whether it raises an issue relevant to the licensing objectives; or
  - whether it raises issues specifically to do with the premises which are the subject of the application.

#### **14. Licence Conditions**

- 14.1 In particular cases the Licensing Authority may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use 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. The Licensing Authority will not have recourse to a pool of standard conditions.
- 14.2 The Licensing Authority will ensure that category C machines or above, that are *on offer in premises to which children are admitted, are located in an area of the premises which is separated by a physical barrier*. This should be to prevent access other than through a designated entrance: the designated area must be supervised and observed by staff or the licence holder.
- 14.3 Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours; segregation of gambling from non-gambling areas frequented by children; Security Industry Authority licensed door supervisors; appropriate signage for adult only areas; age limits; or keeping children and young persons away from gaming machines. The Licensing Authority will also expect the applicants to offer their own suggestions as to the way in which the licensing objectives can be promoted effectively.
- 14.4 The Licensing Authority will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;
  - relating to gaming machine categories or method of operation;

- which specify that membership of a club or other body is required; or
  - in relation to stakes, fees, winnings or prizes.
- 14.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.
- 15. Gaming Machines**
- 15.1 Gaming machines include all types of gambling activity, which can take place on a machine, including betting on 'virtual' events.
- 15.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 15.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:
- casinos
  - bingo premises
  - betting premises (including tracks)
  - adult gaming centres
  - family entertainment centres
  - clubs
  - pubs and other alcohol licensed premises
  - travelling fairs
- 15.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.
- 15.5 The Licensing Authority will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

## **16. Gambling in Alcohol Licensed Premises**

- 16.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.
- 16.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.
- 16.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

### Automatic entitlement to two gaming machines

- 16.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use and must pay the prescribed fee.
- 16.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.
- 16.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 16.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so 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 s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 16.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

#### Licensed Premises Gaming Machine Permits

- 16.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.
- 16.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.



- 16.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the number and category of gaming machines sought.
- 16.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.
- 16.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.
- 16.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.
- 16.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.
- 16.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.
- 16.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.
- 16.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.
- 16.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

## Exempt Gaming

- 16.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 16.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 16.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.
- 16.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.
- 16.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:
- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 16.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

## **17. Gambling in Clubs**

### Defining Clubs

- 17.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:
- members' clubs (including miners' welfare institutes)

- commercial clubs.

- 17.2 This is an important distinction in respect of the gaming that may take place.
- 17.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.
- 17.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.
- 17.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.
- 17.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

#### Exempt Gaming

- 17.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 17.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 17.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.
- 17.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However, in order to qualify as exempt gaming, clubs may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.
- 17.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

#### Club Gaming Permits

- 17.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without

having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.

- 17.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.
- 17.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

#### Club Machine Permits

- 17.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.
- 17.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.
- 17.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

#### Applications for Club Gaming Permits and Club Machine Permits

- 17.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.
- 17.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.
- 17.20 The Licensing Authority can 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
  - e) an objection has been lodged by the Commission or the police.
- 17.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance

issued by the Commission and (subject to that guidance), the licensing objectives.

- 17.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.
- 17.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.
- 17.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.
- 17.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

#### Determining Applications for Club Gaming Permits

- 17.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.
- 17.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.
- 17.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.
- 17.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

#### Maintenance of Permits

- 17.30 Club Gaming Permits and Club Machine Permits will have effect for ten years unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.
- 17.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

#### Cancellation and forfeiture of permits

- 17.32 The Licensing Authority may cancel the permit if:

- the premises are used wholly by children and/or young persons
- an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.

17.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.

17.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.

17.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

#### Renewal of permits

17.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.

17.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

17.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

### **18. Unlicensed Family Entertainment Centre Permits**

#### Introduction

18.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.

18.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

#### Applications for Unlicensed Family Entertainment Centre Permits

18.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.

- 18.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.
- 18.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made. Where the applicant is a company, a Basic Disclosure certificate must be supplied in respect of each director of the company.

#### Consideration of Applications

- 18.6 The Licensing Authority can grant or refuse an application for a permit but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.
- 18.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children and young persons, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.
- 18.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 18.9 The Licensing Authority may also consider asking applicants to demonstrate:
- that they have suitable policies and procedures in place for the safeguarding of children and young persons.
  - a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
  - that employees at the premises are suitably vetted
  - that employees are trained to have a full understanding of the maximum stakes and prizes.
- 18.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.
- 18.11 The permit will have effect for ten years unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit
- 18.12 The permit may lapse for a number of reasons, namely:
- if the holder ceases to occupy the premises
  - if the Licensing Authority notifies the holder that the premises are not being used as an uFEC

- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist or goes into liquidation.

### Renewal of a Permit

18.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.

18.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

## **19. Prize Gaming Permits**

19.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.

19.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

### Applications for Prize Gaming Permits

19.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.

19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.

19.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.



## Consideration of Applications

- 19.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 19.7 The Licensing Authority can grant or refuse an application for a permit but cannot add conditions.
- 19.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.
- 19.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.
- 19.10 A permit cannot be issued in respect of a vessel or a vehicle.
- 19.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:
- they understand the limits to stakes and prizes that are set out in regulations
  - the gaming offered is within the law.
- 19.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it and given them an opportunity to make representations orally or in writing or both.
- 19.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.
- 19.14 The permit may lapse for a number of reasons:
- if the holder ceases to occupy the premises
  - if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
  - if a company holding the permit goes into liquidation
  - if the holder (for example a partnership) otherwise ceases to exist.

## Renewal of a Prize Gaming Permit

- 19.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.
- 19.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew.

## **20. Temporary Use Notices**

- 20.1 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. The Licensing Authority would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.
- 20.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chance to all participants. Example of equal chance gaming includes games such as: Backgammon, Mahjong, Rummy, Kalooki, Dominoes, Cribbage, Bingo and Poker.

## **21. Occasional Use Notices**

- 21.1 The Licensing Authority have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.
- 21.2 The Licensing Authority will share information with the Gambling Commission in relation to any Occasional Use Notices received. The Licensing Authority may also work in partnership with the Gambling Commission to carry out test purchase operations involving licensed operators that are providing facilities for betting in reliance on an Occasional Use Notice.

## **22. Lotteries**

### Introduction

- 22.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.
- 22.2 An arrangement is a simple lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a process which relies wholly on chance.
- 22.3 An arrangement is a complex lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class

- the prizes are allocated by a series of processes
  - the first of those processes relies wholly on chance.
- 22.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
  - exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.
- 22.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on “small society lotteries.” Information on other forms of exempt lotteries is available from the Gambling Commission website.
- 22.6 The Licensing Authority defines ‘society’ as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.
- 22.7 Section 19 of the Act defines a society as such if it is established and conducted:
- for charitable purposes, as defined in s.2 of the Charities Act 2006
  - for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
  - for any other non-commercial purpose other than that of private gain.
- 22.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

### Registration Applications

- 22.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society’s principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.
- 22.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application.
- 22.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:
- A list of the members of the society

- The society's constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
  - A written declaration from the applicant stating that they represent a bona fide non-commercial society.
- 22.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application—
- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
  - an application for an operating licence made by the applicant for registration has been refused.
- 22.13 The Licensing Authority may refuse an application for registration if they think that—
- the applicant is not a non-commercial society,
  - a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
  - information provided in or with the application for registration is false or misleading.
- 22.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.
- 22.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:
- Whether allowing the registration of the society would be consistent with the Act
  - Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
  - Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission

#### Promotion of small society lotteries once registered

- 22.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.
- 22.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.
- 22.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:
- checking the age of apparently underage purchasers of lottery tickets

- taking action where there are unlawful attempts to purchase tickets.
- 22.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:
- the name of the promoting society
  - the price of the ticket, which must be the same for all tickets
  - the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
  - the date of the draw, or information which enables the date to be determined.
- 22.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
- 22.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.
- 22.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:
- 22.23 Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.
- 22.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

### Financial Returns

- 22.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.
- 22.26 The limits are as follows:
- at least 20% of the lottery proceeds must be applied to the purposes of the society
  - no single prize may be worth more than £25,000
  - rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
  - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed

22.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

22.28 The following information must be submitted:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

22.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of ‘instant lotteries’ (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

22.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority’s website.

22.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

22.32 The Licensing Authority will notify the Commission if returns reveal that a society’s lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

#### Revocation of a registration

22.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

22.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to revoke the

registration and provide them with the evidence on which it has reached that preliminary conclusion.

22.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act
- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

### **23. Exchange of Information**

23.1 To ensure the licensing objectives are met, the Licensing Authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

23.2 Subject to the provisions of relevant data protection legislation, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Project and Information Co-Ordinator.

23.3 The Licensing Authority is committed to being open about what it does and how it comes to a decision, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment.

23.4 Individual requests should be made in writing via the Council's website [freedomofinformation@tamworth.gov.uk](mailto:freedomofinformation@tamworth.gov.uk)

23.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

### **24. Enforcement Protocols**

24.1 The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

- 24.2 The Licensing Authority will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 24.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 24.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- 24.5 The Licensing Authority will also be mindful of future developments as regard the work of the Better Regulation Executive whilst carrying out its regulatory functions.
- 24.6 The Licensing Authority will endeavour to be accountable, consistent, transparent and targeted, as well as proportionate in its actions and avoiding duplication with other regulatory regimes so far as possible.
- 24.7 In order to ensure compliance with the law, the Licensing Authority will carry out regular 'routine' day time programmed inspections and will also carry out 'non-routine' evening programmed inspections. Where a one-off event takes place under a temporary use notice or occasional use notice, the Licensing Authority may also carry out inspections to ensure the licensing objectives are being promoted.
- 24.8 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

## **25. Reviews**

- 25.1 A request for a review of a premises licence can be made by interested parties or responsible authorities, however, the Licensing Authority will decide if the review is to be carried out on the basis of the following:
- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission,
  - Consistent with the licensing objectives,
  - In accordance with the statement of principles.
- 25.2 The Licensing Authority will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether it would wish to alter/revoke or suspend the licence. The Licensing Authority can also initiate a review of a premises licence on the basis of any reason which it thinks is appropriate, including if 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.



25.3 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 the statutory consultation period. The purpose of the review will be to determine whether it should take any action in relation to the licence. The options available are to:

- add, remove or amend a licence condition;
- remove or amend a default condition, such as opening hours;
- suspend the premises licence for a period not exceeding 3; or months
- revoke the licence.

## 26. The Licensing Process

26.1 The powers of the Council as a Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub -Committee or, instead, by one or more Council officers acting under delegated authority. The Council has adopted the following scheme of delegation:-

<b>Matter to be Dealt With</b>	<b>Full Council</b>	<b>Cabinet</b>	<b>Licensing Committee/ Sub Committee</b>	<b>Officers</b>
3 year licensing policy	<b>X</b>			
Policy not to permit casinos	<b>X</b>			
Fee Setting when Appropriate		<b>X</b>		
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn

<b>Matter to be Dealt With</b>	<b>Full Council</b>	<b>Cabinet</b>	<b>Licensing Committee/ Sub Committee</b>	<b>Officers</b>
Review of a premises licence			<b>X</b>	
Application for club gaming / club machine permits			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming / club machine permits			<b>X</b>	
Applications for other permits				Refer to * below
Cancellation of licensed premise gaming machine permits				<b>X</b>
Consideration of temporary use notice				<b>X</b>
Decision to give a counter notice to a temporary use notice			<b>X</b>	
Determination as to whether a person is an Interested Party				<b>X</b>
Determination as to whether representations are relevant				<b>X</b>
Determination as to whether a representation is frivolous, vexatious or repetitive				

X Indicates at the lowest level to which decisions can be delegated.

\* In respect of applications for amusement with prizes machines in alcohol licensed premises, the following procedure will be adopted:

- i) Officers will determine under delegated authority, applications for amusement with prize machines where the application is for not more than 5 machines.

- ii) Applications for more than 5 amusement with prize machines will be referred to Chair of Licensing Committee for determination in consultation with Assistant Director, Growth and Regeneration, Head of Environmental Health/Environmental Health Staff.

26.2 Application forms will be in the format prescribed by regulations. The form will need to contain information that describes the gambling activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the three licensing objectives. Applicants must carry out a risk assessment before they apply for a premises licence or to vary a premises licence.

26.3 The Authority will expect the local risk assessment to consider as a minimum:

- The location of services for children such as schools, playgrounds. Leisure/community centres and other areas where children will gather;
- The demographics of the area in relation to vulnerable groups;
- Whether the premises is in an area subject to high levels of crime and/or disorder.

Local risk assessments should show how vulnerable people, including people with gambling dependencies, are protected

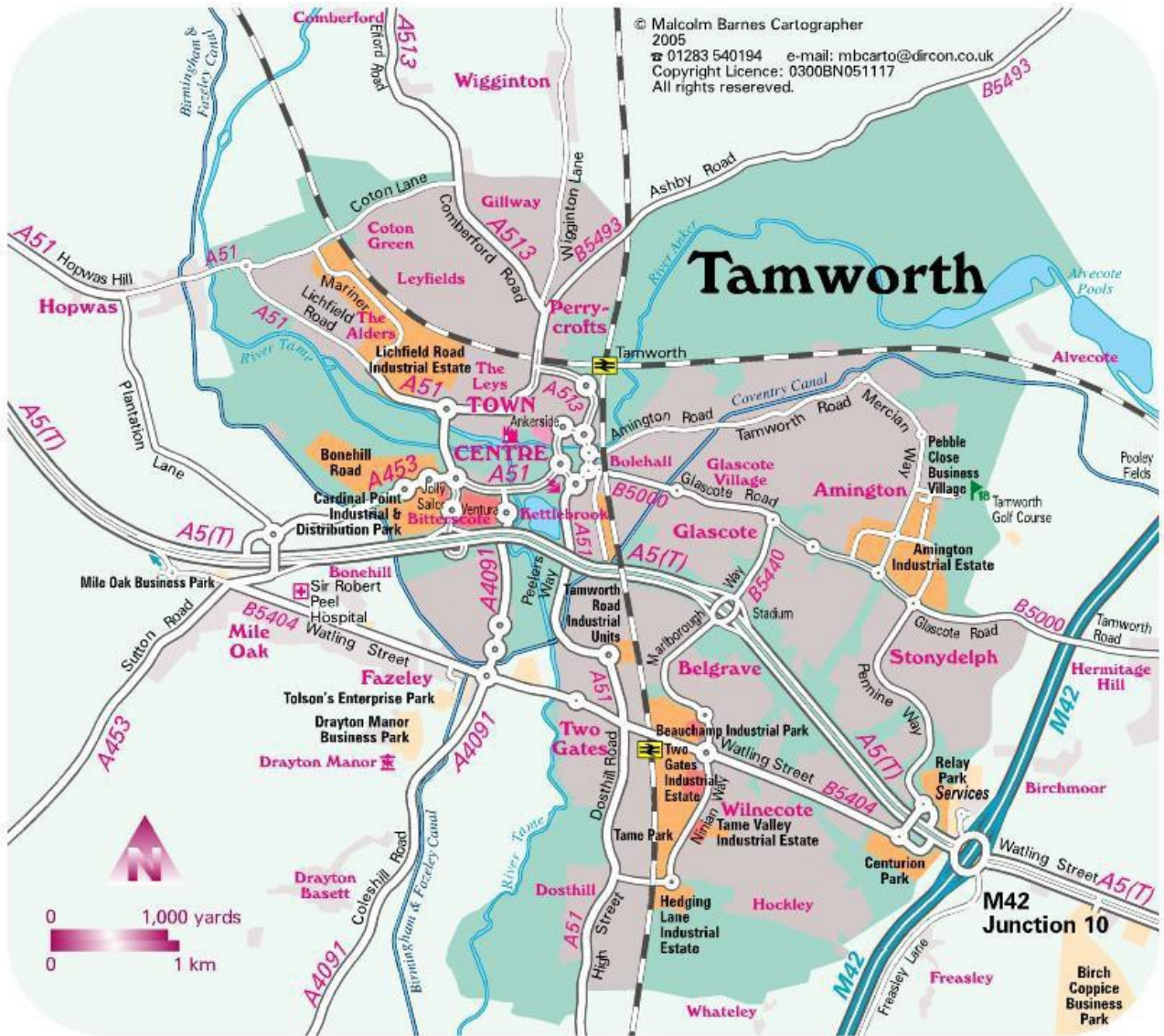
26.4 Applicants are encouraged to fully consult the Police and other responsible authorities well in advance of submitting their applications. Application forms and guidance leaflets will be available from the Licensing Authority, including contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.

26.5 The Act requires licensing authorities to maintain a register of premises licences issued. The register must be available at any reasonable time to the public, who can request copies of the entries. The register will be located at:

Tamworth Borough Council  
Marmion House  
Lichfield Street  
TAMWORTH  
B79 7BZ

Map of Tamworth Borough Boundary

# Map of Tamworth Borough



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- |                          |                        |                                |                          |                              |
|--------------------------|------------------------|--------------------------------|--------------------------|------------------------------|
| Tamworth Borough Council | Urban Area in Tamworth | Industrial Estates in Tamworth | Retail Parks in Tamworth | Shopping Centres in Tamworth |
| Castle                   | Hospital               | Snow Dome                      |                          |                              |
| Golf Course              | Railway Station        | Theme Park & Zoo               |                          |                              |

## **Appendix B**

### **List of Consultees**

Chief Officer of Staffordshire Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005 Staffordshire

Safeguarding Children Partnership

District Councillors

Holders of Premises Licences issued by the Council under the Gambling Act 2005

### **Gambling Trade Associations:**

Betting and Gaming Council

Bacta

Bingo Association

Lotteries Council

Hospice Lotteries Association

### **Organisations working with those who have 'problem gambling':**

GamCare

Gamblers Anonymous

## Appendix C

### Gambling Act 2005 - Names & Addresses of Responsible Authorities

The addresses and other contact details of the responsible authorities for applications made under the Gambling Act 2005 are given below. We recommend that you consult these organisations before you send your application.

#### 1) **Police**

Police Licensing Unit Ground Floor  
Block 9  
Staffordshire Police Headquarters  
Weston Road  
Stafford ST18 0YY

Tel - 01785 235699

Email

[licensinghq@staffordshire.pnn.police.uk](mailto:licensinghq@staffordshire.pnn.police.uk)

#### 2) **Fire and Rescue Authority**

Eastern Service Delivery Group  
Staffordshire Fire & Rescue Service  
Lichfield Fire Station  
Birmingham Road Lichfield  
Staffordshire WS13 6HU

Tel - 01785 898 958

Email - [esdg.protect@staffordshirefire.gov.uk](mailto:esdg.protect@staffordshirefire.gov.uk)

#### 3) **Gambling Commission**

Gambling Commission Victoria  
Square House Victoria Square  
Birmingham  
B2 4BP

Tel - 0121 230 6666

Fax - 0121 230 6720

Email - [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

#### 4) **HM Revenue & Customs**

HM Revenue and Customs Excise  
Processing Teams BX9 1GL  
United Kingdom

Tel - 0300 322 7072 Option 7

Email - [nrubetting&gaming@hmrc.gov.uk](mailto:nrubetting&gaming@hmrc.gov.uk)

#### 5) **Local Planning Authority – comments as previous we are one council with many departments**

Planning Team  
Tamworth Borough Council Marmion  
House  
Lichfield Street Tamworth  
Staffordshire B79 7BZ

Tel - 01827 709 312

Email – [cp&padmin@tamworth.gov.uk](mailto:cp&padmin@tamworth.gov.uk)

**6) Environmental Pollution**

Pollution Team  
Tamworth Borough Council Marmion  
House  
Lichfield Street Tamworth Staffordshire  
B79 7BZ

Tel - 01827 709 445  
Email  
[environmentalprotection@tamworth.gov.uk](mailto:environmentalprotection@tamworth.gov.uk)

**7) Children Protection**

Deputy Corporate Director  
(Partnerships & Service Development)  
Children & Lifelong Learning  
Walton Building Martin Street Stafford  
ST16 2LH

Tel - 01785 223121  
Email - [sscb.admin@staffordshire.gov.uk](mailto:sscb.admin@staffordshire.gov.uk)

**8) Licensing Authority - Address to which completed applications should be sent:**

Licensing Team Public Protection  
Tamworth Borough Council Marmion  
House  
Lichfield Street Tamworth Staffordshire  
B79 7BZ

Tel - 01827 709 445  
Email - [publicprotection@tamworth.gov.uk](mailto:publicprotection@tamworth.gov.uk)

**9) Home Office (Immigration Enforcement)**

Home Office (Immigration  
Enforcement) Alcohol Licensing Team  
Lunar House  
40 Wellesley Road Croydon  
CR9 2BY

Tel - 0300 123 7000  
Email - [Alcohol@homeoffice.gsi.gov.uk](mailto:Alcohol@homeoffice.gsi.gov.uk)

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## STATEMENT OF PRINCIPLES

### GAMBLING ACT 2005



**2025 – 2028**



*Revised with effect from 31st January 2025*

Document Status: Review

Originator: Sarah Gear

Updated: Sarah Gear

Owner: Environmental Health

Version: 2

Date: 31<sup>st</sup> January 2025

Approved by Full Council

DRAFT

## Document Location

This document is held by Tamworth Borough Council, and the document owner is Environmental Health

Printed documents may be obsolete; an electronic copy will be available on Tamworth Borough Council's Website. Please check for current version before using.

## Revision History

Revision Date	Version Control	Summary of changes
13 December 2022		Approval of the review of the Statement of Principles

DRAFT

**Key Signatories**

Approvals Creation and Major Change, Minor Changes & Scheduled Reviews

<b>Name</b>	<b>Title</b>	<b>Approved</b>
Full Council	Scheduled Review	December 2022

Approval Path

**Major Change & Scheduled Reviews**

**Action**

Originator  
Licensing Committee  
Consultation  
Licensing Committee  
Full Council

Environmental Health  
Corporate Approval  
Consultative Group  
Corporate Approval  
Council Approval

**Minor Change**

Originator  
Licensing Committee  
Full Council

Environmental Health  
Corporate Approval  
Council Approval

Document Review Plans

This policy/ procedure will be reviewed on a 3 yearly basis. However it will be the subject of continuous evaluation and if necessary formally reviewed at any time.

Distribution

The document will be available on the Website.

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## Statement of Principles – Gambling Act 2005

### 1. Introduction – Tamworth Borough Council

- 1.1 Tamworth Borough Council (the Council) is a Licensing Authority under the Gambling Act 2005 and therefore has responsibilities for the administration and enforcement of the Act within the Borough.
- The Borough of Tamworth is located in the south-eastern corner of Staffordshire, 15 miles north-east of Birmingham and covers an area of 3,095 hectares. It is situated at the confluence of two rivers, the river Tame and Anker. Tamworth is essentially urban in character, which includes a vibrant town centre and smaller centres within local districts
- 1.2 Tamworth’s resident population of around 78,600 (Source – Census 2021, ONS) makes it one of the main urban centres in Southern Staffordshire. As of 2021, Tamworth is the ninth most densely populated of the West Midlands’ 30 local authority areas, with around 18 people living on each football pitched sized area of land.
- 1.3 This statement accords with that vision in seeking to promote the licensing objectives set out in the Act which are central to the regulatory regime created by the Act. These are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way, and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.4 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as “the Act”) and having had regard to the Gambling Commission’s formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted.
- 1.5 This statement must be published at least every three years. The statement can also be reviewed from ‘time to time’ and any amended parts reconsulted upon
- 1.6 We intend that this document should provide information and guidance on the general approach that we will take in licensing. A series of advice sheets with more specific guidance is available from our website or will be sent on request; advice tailored to individuals is available by phone or to personal callers.
- 1.7 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on it’s merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, set out below

## **2. Gambling Act 2005**

2.1 This policy reflects and aims to support our strategic purposes and priorities, as set out in the Council Plan.

2.2 The Act provides for Gambling to be authorised in a number of different ways.

2.3 The Licensing Authority's main functions are to:

- licence premises for gambling activities, including the issue of provisional Statements,
- regulate and grant permits for gambling and gaming machines in clubs including commercial clubs,
- regulate gaming and gaming machines in premises licensed to sell alcohol.
- grant permits to family entertainment centres for the use of certain lower-stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for temporary use notices,
- receive occasional use notices for betting at tracks,
- register lotteries of small societies,
- maintain public registers, and
- provide information to the gambling Commission on the issue of licences.

2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. The "National Lottery" is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

## **3. The Gambling Commission**

3.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

3.2 The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.

3.3 In addition, the Commission's role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

3.4 Information about the Gambling Commission can be found on the Internet at: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or by phone: 0121 230 6666.

## **4. Local Area Profile**

- 4.1 Alongside its Statement of Principles, the Licensing Authority has worked with partners to develop a “Local Area Profile” for the Borough as a means of mapping out local areas of concern, which can be reviewed and updated to reflect changes to the local landscape.
- 4.2 This Local Area Profile takes account of a wide range of factors, data and information held by the Licensing Authority and its Partners. An important element of preparing the Local Area Profile has been proactive engagement with responsible authorities as well as organisations in the area that could give input to ‘map’ local risks in the area.
- 4.3 These include public health, mental health, housing, education, community welfare groups and safety partnerships and organisations such as Gamcare or equivalent local organisations.
- 4.4 The aim of the Local Area Profile is to increase awareness of local risks and improve information sharing, to facilitate constructive engagement with licencees and a more coordinated response to local risks. The Local Area Profile will also help to inform specific risks that operators will need to address in their own risk assessments, which forms a part of any new licence application, or any application made to vary a licence.
- 4.5 The Local Area Profile is published on the Licensing Authority’s website and will be updated on a regular basis to reflect changes to the local environment. Holder’s of premises licences will be notified whenever the Local Area Profile is updated.

## **5. Authorised Activities**

- 5.1 ‘Gambling’ is defined in the Act as gaming, betting, or taking part in a lottery.
- ‘Gaming’ means playing a game of chance for a prize.
  - Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not.
  - A lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.



## 6. General Statement of Principles

- 6.1 In carrying out the licensing functions in accordance with the Act, particularly with regard to premises licences, the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be:
- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
  - in accordance with any relevant Guidance issued by the Gambling Commission;
  - in accordance with this Statement of Principles; and
  - reasonably consistent with the licensing objectives.
- 6.2 The Licensing Authority will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 6.3 The Licensing Authority will ensure that in dealing with applications under the Act the Licensing Authority will follow the required procedures and only take into account issues that are relevant. Specifically, the Licensing Authority will not have regard to “demand” when considering applications for gambling premises; nor will the Licensing Authority consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). The Licensing Authority will not reject an application on moral grounds. If the Licensing Authority does decide to reject an application, the Licensing Authority will make known the reasons for doing so.
- 6.4 The Council has delegated its licensing function to its Licensing Sub-Committee and Licensing Officers. In the remainder of this Statement of Principles they are referred to collectively as the ‘Licensing Authority’.
- 6.5 Where an application is for a new premises licence, the responsible authorities will usually visit to check that gambling facilities meet all necessary legal requirements.
- 6.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 6.7 If there are objections that cannot be resolved informally, or the Licensing Authority intends to impose extra conditions, the Licensing Authority will hold a public hearing at which the Licensing Sub-Committee will hear evidence and make a decision in accordance with the Act.
- 6.8 This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of

any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

## **7. Preventing Gambling from being a Source of Crime and Disorder**

- 7.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before the Licensing Authority will issue a licence to use premises for gambling.
- 7.2 The Licensing Authority will not issue a premises licence to someone who does not hold an operator's licence, and would not generally be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.
- 7.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Licensing Authority will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for door supervisors registered by the Security Industries Association.
- 7.4 'Disorder' is generally a matter for the Police; the Licensing Authority will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers. Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if Police assistance were required to deal with it; the Licensing Authority will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 7.5 When making decisions relating to disorder, the Licensing Authority will give due weight to comments made by the Police.

## **8. Ensuring Gambling is conducted in a Fair and Open Way**

- 8.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 8.2 As betting track operators do not need an operating licence from the Commission, the Licensing Authority may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

## **9. Protecting children and vulnerable people from being harmed or exploited by gambling**

- 9.1 Section 45 of the Gambling Act 2005 defines a child as an individual under the age of 16 and a young person as an individual who is not a child but who is less than 18 years old. References in this statement to “a child” or “Children” are to be read as including reference to a “young person” or “young people” except in circumstances where this would be inconsistent with the provisions of the Gambling Act 2005 or where this statement is quoting the legislation itself.
- 9.2 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are ‘adult-only’ environments.
- 9.3 Codes of Practice – including advice about access by children and young persons – may be published by the Gambling Commission for specific kinds of premises. Applicants are expected to heed this advice where applicable.
- 9.4 The Licensing Authority expects steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 9.5 When determining a premises licence or permit the Licensing Authority will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.
- 9.6 In seeking to protect vulnerable people the Licensing Authority will include 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, perhaps due to a mental impairment, alcohol or drugs.
- 9.7 The Licensing Authority will always treat each case on its individual merits and when considering whether specific measures are required to protect children and other vulnerable people, will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.
- 9.8 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.

These principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority’s area.
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

9.9 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Staffordshire Safeguarding Children Partnership for this purpose

## **10. Public Health and Gambling**

10.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.

10.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.

10.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.

10.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.

10.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.

10.6 The licensing authority will therefore engage with the local Public Health team in the further development of this Statement of Principles and the Local Area Profile. It is planned that the Public Health team will be able to help the Licensing Authority:

- Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
- Make decisions that benefit and protect the health and wellbeing of local communities.
- Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
- Conduct a health-impact assessment of gambling in the local area or assess any existing information.

## **11. Local Risk Assessments**

11.1 Since 6 April 2016 it has been a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.

11.2 The Licensing Authority will expect the local risk assessment to consider, for example:

- whether the premise is in an area of deprivation;

- whether the premise is in an area subject to high levels of crime and/or disorder;
  - whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
  - the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
  - how vulnerable persons as defined within this Policy are protected.
- 11.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy.
- 11.4 Other matters that the risk assessment may include are, for example:
- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
  - Where installed, details of CCTV coverage and how the system will be monitored.
  - Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.
  - The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
  - Where only one staff member is employed – in the case of smaller premises, – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
  - Provision of signage and documents relating to games rules, gambling care providers.
  - The mix of gambling provided.
  - Consideration of primary gambling activity and location of gaming machines.
- 11.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary. Licensing Authority expects a copy of the most recent local risk assessment to be kept on each premises that is subject to a premises licence under the Gambling Act 2005.
- 11.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence, to grant the licence with special conditions or to refuse the application.
- 11.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.

11.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.

11.9 The Licensing Authority expects local risk assessments to be kept under review and updated, as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

## **12. Premises Licences**

12.1 A premises licence can authorise the provision of facilities at the following:

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

12.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.

12.3 This will allow large multiple unit premises such as shopping malls or service stations to obtain separate premises licences, with appropriate safeguards in place. The Licensing Authority will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. The Licensing Authority will 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. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

12.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that separation of the premises is not compromised and people are not allowed to drift accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. The Licensing Authority will also expect customers to be able to participate in the activity named on the premises licence.

12.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and / or large casinos may be located. The Borough of Tamworth has not been identified as a suitable location for a casino, consequently the Authority is prevented from granting a licence for casino premises at present.

12.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered

in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.

- 12.7 The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 12.8 Other than an application for a betting premises licence for a track, the Licensing Authority are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 12.9 When considering applications for premises licences the Licensing Authority will not take into account the expected 'demand' for facilities; the likelihood of planning permission or building regulation approval being granted or moral objections to gambling. Equally, the grant of a premises licence will not prejudice or prevent any action which may be appropriate under the law relating to planning or building regulations.
- 12.10 We are 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 our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 12.11 The Licensing Authority will only issue a premises licence once it is satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of, or alterations to a premises are not yet complete, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 12.12 The Licensing Authority will apply a two-stage consideration process if there is outstanding construction or alteration works at the premises:
- Should the premises be permitted to be used for gambling?
  - Can appropriate conditions be imposed to cater for the situation that the premises is not yet in a state in which they should be before gambling takes place?
- 12.13 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 12.14 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 12.15 The Licensing Authority will maintain a public register of premises licence applications received which may be viewed at the Council offices during normal office hours which are generally Monday to Friday 9am – until 5.30pm.

### **13. Responsible Authorities**

- 13.1 Responsible authorities are identified in the legislation and have to be notified about licence applications so that they can identify any risk. The responsible

authorities that the Licensing Authority currently recognises are as follows:

- The Gambling Commission.
- Staffordshire Police
- Fire & Rescue Service.
- Tamworth Borough Councils Planning Department.
- Tamworth Environmental Health Pollution
- Children Protection
- HM Revenue and Customs.
- Home Office Immigration
- Any other bodies identified in Regulation by the Secretary of State.
- For vessels – the Environment Agency, British Waterways, Secretary of State.

See Appendix C for full contact details

13.2 Contact addresses and telephone numbers for each of the responsible authorities identified are available on the Council's website and will be sent with application packs and on request.

13.3 Any concerns expressed by a responsible authority cannot be considered unless they are relevant to the application itself and to the licensing objectives. However, each representation will be considered on its merits.

#### **14. Interested Parties**

14.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities (including existing gambling premises), or
- represents persons in either of the above two groups.

14.2 The Licensing Authority will generally require written evidence that a person/body, 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 representations is sufficient. Whilst this may not apply to elected Ward Members, Member of Parliament or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal minority.

14.3 In determining in whether a person lives sufficiently close to particular premises as to be affected, the Licensing Authority will take into account among other things:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the person making the representation;
- the nature of the complaint;
- the potential impact of the premises.

14.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:



- the size of the premises;
  - the catchment area of the premises; and
  - whether the person making the representation has business interests in the catchment area that might be affected.
- 14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Licensing Authority would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 14.6 The Licensing Authority may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant;
  - whether it raises an issue relevant to the licensing objectives; or
  - whether it raises issues specifically to do with the premises which are the subject of the application.

## **15. Licence Conditions**

- 15.1 In particular cases the Licensing Authority may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use 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. The Licensing Authority will not have recourse to a pool of standard conditions.
- 15.2 The Licensing Authority will ensure that category C machines or above, that are *on offer in premises to which children are admitted, are located in an area of the premises which is separated by a physical barrier*. This should be to prevent access other than through a designated entrance: the designated area must be supervised and observed by staff or the licence holder.
- 15.3 Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours; segregation of gambling from non-gambling areas frequented by children; Security Industry Authority licensed door supervisors; appropriate signage for adult only areas; age limits; or keeping children and young persons away from gaming machines. The Licensing Authority will also expect the applicants to offer their own suggestions as to the way in which the licensing objectives can be promoted effectively.
- 15.4 The Licensing Authority will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;

- relating to gaming machine categories or method of operation;
- which specify that membership of a club or other body is required; or
- in relation to stakes, fees, winnings or prizes.

15.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## **16. Gaming Machines**

16.1 Gaming machines include all types of gambling activity, which can take place on a machine, including betting on 'virtual' events.

16.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

16.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises (including tracks)
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

16.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.

16.5 The Licensing Authority will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

## **17. Gambling in Alcohol Licensed Premises**

17.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.

17.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.

17.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

### Automatic entitlement to two gaming machines

17.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use

in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use and must pay the prescribed fee.

- 17.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.
- 17.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so 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 s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 17.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

#### Licensed Premises Gaming Machine Permits

- 17.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.
- 17.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the

number and category of gaming machines sought.

- 17.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.
- 17.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.
- 17.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.
- 17.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.
- 17.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.
- 17.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.
- 17.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.
- 17.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

## Exempt Gaming

- 17.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 17.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 17.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.
- 17.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.
- 17.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:
- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 17.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

## **18. Gambling in Clubs**

### Defining Clubs

- 18.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:
- members' clubs (including miners' welfare institutes)

- commercial clubs.

- 18.2 This is an important distinction in respect of the gaming that may take place.
- 18.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.
- 18.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.
- 18.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.
- 18.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

#### Exempt Gaming

- 18.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 18.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 18.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.
- 18.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However, in order to qualify as exempt gaming, clubs may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.
- 18.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

#### Club Gaming Permits

- 18.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without

having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.

- 18.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.
- 18.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

#### Club Machine Permits

- 18.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.
- 18.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.
- 18.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

#### Applications for Club Gaming Permits and Club Machine Permits

- 18.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.
- 18.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.
- 18.20 The Licensing Authority can 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
  - e) an objection has been lodged by the Commission or the police.
- 18.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance

issued by the Commission and (subject to that guidance), the licensing objectives.

- 18.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.
- 18.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.
- 18.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.
- 18.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

#### Determining Applications for Club Gaming Permits

- 18.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.
- 18.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.
- 18.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.
- 18.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

#### Maintenance of Permits

- 18.30 Club Gaming Permits and Club Machine Permits will have effect for ten years unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.
- 18.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

#### Cancellation and forfeiture of permits

- 18.32 The Licensing Authority may cancel the permit if:



- the premises are used wholly by children and/or young persons
- an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.

18.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.

18.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.

18.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

### Renewal of permits

18.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.

18.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

18.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

## **19. Unlicensed Family Entertainment Centre Permits**

### Introduction

19.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.

19.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

### Applications for Unlicensed Family Entertainment Centre Permits

19.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.

- 19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.
- 19.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made. Where the applicant is a company, a Basic Disclosure certificate must be supplied in respect of each director of the company.

#### Consideration of Applications

- 19.6 The Licensing Authority can grant or refuse an application for a permit but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.
- 19.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children and young persons, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.
- 19.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 19.9 The Licensing Authority may also consider asking applicants to demonstrate:
- that they have suitable policies and procedures in place for the safeguarding of children and young persons.
  - a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
  - that employees at the premises are suitably vetted
  - that employees are trained to have a full understanding of the maximum stakes and prizes.
- 19.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.
- 19.11 The permit will have effect for ten years unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit
- 19.12 The permit may lapse for a number of reasons, namely:
- if the holder ceases to occupy the premises
  - if the Licensing Authority notifies the holder that the premises are not being used as an uFEC

- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist or goes into liquidation.

### Renewal of a Permit

19.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.

19.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

## **20. Prize Gaming Permits**

20.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.

20.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

### Applications for Prize Gaming Permits

20.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.

20.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.

20.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

## Consideration of Applications

- 20.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 20.7 The Licensing Authority can grant or refuse an application for a permit but cannot add conditions.
- 20.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.
- 20.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.
- 20.10 A permit cannot be issued in respect of a vessel or a vehicle.
- 20.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:
- they understand the limits to stakes and prizes that are set out in regulations
  - the gaming offered is within the law.
- 20.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it and given them an opportunity to make representations orally or in writing or both.
- 20.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.
- 20.14 The permit may lapse for a number of reasons:
- if the holder ceases to occupy the premises
  - if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
  - if a company holding the permit goes into liquidation
  - if the holder (for example a partnership) otherwise ceases to exist.

## Renewal of a Prize Gaming Permit

- 20.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.
- 20.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew.

## 21. Temporary Use Notices

- 21.1 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. The Licensing Authority would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.
- 21.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chance to all participants. Example of equal chance gaming includes games such as: Backgammon, Mah-jong, Rummy, Kalooki, Dominoes, Cribbage, Bingo and Poker.

## 22. Occasional Use Notices

- 22.1 The Licensing Authority have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.
- 22.2 The Licensing Authority will share information with the Gambling Commission in relation to any Occasional Use Notices received. The Licensing Authority may also work in partnership with the Gambling Commission to carry out test purchase operations involving licensed operators that are providing facilities for betting in reliance on an Occasional Use Notice.

## 23. Lotteries

### Introduction

- 23.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.
- 23.2 An arrangement is a simple lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a process which relies wholly on chance.
- 23.3 An arrangement is a complex lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class

- the prizes are allocated by a series of processes
  - the first of those processes relies wholly on chance.
- 23.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
  - exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.
- 23.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on “small society lotteries.” Information on other forms of exempt lotteries is available from the Gambling Commission website.
- 23.6 The Licensing Authority defines ‘society’ as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.
- 23.7 Section 19 of the Act defines a society as such if it is established and conducted:
- for charitable purposes, as defined in s.2 of the Charities Act 2006
  - for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
  - for any other non-commercial purpose other than that of private gain.
- 23.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

#### Registration Applications

- 23.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society’s principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.
- 23.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application.
- 23.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:
- A list of the members of the society

- The society's constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
  - A written declaration from the applicant stating that they represent a bona fide non-commercial society.
- 23.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application—
- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
  - an application for an operating licence made by the applicant for registration has been refused.
- 23.13 The Licensing Authority may refuse an application for registration if they think that—
- the applicant is not a non-commercial society,
  - a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
  - information provided in or with the application for registration is false or misleading.
- 23.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.
- 23.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:
- Whether allowing the registration of the society would be consistent with the Act
  - Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
  - Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission

#### Promotion of small society lotteries once registered

- 23.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.
- 23.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.
- 23.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:
- checking the age of apparently underage purchasers of lottery tickets

- taking action where there are unlawful attempts to purchase tickets.
- 23.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:
- the name of the promoting society
  - the price of the ticket, which must be the same for all tickets
  - the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
  - the date of the draw, or information which enables the date to be determined.
- 23.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
- 23.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.
- 23.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:
- 23.23 Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.
- 23.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

### Financial Returns

- 23.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.
- 23.26 The limits are as follows:
- at least 20% of the lottery proceeds must be applied to the purposes of the society
  - no single prize may be worth more than £25,000
  - rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
  - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed



23.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

23.28 The following information must be submitted:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

23.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

23.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority's website.

23.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

23.32 The Licensing Authority will notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

#### Revocation of a registration

23.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

23.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to revoke the

registration and provide them with the evidence on which it has reached that preliminary conclusion.

23.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act
- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

## **24. Exchange of Information**

24.1 To ensure the licensing objectives are met, the Licensing Authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

24.2 Subject to the provisions of relevant data protection legislation, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Project and Information Support Officer.

24.3 The Licensing Authority is committed to being open about what it does and how it comes to a decision, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment.

24.4 Individual requests should be made in writing via the Council's website [freedomofinformation@tamworth.gov.uk](mailto:freedomofinformation@tamworth.gov.uk)

24.5 FOIA also provides the public with a general right of access to information held by public authorities and subject to exemptions, be supplied with a copy of that information.

24.6 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## **25. Enforcement Protocols**

25.1 The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal

Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

- 25.2 The Licensing Authority will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 25.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 25.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- 25.5 The Licensing Authority will also be mindful of future developments as regard the work of the Better Regulation Executive whilst carrying out its regulatory functions.
- 25.6 The Licensing Authority will endeavour to be proportionate, accountable, consistent, transparent and targeted, as well as proportionate in its actions and avoiding duplication with other regulatory regimes so far as possible.
- 25.7 In order to ensure compliance with the law, the Licensing Authority will carry out regular 'routine' day time programmed inspections and will also carry out 'non-routine' evening programmed inspections. Where a one-off event takes place under a temporary use notice or occasional use notice, the Licensing Authority may also carry out inspections to ensure the licensing objectives are being promoted.
- 25.8 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

## **26. Reviews**

- 26.1 A request for a review of a premises licence can be made by interested parties or responsible authorities, however, the Licensing Authority will decide if the review is to be carried out on the basis of the following:
- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission,
  - Consistent with the licensing objectives,
  - In accordance with the statement of principles.
- 26.2 The Licensing Authority will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether it would wish to alter/revoke or suspend the licence. The Licensing Authority can also initiate a review of a premises licence on the basis of any reason which it thinks is appropriate, including if 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.

26.3 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 the statutory consultation period. The purpose of the review will be to determine whether it should take any action in relation to the licence. The options available are to:

- add, remove or amend a licence condition;
- remove or amend a default condition, such as opening hours;
- suspend the premises licence for a period not exceeding 3; or months
- revoke the licence.

## 27. The Licensing Process

27.1 The powers of the Council as a Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub -Committee or, instead, by one or more Council officers acting under delegated authority. The Council has adopted the following scheme of delegation:-

<b>Matter to be Dealt With</b>	<b>Full Council</b>	<b>Cabinet</b>	<b>Licensing Committee/ Sub Committee</b>	<b>Officers</b>
3 year licensing policy	X			
Policy not to permit casinos	X			
Fee Setting when Appropriate		X		
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement			Where representations have been	Where no representations received /

<b>Matter to be Dealt With</b>	<b>Full Council</b>	<b>Cabinet</b>	<b>Licensing Committee/ Sub Committee</b>	<b>Officers</b>
			received and not withdrawn	representations have been withdrawn
Review of a premises licence			<b>X</b>	
Application for club gaming / club machine permits			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming / club machine permits			<b>X</b>	
Applications for other permits				Refer to * below
Cancellation of licensed premise gaming machine permits				<b>X</b>
Consideration of temporary use notice				<b>X</b>
Decision to give a counter notice to a temporary use notice			<b>X</b>	
Determination as to whether a person is an Interested Party				<b>X</b>
Determination as to whether representations are relevant				<b>X</b>
Determination as to whether a representation is frivolous, vexatious or repetitive				

X Indicates at the lowest level to which decisions can be delegated.

\* In respect of applications for amusement with prizes machines in alcohol licensed premises, the following procedure will be adopted:

- i) Officers will determine under delegated authority, applications for amusement with prize machines where the application is for not more than 5 machines.
- ii) Applications for more than 5 amusement with prize machines will be referred to Chair of Licensing Committee for determination in consultation with Assistant Director, Growth and Regeneration, Head of Environmental Health/Environmental Health Staff.

27.2 Application forms will be in the format prescribed by regulations. The form will need to contain information that describes the gambling activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the three licensing objectives. Applicants must carry out a risk assessment before they apply for a premises licence or to vary a premises licence.

27.3 The Authority will expect the local risk assessment to consider as a minimum:

- The location of services for children such as schools, playgrounds. Leisure/community centres and other areas where children will gather;
- The demographics of the area in relation to vulnerable groups;
- Whether the premises is in an area subject to high levels of crime and/or disorder.

Local risk assessments should show how vulnerable people, including people with gambling dependencies, are protected

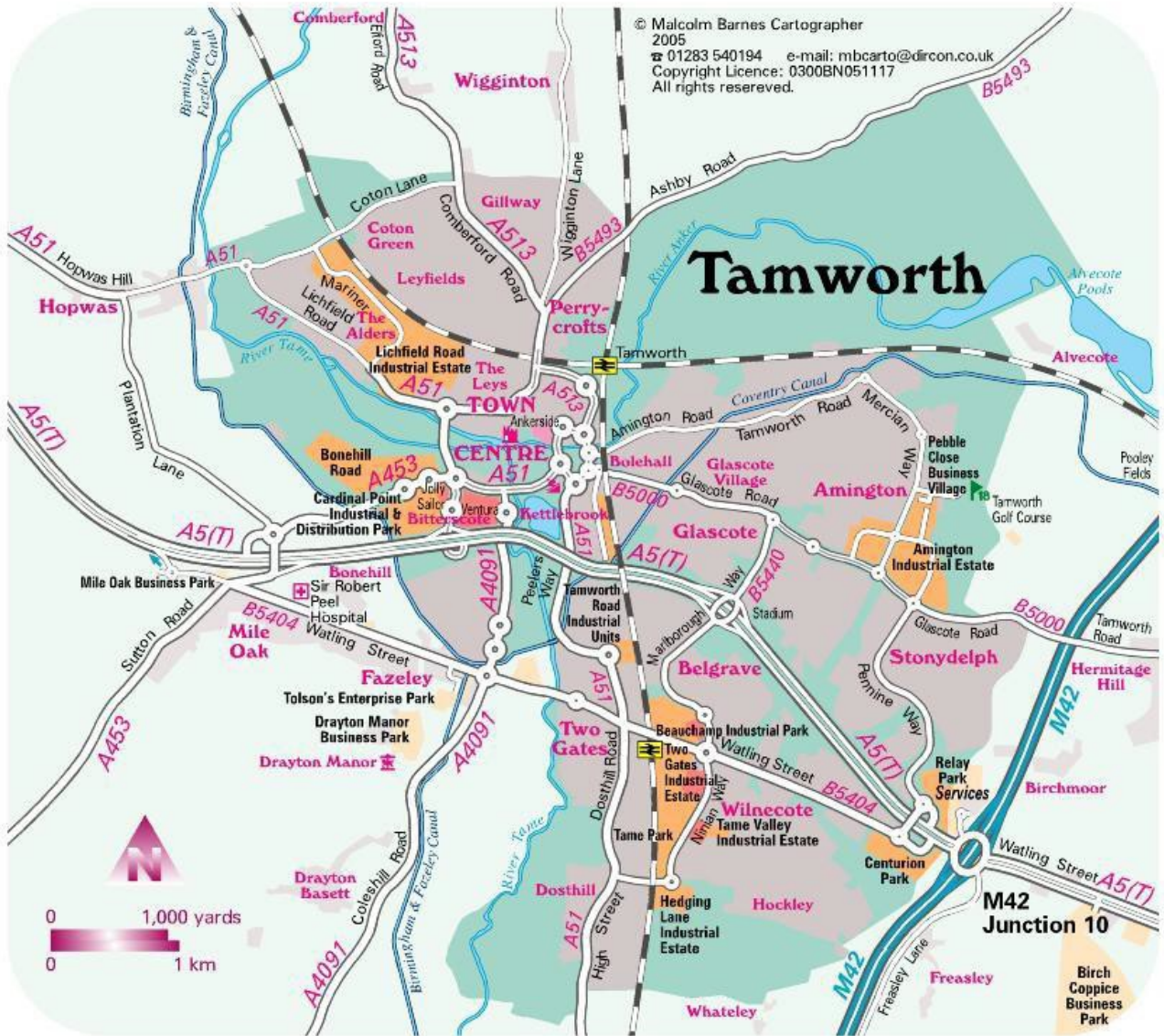
27.4 Applicants are encouraged to fully consult the Police and other responsible authorities well in advance of submitting their applications. Application forms and guidance leaflets will be available from the Licensing Authority, including contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.

27.5 The Act requires licensing authorities to maintain a register of premises licences issued. The register must be available at any reasonable time to the public, who can request copies of the entries. The register will be located at:

Tamworth Borough Council  
Marmion House  
Lichfield Street  
TAMWORTH  
B79 7BZ

Map of Tamworth Borough Boundary

# Map of Tamworth Borough



## **Appendix B**

### **List of Consultees**

Chief Officer of Staffordshire Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005 Staffordshire

Safeguarding Children Partnership

Director of Public Health

Borough Councillors

Holders of Premises Licences issued by the Council under the Gambling Act 2005

### **Gambling and other relevant Trade Associations:**

Betting and Gaming Council

Bacta

Bingo Association

Gambling Business Group

European Gaming & Betting Association

UK Hospitality

British Beer & Pub Association

Lotteries Council

Hospice Lotteries Association

### **Organisations working with those who have 'problem gambling':**

GamCare

Gamblers Anonymous

Gambleaware

Gordon Moody Association



## Appendix C

### Gambling Act 2005 - Names & Addresses of Responsible Authorities

The addresses and other contact details of the responsible authorities for applications made under the Gambling Act 2005 are given below. We recommend that you consult these organisations before you send your application.

#### 1) **Police**

Police Licensing Unit  
Stafford Police Station,  
Eastgate Street,  
Stafford,  
ST16 2DQ

Tel - 01785 235699  
Email - [licensinghq@staffordshire.pnn.police.uk](mailto:licensinghq@staffordshire.pnn.police.uk)

#### 2) **Fire and Rescue Authority**

Eastern Service Delivery Group  
Staffordshire Fire & Rescue Service  
Lichfield Fire Station  
Birmingham Road Lichfield  
Staffordshire WS13 6HU

Tel - 01785 898 958  
Email - [esdg.protect@staffordshirefire.gov.uk](mailto:esdg.protect@staffordshirefire.gov.uk)

#### 3) **Gambling Commission**

Gambling Commission Victoria  
Square House Victoria Square  
Birmingham  
B2 4BP

Tel - 0121 230 6666  
Fax - 0121 230 6720  
Email - [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

#### 4) **HM Revenue & Customs**

HM Revenue and Customs Excise  
Processing Teams BX9 1GL  
United Kingdom

Tel - 0300 322 7072 Option 7  
Email - [nrubetting&gaming@hmrc.gov.uk](mailto:nrubetting&gaming@hmrc.gov.uk)

#### 5) **Local Planning Authority – comments as previous we are one council with many departments**

Planning Team  
Tamworth Borough Council Marmion  
House  
Lichfield Street Tamworth  
Staffordshire B79 7BZ

Tel - 01827 709 312  
Email – [cp&padmin@tamworth.gov.uk](mailto:cp&padmin@tamworth.gov.uk)

**6) Environmental Pollution**

Pollution Team  
Tamworth Borough Council Marmion  
House  
Lichfield Street Tamworth Staffordshire  
B79 7BZ

Tel - 01827 709 445  
Email  
[environmentalprotection@tamworth.gov.uk](mailto:environmentalprotection@tamworth.gov.uk)

**7) Children Protection**

Deputy Corporate Director  
(Partnerships & Service Development)  
Children & Lifelong Learning  
Walton Building Martin Street Stafford  
ST16 2LH

Tel - 01785 223121  
Email - [sscb.admin@staffordshire.gov.uk](mailto:sscb.admin@staffordshire.gov.uk)

**8) Licensing Authority - Address to which completed applications should be sent:**

Licensing Team Public Protection  
Tamworth Borough Council Marmion  
House  
Lichfield Street Tamworth Staffordshire  
B79 7BZ

Tel - 01827 709 445  
Email - [publicprotection@tamworth.gov.uk](mailto:publicprotection@tamworth.gov.uk)

**9) Home Office (Immigration Enforcement)**

Home Office (Immigration  
Enforcement) Alcohol Licensing Team  
Lunar House  
40 Wellesley Road Croydon  
CR9 2BY

Tel - 0300 123 7000  
Email - [Alcohol@homeoffice.gsi.gov.uk](mailto:Alcohol@homeoffice.gsi.gov.uk)

Page Number	Existing Wording	New Wording
Title Page	2023 – 2026	2025 – 2028
Title Page	Revised with effect from 31st January 2023	Revised with effect from 31st January 2025
2		Insert Local Area Profile Title
5		Insert Local Area Profile Section
8		Insert:- Section 45 of the Gambling Act 2005 defines a child as an individual under the age of 16 and a young person as an individual who is not a child but who is less than 18 years old. References in this statement to “a child” or “Children” are to be read as including reference to a “young person” or “young people” except in circumstances where this would be inconsistent with the provisions of the Gambling Act 2005 or where this statement is quoting the legislation itself.
10		Insert:- Licensing Authority expects a copy of the most recent local risk assessment to be kept on each premises that is subject to a premises licence under the Gambling Act 2005
12		Insert:- We are 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 our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should

		not be located, this statement will be updated.
12	Monday to Friday 9am – until 4.30pm	Monday to Friday 9am – until 5.30pm
31	Project and Information Co-ordinator	Project and Information Support Officer
31		Insert:- FOIA also provides the public with a general right of access to information held by public authorities and subject to exemptions, be supplied with a copy of that information.
32		Insert:- Proportionate to 25.6
37	Gambling Trade Associations	Gambling and other relevant Trade Associations Addition of:- Director of Public Health Gambling Business Group European Gaming & Betting Association British Beer & Pub Association Gambleaware Godon Moody Association
38	Police Licensing Unit Ground Floor Block 9 Staffordshire Police Headquarters Weston Road Stafford ST18 0YY	Stafford Police Station, Eastgate Street, Stafford, ST16 2DQ

# Community Impact Assessment

Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Gambling Act – Statement of Principles	
Date Conducted	11 <sup>th</sup> June 2024	
Name of Lead Officer and Service Area	Sarah Gear – Environmental Health	
Commissioning Team (if applicable)		
Director Responsible for project/service area	Anna Miller – Environmental Health	
Who are the main stakeholders	Gambling Commission	
Describe what consultation has been undertaken. Who was involved and what was the outcome	Consultation will be with existing licence holders, Members, Public Health, Childrens Board, Responsible Bodies, Trade Association and Charity Organisations.	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)	N/A	
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	X
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input type="checkbox"/>
	Existing	X
	Being reviewed	<input type="checkbox"/>
	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>

## Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

The statement accords with seeking to promote the licensing objectives set out in the Act which are central to the regulatory regime created by the Act. These are:

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

Who will be affected and how?

All licence holders & Applicants in conjunction with the Gambling Commission

Are there any other functions, policies or services linked to this impact assessment?

Yes  No

If you answered 'Yes', please indicate what they are?

## Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation )
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One of the Objectives:- Protecting children and other vulnerable persons from being harmed or exploited by gambling
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gender Reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marriage and Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with caring/dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those having an offending past	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One of the Objectives:- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
Children	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One of the Objectives:- Protecting children and other vulnerable persons from being harmed or exploited by gambling
Vulnerable Adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One of the Objectives:- Protecting children and other vulnerable persons from being harmed or exploited by gambling
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those who are homeless	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with drug or alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with mental health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with physical health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Social inclusion Please include refugees and asylum seekers,	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Social inclusion: Armed Forces The Armed Forces Covenant is a pledge that	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

together we acknowledge and understand that those who have served in the armed forces, and their families, should be treated with fairness and respect and any impact should be considered			
Health and Wellbeing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Climate Change	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

#### Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications. this includes climate change considerations

This is the section in which to please outline any actions to mitigate negative or enhance positive impacts in terms of economic, environmental or wider societal considerations, and actions to review and monitor the overall impact of the change accordingly.

Impact Area	Details of the Impact	Action to reduce risk
<i>Eg: Families</i>	<i>Families no longer supported which may lead to a reduced standard of living &amp; subsequent health issues</i>	<i>Signposting to other services. Look to external funding opportunities.</i>
Age	One of the Objectives:- Protecting children and other vulnerable persons from being harmed or exploited by gambling	By effectively consulting on Policy and licence applications
Those having an offending past	One of the Objectives:- Preventing gambling from being a source of crime or disorder, being	By effectively consulting on Policy and licence applications and dealing with convictions as per guidance.



	associated with crime or disorder or being used to support crime;	
Children	One of the Objectives:- Protecting children and other vulnerable persons from being harmed or exploited by gambling	By effectively consulting on Policy and licence applications
Vulnerable Adults	One of the Objectives:- Protecting children and other vulnerable persons from being harmed or exploited by gambling	By effectively consulting on Policy and licence applications

**Part 5 - Action Plan and Review**

Detail in the plan below, actions that you have identified in your Community Impact Assessment, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome
	Outcomes and Actions entered onto Pentana			

Date of Review (If applicable) .....

Guidance and form updated July 2023 following CMT approval.